



# ASSISTED LIVING STATE REGULATORY REVIEW

2 0 2 2 E D I T I O N

**NCAL**<sup>®</sup>  
NATIONAL CENTER FOR ASSISTED LIVING

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## Overview of Assisted Living

Assisted living communities are a long term care option preferred by many individuals who typically need help with everyday activities and some health care services but typically do not require 24-hour skilled nursing care services for extended periods of time. These communities offer a unique mix of companionship, independence, and security and become residents' home, prioritizing resident choice, dignity, and privacy. The assisted living model is built on the concept of delivering person-centered services (e.g., personal care) and supports (e.g., housing) that meet each resident's specific needs and preferences. In addition to supporting residents in completing activities of daily living (e.g., bathing, dressing, managing medications), assisted living provides a variety of specialized services, including social work, counseling, physical therapy, or pharmacy. Additionally, more than one in five assisted living providers have a secure dementia care unit or only serve adults with dementia, which is critical because an estimated 42 percent of the residents are living with Alzheimer's or other dementias.<sup>1</sup>

States establish and enforce licensing and certification requirements for assisted living communities, as well as requirements for assisted living administrators or executive directors. While some federal laws and regulations apply to assisted living communities (e.g., Department of Labor's administration of the Fair Labor Standards Act), state-level regulation of assisted living services and operations ensures an efficient, comprehensive licensure system because the state can effectively coordinate its full range of housing and service programs available to seniors and individuals with physical, intellectual, or developmental disabilities. Furthermore, different state philosophies regarding the role of assisted living in the long term care spectrum enables provider innovation and testing new models of housing plus services that respond to local consumer demands.

The majority of assisted living residents pay privately for room, board, and services. Medicare does not cover services offered by assisted living. While Medicaid does not cover room and board, it may cover personal care services for eligible residents. The Medicaid program is important for ensuring that seniors and individuals with disabilities are able to receive care in the most appropriate setting.<sup>2</sup> An estimated 48 percent of communities are Medicaid-certified to be home and community-based services (HCBS)

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<sup>1</sup> The National Center for Health Statistics report defines residential care communities to include assisted living communities and other residential communities, such as personal care homes, adult care homes, board care homes, and adult foster care. Harris-Kojetin, L., et al. (2019). Long-term Care Providers and Services Users in the United States, 2015-2016. *Centers for Disease Control and Prevention, National Center for Health Statistics*, 3(43). [https://www.cdc.gov/nchs/data/series/sr\\_03/sr03\\_43-508.pdf](https://www.cdc.gov/nchs/data/series/sr_03/sr03_43-508.pdf).

<sup>2</sup> Vardaman, K. (2016). The Role of Residential Care Settings in Delivering Long-Term Services and Supports. *Medicaid and CHIP Payment and Access Commission*. <https://www.macpac.gov/publication/the-role-of-residential-care-settings-in-delivering-long-term-services-and-supports/>.

providers, while almost 17 percent of residents rely on Medicaid to cover daily care in assisted living.<sup>3</sup> Based on 2015 and 2016 analyses, the Medicaid and CHIP Payment and Access Commission asserts nearly all states (45 states) cover certain services (e.g., personal care) to Medicaid beneficiaries residing in assisted living communities, and since each state administers its Medicaid programs, beneficiary eligibility criteria, scope of covered services, and provider participation range from very limited to robust.<sup>4</sup>

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<sup>3</sup> Harris-Kojetin, *Long-term Care Providers and Services Users*, at 73, 77.

<sup>4</sup> Medicaid and CHIP Payment and Access Commission. (n.d.) *TABLE 1. State Residential Care Setting Licensure Terms and Medicaid Service Terms*. <https://www.macpac.gov/subtopic/table-1-state-residential-care-setting-licensure-terms-and-medicaid-service-terms/>

## **About the National Center for Assisted Living**

The National Center for Assisted Living (NCAL) is the assisted living voice of the American Health Care Association (AHCA). As of the date of this publication, AHCA/NCAL represents more than 14,000 non-profit and proprietary skilled nursing centers, assisted living communities, sub-acute centers, and homes for individuals with intellectual and development disabilities. By delivering solutions for quality care, AHCA/NCAL aims to improve the lives of the millions of frail, elderly and individuals with disabilities who receive long term or post-acute care in our member facilities each day.

NCAL is dedicated to serving the needs of the assisted living community through national advocacy, education, networking, professional development, and quality initiatives. In addition, NCAL supports state-specific advocacy efforts through its national federation of state affiliates. NCAL state affiliates work to create local education, advocate on behalf of assisted living providers, and provide the direct, ongoing support their assisted living members need to improve quality and grow their businesses.

### **NCAL's Mission Statement**

NCAL's mission is to lead the assisted living profession through public policy advocacy, knowledge, education and professional development.

### **NCAL's Vision Statement**

NCAL is dedicated to promoting high quality, principle-driven assisted living care and services with a steadfast commitment to excellence, innovation and the advancement of person-centered care.

## Executive Summary

This report summarizes key selected state requirements for assisted living licensure or certification. For every state and the District of Columbia, this report provides information on topics such as which state agency licenses assisted living, recent legislative and regulatory updates affecting assisted living, and requirements for resident agreements, admission and discharge, units serving people with Alzheimer's or other dementias, staffing, and training. States use various terms to refer to assisted living, such as residential care and personal care homes. This report includes requirements for those types of communities that offer seniors and people with disabilities housing, supportive services, person-centered assistance with activities of daily living, and some level of health care. Note: COVID-19 public health emergency-related updates such as infection prevention, infection control or emergency preparedness are not summarized in this report.

Thirty-three states (65%) reported regulatory or legislative changes in 2020, 2021, or 2022 that impact assisted living residents, staff, and facility structures. These legislative changes affected a variety of requirements, including licensure, staff training, infection control, and residents' rights, among other requirements.

With such significant activity in state regulatory changes, now:

- Forty-six states and the District of Columbia (92%) require a consumer disclosure, agreement, and/or bill of rights for residents.
- All 50 states and the District of Columbia require a form of resident assessment and, at minimum, provide activities of daily living (ADL) for residents.
- Forty-nine states and the District of Columbia (98%) have provisions around, and allow, providing medication management to residents.
- Forty-five states and the District of Columbia (90%) have minimum educational and/or training requirements for assisted living administrators/directors

## Methodology

From April through June 2022, Health Management Associates (HMA) reviewed state assisted living regulations adopted post-2019, drawing from publicly available, web-based resources. HMA did not review sub-regulatory guidance, nor did consultants comprehensively review regulations and statutes outside of the licensure requirements from the state agency overseeing assisted living. This report focuses on regulatory changes adopted in 2020 or 2021, but in some instances states provided legislative updates and/or regulatory updates from 2022. In addition, states with Medicaid programs that cover services in assisted living may have additional requirements for participating providers; this report does not necessarily summarize these requirements for Medicaid-enrolled assisted living providers.

To verify preliminary findings, HMA sent to each state agency officials the corresponding updated summary for review and approval in June or July 2022. All hyperlinks were active as of July 2022. In the second round of review, the National Center for Assisted Living (NCAL) sent to each state affiliate the appropriate state-level summary in July or August 2022. The majority (76%) of state summaries were reviewed by both a state agency official and a NCAL state affiliate prior to the release of this publication (see Table 1 below).

<b>Table 1. Level of Review for State Summaries</b>		
<b>Level of Review</b>	<b>Number (%)</b>	<b>States</b>
State Agency Official and State Affiliate	39 (76%)	AL, AR, AZ, CA, CO, DE, FL, HI, IA, ID, IN, KS, KY, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, NY, OR, PA, RI, SC, SD, TN, TX, VA, VT, WA, and WI
State Agency Official Only	3 (6%)	GA, LA, and WV
State Affiliate Only	5 (10%)	AK, IL, UT, OK and DC
Neither State Staff nor State Affiliate	4 (8%)	CT, NV, OH, and WY
<b>Total</b>	<b>51 (100%)</b>	-

NCAL did not standardize assisted living terminology across states; each summary conveys the terminology adopted by that state. NCAL did attempt to present a consistent level of information across states. The absence of information in the report on specific requirements should not be construed as an absence of state requirements.

NCAL reported “None specified” where state licensing regulations did not address a specific topic.

Each state summary provides citations to state licensure requirements and, where applicable, the state Medicaid website for assisted living or long-term services and supports coverage. More information and state specific links regarding Statewide Transition Plans for the HCBS final rule are at:

<https://www.medicaid.gov/medicaid/home-community-based-services/statewide-transition-plans/index.html>.

The information in this report is not intended as legal advice and should not be used as or relied upon as legal advice. The report is for general informational purposes only and should not substitute for legal advice. This report summarizes key selected state requirements for assisted living licensure or certification and, as such, does not include the entirety of licensure requirements for assisted living and residential care communities. Prior publications of NCAL Assisted Living State Regulatory Review are available on the NCAL website at: [www.ncal.org](http://www.ncal.org).

We are sincerely grateful to state agency officials and NCAL state affiliates who provided information for this report and reviewed its contents.

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## Alabama

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**Licensure Term** Assisted Living Facilities and Specialty Care Assisted Living Facilities

**Opening Statement** The Department of Public Health, Bureau of Health Provider Standards, licenses three categories of assisted living facilities based on the number of residents. Alabama has two types of licensed assisted living facilities for the elderly: standard assisted living facilities and specialty care assisted living facilities for residents with dementia or Alzheimer's symptoms. Each of these is divided into three categories based on number of beds: Family (two or three residents), Group (three to 16 residents), and Congregate (17 or more residents). Specialty care assisted living facilities have additional requirements.

**Legislative and Regulatory Update** There have been no recent regulatory updates since the regulations were repealed and replaced effective April 6, 2019.

**Definition** Assisted living facility means an individual, individuals, corporation, partnership, limited partnership, limited liability company or any other entity that provides, or offers to provide, any combination of residence, health supervision, and personal care to three or more individuals who need assistance with activities of daily living (ADLs).

A specialty care assisted living facility meets the definition of an assisted living facility and is specially licensed and staffed to permit it to care for residents with a degree of cognitive impairment that would ordinarily make them ineligible for admission or continued stay in an assisted living facility.

Both assisted living and specialty care assisted living are sub-classified according to the number of residents. A family assisted living facility is authorized to care for two or three adults and was licensed prior to October 1, 2015. Family assisted living facilities currently licensed may renew their license yearly, but if closed for any reason, may

not be relicensed as a family assisted living facility. No new license will be granted for assisted living facilities of fewer than three beds after October 1, 2015. This category exists only for assisted living facilities, not specialty care assisted living.

Group assisted living facility is authorized to care for three to 16 adults.

Congregate assisted living facility is authorized to care for 17 or more adults.

## **Disclosure Items**

Prior to, or at the time of admission, the resident or the resident's sponsor shall receive at least one copy of an executed financial agreement that contains, among other items: a complete list of the facility's basic charge; a list of services not covered under basic charges and for which additional charges will be billed; and the provisions for termination of the agreement by either party.

Additionally, prior to or at the time of admission each resident shall be informed of the resident's rights.

Policies and procedures must be available to residents, guardians, next of kind, sponsoring agency, or representative payee. All residents shall be provided a copy of the following policies at least 30 days prior to the policies taking effect:

- (1) facility responsibility to protect all residents from abuse, neglect, and exploitation;
- (2) how allegations of abuse, neglect, and exploitation will be handled by the facility;
- (3) resident confidentiality;
- (4) admission and continued stay criteria;
- (5) discharge criteria and notification procedures for residents and sponsors;
- (6) facility responsibility when a resident's personal belongings are lost;
- (7) what services the facility is capable and not capable of providing;
- (8) medication management;
- (9) Infection control;
- (10) meal service, timing, menus and food preparation, storage, and handling;

- (11) fire safety and emergency plan, fire drills, fire alarm system, sprinkler and fire extinguisher checks, and disaster preparedness;
- (12) staffing and conduct of staff while on duty;
- (13) oxygen administration and storage if used in the facility; and
- (14) dietary policies.

**Facility Scope of Care**

Assistance with ADLs such as bathing, oral hygiene, and grooming may be provided. A facility must provide general observation and health supervision of each resident to develop awareness of changes in health condition and physical abilities and awareness of the need for medical attention or nursing services.

**Third Party Scope of Care**

Home health services may be provided by a certified home health agency. Hospice care may be provided by a licensed hospice agency. The facility would in all cases remain responsible for ensuring the appropriate delivery of care and must take all necessary steps to ensure that care needed by a resident is delivered.

**Admission and Retention Policy**

To be admitted to an assisted living facility, residents: must not receive or require skilled nursing care; must not have a wound that requires care beyond basic first aid; must have the ability to make decisions related to personal safety; must be able to direct his or her care; may not have behaviors that may be dangerous to themselves or others; must be able to safely self-manage medications or self-administer medications with assistance; cannot receive or be in need of hospice services; must have the ability to safely reside in the facility without his or her egress from the facility being restricted; and must not be diagnosed with acute infectious pulmonary disease, such as influenza, or active tuberculosis, or with other diseases capable of transmission to other individuals through normal person-to-person contact.

To be admitted to a specialty care assisted living facility, residents: must not receive or require skilled nursing care; must not have a wound that requires care beyond basic first aid; must not have unmanageable behaviors or behaviors that may be dangerous to themselves or others; must not have a Physical Self-Maintenance Scale (PSMS) score greater than 23 or a score of five in feeding, dressing, grooming, bathing, or a score of four or five in

physical ambulation; cannot receive or be in need of hospice services; and must not be diagnosed with acute infectious pulmonary disease, such as influenza, or active tuberculosis, or with other diseases capable of transmission to other individuals through normal person-to-person contact.

A resident may not be retained in an assisted living facility if he or she: is returning from a higher level of care and requires care that exceeds the level of care the facility is licensed to provide or is capable of providing; has symptoms or behaviors that infringe on the rights or safety of residents currently in the facility; has unmanageable behaviors or behaviors that may be dangerous to themselves or others; or cannot safely reside in the facility unless his or her egress from the facility is restricted.

A resident may not be retained in a specialty care assisted living facility if he or she: is returning from a higher level of care and requires care that exceeds the level of care the facility is licensed to provide or is capable of providing; has symptoms or behaviors that infringe on the rights or safety of residents currently in the facility; has unmanageable behaviors or behaviors that may be dangerous to themselves or others; or has a PSMS score greater than 23 or a score of five in feeding, dressing, grooming, bathing or a score of four or five in physical ambulation.

Residents of both assisted living and specialty care assisted living facilities who require medical or skilled nursing care which is expected to exceed 90 days may not be retained in the facility unless they: are capable of performing all tasks related to his or her own care; or have sufficient cognitive ability to direct his or her own care and direct others to provide the physical assistance he or she is unable to perform due to limitations of mobility or dexterity, and the facility is capable or and provides such assistance.

If a resident of an assisted living facility is diagnosed with a terminal illness other than dementia, or if a resident of a specialty care assisted living facility is diagnosed with a terminal illness, and requires hospice care, the resident may be admitted to a hospice program. A resident receiving hospice care may remain in the facility beyond 90 days unless the facility is unable to meet the needs of the

resident or if the resident requires care beyond what the facility may lawfully provide.

## **Resident Assessment**

Each resident must have a medical examination by a physician not more than 30 days prior to entering an assisted living facility and a plan of care developed by the facility in cooperation with the resident and, if appropriate, the sponsor. There is certain information that must be included in the plan of care, but there is no required standard form for the assessment or the plan of care.

Each resident shall thereafter be given an annual physical exam. Additionally, each resident must be assessed monthly by the facility, and more often when necessary, to identify changes in resident's status including, but not limited to ability to self-administer medication; weight changes; and necessary plan or care revisions.

Two assessments on required forms must be completed for individuals who move into a specialty care assisted living facility:

- (1) a Physical Self Maintenance Scale (PSMS); and
- (2) a Behavior Screening Form.

Each resident must have a specified score on the PSMS to be able to live in the specialty care assisted living facility. The PSMS and Behavior Screen assessments must be completed upon admission, annually, and when there is a change in the resident's status. A comprehensive assessment must be completed for residents of specialty care assisted living facilities for any of the following reasons: decline in health status or behavior; elopement; significant weight loss as defined in regulations; two or more falls in a 30-day period; any sign and symptom of adverse drug reaction, interaction or over sedation, or circumstances which contraindicate medications that have been prescribed; unmanageable, combative, or potentially harmful behavior; or any accident with injury.

## **Medication Management**

A resident may either manage, keep, and self-administer his or her own medications or receive assistance with the self-administration of medication. A physician order is required for a resident to manage and have custody of his or her own medications. A resident may have custody of and manage over the counter topical medications with the written approval of a physician. A physician order is not

required for over-the-counter topical medications that are self-administered by residents and approved by the physician for resident possession. A facility may use a licensed nurse to administer medication to a resident who is capable of self-administration. Medications managed and kept under the custody and control of the facility shall be unit-dose packaged.

An assisted living facility resident that cannot self-manage may be assisted with self-administration of medication by any assisted living facility staff; however, if the resident is incapable of recognizing his or her name, or understanding the facility unit dose medication system, or does not have the ability to protect himself or herself from a medication error, the resident shall require medication administration, which must only be provided by a physician, a registered nurse (RN), or a licensed practical nurse (LPN) currently licensed in Alabama.

A resident of a specialty care assisted living facility who is incapable of self-administering medications may have medications administered only by a physician, an RN, or an LPN currently licensed in Alabama.

**Square Feet Requirements** Private resident units must be a minimum of 80 square feet, and double occupancy resident units must be a minimum of 130 square feet.

**Residents Allowed Per Room** A maximum of two residents is allowed per resident unit.

**Bathroom Requirements** Bathrooms may be shared, and resident rooms may have common toilets, lavatories, and bathing facilities. When shared, there must be at least the following: one bathtub or shower for eight residents; one lavatory for six residents; and one toilet for six residents.

**Life Safety** Alabama Administrative Code Section 420-5-4-12 describes requirements for complying with the Life Safety Code chapter depending on the size of assisted living facility while Alabama Administrative Code Section 420-5-20-12 describes the requirements as applied to specialty care assisted living facilities.

A Family facility is usually set up in an individual's home. The home is reviewed and modified as necessary for

compliance with the National Fire Protection Association (NFPA) 101 chapter for One- and Two-Family Dwellings. By rules, both Group and Congregate facilities are required to comply with the NFPA 101 chapter on Residential Board and Care with residents classified as "impractical to evacuate." Under this evacuation requirement, the Life Safety Code requires each facility to have both a sprinkler system and a supervised fire alarm system. In the Residential Board and Care chapter, a Group facility is required to comply with Small Facility standards. A Congregate facility is referred under Large Facility to the requirements of Limited Care found in the NFPA 101 chapter for Health Care Occupancies.

Facilities that are not licensed as specialty care facilities may neither admit nor retain residents with severe cognitive impairments and may not advertise themselves as a "Dementia Care Facility," an Alzheimer's Care Facility," or as specializing in or being competent to care for individuals with dementia or Alzheimer's disease.

Residents must be screened and approved to move into the specialty care facility. The screening must include a clinical history, a mental status examination including an aphasia screening, a geriatric depression screen, a physical functioning screen, and a behavior screen. Additionally, the Physical Self Maintenance Scale (PSMS) and the Behavior Screening Form must be completed, and the state has required scores that must be achieved on the PSMS in order for a resident to move in and continue to reside in the facility.

A specialty care assisted living facility shall have at least two staff members on duty 24 hours a day, 7 days a week. The state specifies minimum staffing ratios based on the number of residents and time of day. Each specialty care assisted living facility shall have a medical director who is a physician currently licensed to practice medicine in Alabama. The medical director is responsible for implementation of resident care policies, and the coordination of medical care in the facility. Each facility shall have at least one registered professional nurse to assess the residents in the specialty care assisted living facility. There shall be a Unit Coordinator who will manage the daily routine operation of the specialty care assisted living facility.

In a specialty care assisted living facility, each staff member must have initial training on specified topics and complete the Dementia Education and Training Act (DETA) Care Series on dealing with dementia. All licensed staff shall complete DETA Brain Series Training, the Pharmacological Management of Dementia, and the Dementia Assessment Series provided by the DETA Program or equivalent training approved by the State Health Officer. All staff must receive annual continuing education sufficient to remain knowledgeable of the training specified in regulations.

### **Staffing Requirements**

There must be an administrator who is responsible for overall management and the day-to-day operation of the facility. A facility must have personal care staff as needed to provide adequate care and promote orderly operation of the facility. Assisted living facilities that are not specialty care assisted living facilities do not have staffing ratio requirements. An assisted living facility shall be staffed at all times by at least one individual who has a current CPR certification and must be sufficiently staffed to ensure the safe evacuation of all residents in the event of a fire or emergency.

Specialty care assisted living must have an administrator, a medical director, at least one RN, and a care coordinator. Specialty care assisted living must have at least two staff members on duty 24 hours-a-day, seven days a week, and must, at a minimum, meet the staffing ratios specified in regulation. A specialty care assisted living facility shall be staffed at all times by at least one individual who has a current CPR certification and must be sufficiently staffed to ensure the safe evacuation of all residents in the event of a fire or emergency.

### **Administrator Education/ Training**

Administrators are required to be licensed by the Alabama Board of Examiners of Assisted Living Administrators. To be licensed as an Assisted Living Administrator, an individual must be at least 19 years of age, and have either (1) a high school diploma or GED, and at least two years of experience working fulltime in an administrative and resident or patient care position in an assisted living facility, nursing home, hospital, or residential care setting for the elderly or disabled; or (2) have completed at least two years of college or university coursework and have three

months of experience as described above. Administrators must pass a licensure exam and complete a 20-hour classroom training program. There are additional requirements for administrators of Specialty Care Assisted Living Facilities.

The Alabama Board of Examiners of Assisted Living Administrators requires 12 hours of continuing education for licensed administrators of assisted living facilities, and 18 hours of continuing education for licensed administrators of specialty care assisted living facilities.

**Staff Education/Training**

In an assisted living facility, staff having contact with residents including the administrator must have required initial training and refresher training as needed. The training must cover: state law and rules on assisted living facilities; facility policies and procedures; resident rights; CPR; identifying and reporting abuse, neglect, and exploitation; basic first aid; advance directives; protecting resident confidentiality; resident fire and environment safety; special needs of the elderly, mentally ill, and mentally retarded; safety and nutritional needs of the elderly; and identifying signs and symptoms of dementia. In a specialty care assisted living facility, each staff member must have initial training in the basics and complete the Dementia Education and Training Act Care Series on dealing with dementia and complete annual continuing education sufficient to remain knowledgeable of the training specified in regulations.

All staff having contact with residents in assisted living facilities and specialty care dementia units must receive training on specific topics prior to having any resident contact and must have annual continuing education sufficient to remain knowledgeable of the training specified in regulations.

**Entity Approving CE Program**

Alabama Board of Examiners of Assisted Living Administrators

**Medicaid Policy and Reimbursement**

There is no Medicaid waiver program at this time.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

## Citations

Rules of Alabama State Board of Health. Chapter 420-5-4: Assisted Living Facilities. Alabama Department of Public Health. [April 6, 2019]

<https://www.alabamapublichealth.gov/providerstandards/aset/alfruleseff04062019.pdf>

Rules of Alabama State Board of Health, Chapter 420-5-20: Specialty Care Assisted Living Facilities. Alabama Department of Public Health. [April 6, 2019]

<https://www.alabamapublichealth.gov/providerstandards/aset/scalfruleseff04062019.pdf>

Alabama Board of Examiners of Assisted Living Administrators. <https://boeala.alabama.gov/>

## Alaska

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**Licensure Term** Assisted Living Homes

**Opening Statement** The Department of Health and Social Services, Division of Health Care Services, Assisted Living Office is responsible for licensing assisted living homes. Providers determine the level of care and services they will provide but must provide the state with a list of those services.

**Legislative and Regulatory Update** Legislature enacted SB 89 "An Act relating to house rules for assisted living homes," which amends sections of Title 47. Welfare, Social Services, And Institutions, Chapter 33. Assisted Living Homes. The law was effective November 23, 2021.

**Definition** An assisted living home provides a system of care in a homelike environment for elderly persons and persons with mental health, developmental, or physical disabilities who need assistance with activities of daily living (ADLs). The statute defines assisted living as a residential facility that serves three or more adults who are not related to the owner by blood or marriage, or that receives state or federal payment for services regardless of the number of adults served. A facility shall be considered an assisted living home if the facility: provides housing and food services to its residents; offers to provide or obtain assistance with ADLs for its residents; offers personal assistance; or provides or offers any combination of these services.

**Disclosure Items** An assisted living home may establish house rules consistent with 42 C.F.R. 441.301(c)(4). An assisted living home shall give a copy of the house rules to prospective residents or their representatives before the prospective resident enters into a contract. The rules may address various issues, such as use of the telephone, visitors, and use of personal property. Additionally, residents or their representative must receive a copy of the resident's rights, resident's right to pursue a grievance, department

immunity, and resident's right to protection from retaliation. An assisted living home may not adopt a house rule that unreasonably restricts a right of a resident.

**Facility Scope of Care**

Facilities may provide assistance with ADLs, intermittent nursing services, and skilled nursing care by arrangement. A licensed nurse may delegate certain tasks, including non-invasive routine tasks, to staff.

**Third Party Scope of Care**

A resident who needs skilled nursing care for 45 days or less may, with the consent of the assisted living home, arrange for that care to be provided in the assisted living home by a licensed nurse if that arrangement does not interfere with the services provided to other residents.

**Admission and Retention Policy**

Facilities must have a residential services contract in place for each resident prior to admission to the facility. Twenty-four-hour skilled nursing care may not last for more than 45 consecutive days. Terminally ill residents may remain in the facility if a physician confirms their needs are being met. At least 30 days' notice is required before involuntarily terminating a residential services contract.

**Resident Assessment**

A plan must be developed for each resident and it must include certain information, such as the resident's strengths and limitations in performing ADLs, any physical disabilities or impairments that are relevant to the services needed, and the resident's preferences for the living environment. There is no required standard form. If the assisted living home provides or arranges for the provision of health-related services to a resident, the resident's evaluation shall be done at three-month intervals.

**Medication Management**

If self-administration of medications is included in a resident's assisted living plan, the facility may supervise the resident's self administration of medications. A registered nurse may delegate medication administration tasks according to the state's nurse delegation statute and rules (12 AAC 44.965. Delegation of the Administration of Medication). Unlicensed staff may provide medication reminders, read labels, open containers, observe a resident while taking medication, check a self-administered dosage against the label, reassure the resident that the dosage is correct, and direct/guide the hand of a resident at a resident's request.

<b>Square Feet Requirements</b>	A single occupancy bedroom must contain at least 80 square feet of open floor space, and a double occupancy bedroom must contain at least 140 square feet.
<b>Residents Allowed Per Room</b>	No more than two residents may be assigned to a bedroom.
<b>Bathroom Requirements</b>	A minimum of one sink, toilet, and shower/bath is required per six residents.
<b>Life Safety</b>	An assisted living home must meet the applicable life and fire safety requirements of 7 AAC 10.1010. Assisted living homes of all sizes must have a smoke detector in each bedroom and each level of the home. A carbon monoxide detector is required outside of each sleeping area and on each level of the home. Evacuation drills are required quarterly for each employee shift. The entity shall conduct a drill at least once every three months. Complete evacuation of the home must occur at least once each year for each shift unless the entity conducts evacuations as described under (e)(1)(B)(iii) or (iv) of 7AAC 10.1010 and has an emergency evacuation plan approved by the state fire marshal or a municipality to which the fire marshal has deferred building fire safety inspection and enforcement activities. Homes that provide services to six or more residents must have a fire safety inspection completed every two years and follow the recommendations of that inspection. The height of window, size of openable window areas, and emergency exit time requirements with or without a suppression system are specified in regulation. State and municipal fire authorities have adopted International Fire Code Standards. Some municipalities have different requirements for sprinkler systems based on occupancy.
<b>Unit and Staffing Requirements for Serving Persons with Dementia</b>	Alaska does not have specific Alzheimer's unit requirements. The facility must provide a safe environment for residents with Alzheimer's disease. Any home that provides care to residents with cognitive delays or other disabilities is required to have a department-approved delayed exit system or alarm system to alert staff if someone exits the home.
<b>Staffing Requirements</b>	Assisted living homes must have an administrator. The home must employ the type and number of care providers and other employees necessary to operate the home. The

home must have a sufficient number of care providers and other employees with adequate training to implement the home's general staffing plan and to meet the needs of residents as defined in the residents' residential services contracts and assisted living plans. There are no staffing ratios. A care provider must be on duty who has CPR training and first aid training. A criminal background investigation is required of staff and other residents of the home who are not considered an assisted living resident.

**Administrator  
Education/Training**

An administrator must be at least 21 years of age, complete an approved management or administrator training course, and have documented experience relevant to the population of residents in the home; or have sufficient documented experience in an out-of-home care facility and adequate education, training, or other similar experience to fulfill the duties of an administrator for the type and size of home where the individual is to be employed. The licensing agency will accept a baccalaureate or higher degree in gerontology, health administration, or another health-related field in place of all or part of the required experience, if the degree work serves as an equivalent to the required experience. Training and experience requirements are defined based on the number of residents that the home is licensed to serve. Additionally, a criminal background investigation is required.

Each administrator must complete 18 clock hours of continuing education annually.

**Staff Education/Training**

Care providers in non-supervisory roles must be at least 16 years of age. Care providers working without direct supervision must be 18 years of age and care providers who are 21 years of age may supervise other care providers. Within 14 days of employment, each care provider must be oriented to the assisted living home's policies and procedures on a variety of specified topics, such as emergency procedures; recognition of abuse, neglect, exploitation, and mistreatment of residents; resident interactions; and reporting requirements. Each care provider must complete 12 clock hours of continuing education annually.

**Entity Approving CE  
Program**

None specified.

**Medicaid Policy and Reimbursement**

A Medicaid home and community-based services waiver covers services in assisted living. A tiered payment system is used to reimburse for services. 7 AAC 43.1058 governs the reimbursement amount for home and community-based services.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

Alaska Statutes, Title 47, Chapter 32, Section 900: Definitions.

<https://www.touchngo.com/lglcntr/akstats/Statutes/Title47/Chapter32/Section900.htm>

Alaska Statutes, Title 47, Chapter 33: Assisted Living Homes.

<http://www.touchngo.com/lglcntr/akstats/Statutes/Title47/Chapter33.htm>

Alaska Administrative Code, Title 7, Chapter 43, Section 1058: Amounts of Reimbursement for Home and Community-based Waiver Services.

<http://www.touchngo.com/lglcntr/akstats/aac/title07/chapter043/section1058.htm>

State of Alaska, 32nd Legislature. HCS CSSB 89(HSS) "An Act: Relating to house rules for assisted living homes."

<http://www.akleg.gov/PDF/32/Bills/SB0089Z.PDF>

## Arizona

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<b>Agency</b>	Arizona Department of Health Services, Division of Public Health Licensing Services, Bureau of Residential Facilities Licensing
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**Licensure Term** Assisted Living Facilities

**Opening Statement** The Division of Public Health Licensing Services, Bureau of Residential Facilities Licensing, licenses assisted living facilities. Regulations have been in effect since November 1998. The licensure category consolidates the previous six licensure categories for residential care institutions into a universal assisted living license. This license is sub-classified based on size and level of services provided. All facilities are required to comply with resident rights, food service requirements, administration requirements, abuse reporting, and resident agreements. Training requirements vary depending upon level of care. Physical plant requirements vary depending upon size.

**Legislative and Regulatory Update** Section R9-10-121, Disease Control and Prevention, was added to the Arizona Administrative Code by final rulemaking at 26 A.A.R. 2793 and effective October 7, 2020. These rules are no longer in effect. These rules are effective if a public health emergency is declared.

HB 2049 (2022) amends Section 36-411, Arizona Revised Statutes to clarify that as a condition of licensure or continued licensure of a residential care institution, a nursing care institution or a home health agency and as a condition of employment in a residential care institution, a nursing care institution or a home health agency, employees and owners of residential care institutions, nursing care institutions or home health agencies, or contracted persons of residential care institutions, nursing care institutions or home health agencies or volunteers of residential care institutions, nursing care institutions or home health agencies who provide medical services, nursing services, behavioral health services, health-related services, home health services or direct supportive services and who have not been subject to the

fingerprinting requirements of a health professional's regulatory board pursuant to Title 32 shall have valid fingerprint clearance cards that are issued pursuant to title 41, chapter 12, article 3.1 or shall apply for a fingerprint clearance card within twenty working days of employment or beginning volunteer work or contracted work.

SB 1202 (2022), pursuant to section 41-2955, subsection B, Arizona Revised Statutes, the legislature continues the board of examiners of nursing care institution administrators and assisted living facility managers to promote the safe and professional regulation of nursing care institutions and assisted living facilities in this state.

Under SB 1242 (2022), beginning January 1, 2023, in addition to the requirements prescribed in section 36-446.04, the board shall require each applicant for initial nursing care institution administrator or assisted living facility manager certification to submit a full set of fingerprints to the board for a state and federal criminal history records check pursuant to section 41-1750 and public law 92-544. The Department of Public Safety may exchange this fingerprint data with the Federal Bureau of Investigation.

Arizona enacted SB 1244 to modify the training requirements for assisted living facilities to include training that is consistent with those for in-home direct care workers. The law specifies that a person who has successfully completed the training and competency requirements developed by the state for in-home direct care workers satisfies the training requirements for assisted living caregivers, with an exception for medication administration training. The statute required conforming regulations be issued on or before June 1, 2020.

SB1373 was enacted on October 1, 2021, that asserts that a health care institution and their employees have affirmative duty of care for their residents regarding cardiopulmonary resuscitation and the appropriate provision of first aid. It prohibits a health care institution from having, establishing or implementing policies that prevent employees from providing cardiopulmonary resuscitation and first aid. It provides health care institutions and persons acting in good faith that render cardiopulmonary resuscitation or first aid immunity from

civil liability if certain criteria are met. It requires health care institution to develop and administer a fall prevention and fall recovery program and to train all staff regarding fall prevention and fall recovery and have continued competency training.

Section R9-10-113 - Tuberculosis Screening was revised effective May 4, 2022. The Department has adopted requirements related to tuberculosis screening in health care institutions in A.A.C. R9-10-113, citing to guidelines of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention (CDC). The CDC has recently updated the recommendations for tuberculosis screening in a manner that removed the requirement for annual screening if certain conditions are met.

**Definition**

Assisted Living Facility means a residential care institution, including Adult Foster Care, that provides or contracts to provide supervisory care services, personal care services, or directed care services on a continuing basis.

**Disclosure Items**

Before or at the time of a resident's acceptance by a facility, the manager must provide a copy of:

- (1) the residency agreement that includes information such as a list of services to be provided, list of services available at an additional fee, policy for refunding fees, and policy and procedure for terminating residency;
- (2) resident's rights; and
- (3) the policy and procedure on health care directives.

**Facility Scope of Care**

There are three licensed levels of care. "Supervisory Care Services" means general supervision, including daily awareness of resident functioning and continuing needs, the ability to intervene in a crisis, and assistance in the self-administration of medications. "Personal Care Services" means assistance with activities of daily living that can be performed by persons without professional skills or professional training and includes the coordination or provision of intermittent nursing services and the administration of medications and treatments by a licensed nurse. A facility licensed to provide Personal Care Services may not accept or retain residents unable to direct their own care. "Directed Care Services" means programs and services provided to persons who are incapable of

recognizing danger, summoning assistance, expressing need, or making basic care decisions.

**Third Party Scope of Care** Residents in Assisted Living Facilities may also receive nursing services or health-related services from a licensed home health agency, licensed hospice service agency, or private duty nurse.

**Admission and Retention Policy** A facility must not accept or retain a resident who requires physical or chemical restraints; medical services; nursing services unless the facility complies with specified requirements; behavioral health residential services; or services that the assisted living facility is not licensed or able to provide.

Residents in facilities licensed to provide Personal Care Services or Directed Care Services may not be bed bound, have stage III or IV pressure sores, or require continuous nursing services unless the resident is under the care of a licensed hospice service agency or continuous nursing services are provided by a private duty nurse.

Assisted living facilities licensed to provide Personal Care Services may also not admit or retain residents who are unable to direct selfcare. Additionally, these facilities may only retain residents who are bed bound or have stage III or IV pressure sores in limited specified circumstances.

**Resident Assessment** A resident assessment and service plan must be initiated at the time of resident move-in and completed within 14 days of acceptance. The service plan must be updated every three months for directed care, every six months for personal care, and annually for supervisory care. Service plans must be updated, for any resident, with any change of condition.

For a resident who requests or receives behavioral care from the assisted living facility, an evaluation must occur within 30 days before acceptance or the resident begins receiving behavioral care. An evaluation must occur again at least once every six months throughout the duration of the resident's need for behavioral care.

**Medication Management** Medication administration is permitted by licensed nurses. Certified assisted living managers and trained caregivers may also provide medication assistance to residents and

may provide medication administration with a physician order and proper training. The state has specific requirements for opioid prescribing and treatment.

**Square Feet Requirements** Facilities must comply with all local building codes, ordinances, fire codes, and zoning requirements. Private resident bedrooms must be a minimum of 80 square feet and shared resident bedrooms must provide a minimum of 60 square feet per resident, not including a closet or bathroom.

**Residents Allowed Per Room** A maximum of two residents is allowed per bedroom, with very limited exceptions, which are specified in regulations.

**Bathroom Requirements** Shared bathrooms are permitted with at least one full bathroom with a toilet and bathtub or shower for every eight residents.

**Life Safety** All facilities must follow either local jurisdiction requirements or state rules, whichever are more stringent. Under state rules, if a center is licensed for personal or directed care services, it must have a fire alarm system installed according to the National Fire Protection Association (NFPA) 72: National Fire Alarm Code (Chapter 3, Section 3-4.1.1(a)), and a sprinkler system installed according to NFPA 13 standards or have an alternative method to ensure residents' safety approved by the local jurisdiction and granted an exception by the Department. Fire inspections must be conducted no less than every 36 months by a local fire department or state fire marshal.

State rules for homes require an all-purpose fire extinguisher with a minimum of a 2A-10-BC rating, serviced every 12 months. Smoke detectors are to be installed according to the manufacturer's instructions in at least the following areas: bedrooms, hallways that adjoin bedrooms, storage and laundry rooms, attached garages, rooms or hallways adjacent to the kitchen, and other places recommended by the manufacturer. Smoke detectors must be in working order and inspected as often as recommended by the manufacturer. Smoke detectors may be battery operated. However, if more than two violations of an inoperative battery-operated smoke detector are cited in a 24-month period, the licensee is subject to ensuring the smoke detector is hard-wired into the electrical system.

Facility staff, including assisted living managers and administrators, (and contractors and registry workers contracted by a facility) providing supervisory, personal, or direct care in the facility must be fingerprinted and maintain a valid fingerprint clearance card. Individuals contracted directly by residents are not required to have a card.

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

Facilities must follow directed care rules. An overview of Alzheimer's disease and other dementia is required for directed care.

**Staffing Requirements**

Assisted living facilities must have a designated manager who is responsible for daily operations. The regulations require that sufficient staff must be present at all times to provide services consistent with the level of service for which the facility is licensed. There are no staffing ratios.

**Administrator Education/Training**

Managers must be at least 21 years of age and certified as assisted living facility managers.

**Staff Education/Training**

All staff must be trained in first aid and CPR specific to adults. Caregivers must: be at least 18 years of age; be trained at the level of service the facility is licensed to provide; and have a minimum of three months of health-related experience. Caregivers, which are staff who provide supervisory care services, personal care services, or directed care services to a resident, must have specified qualifications, such as completing a caregiver training program or having a nurse's license. Assistant caregivers must be at least 16 years of age. Their qualifications, skills, and knowledge are based on the types of services to be provided and acuity of residents receiving services. In addition, the following is required:

- (1) For staff providing a supervisory level of care: 20 hours of training;
- (2) For staff providing a personal level of care: training for supervisory level plus an additional 30 hours;
- (3) For staff providing a directed level of care: training for supervisory and personal level plus an additional 12 hours; and
- (4) For certified managers: training for all levels of care plus an additional eight hours.

All staff must have six hours of annual training related to: promotion of resident dignity, independence, self-determination, privacy, choice, and resident rights; fire

safety and emergency procedures; infection control; and abuse, neglect, and exploitation prevention and reporting requirements. They must have an additional two hours for Personal Care Services and an additional four hours for Directed Care Services.

**Entity Approving CE Program**

The Board of Examiners of Nursing Home Administrators and Assisted Living Facility Managers approves CE programs for certified managers.

**Medicaid Policy and Reimbursement**

Services are covered through the Arizona Long-Term Care System (ALTCS) program, which operates under a Medicaid Section 1115 demonstration waiver. Managed care plans contract with individual facilities to pay for services.

**COVID-19 Public Health Emergency**

Section R9-10-121, Disease Control and Prevention, was added to the Arizona Administrative Code by final rulemaking at 26 A.A.R. 2793 and effective October 7, 2020. This section includes disease prevention and control measures for health care institutions licensed under Article 4,5, or 8, to take with the Governor has declared a state of emergency, as defined in A.R.S. § 26-301, to address a situation described under A.R.S. § 36-787, including:

- Establishing policies and procedures that protect the health and safety of a resident, including disinfection protocols and distancing requirements; and
- Ensuring for the provision of screening for fever or respiratory symptoms and acting upon screening findings.

**Citations**

Arizona, Senate Bill 1202 [2022]  
<https://www.azleg.gov/legtext/55leg/2R/bills/SB1202P.pdf>

Arizona, Senate Bill 1242 [2022]  
<https://www.azleg.gov/legtext/55leg/2R/bills/SB1242P.pdf>

Arizona, House Bill 2049 [2022]  
<https://www.azleg.gov/legtext/55leg/2R/bills/hb2049p.pdf>

Arizona, Senate Bill 1244 [2019]  
<https://www.azleg.gov/legtext/54leg/1R/bills/SB1244P.pdf>

Arizona Administrative Code, Title 9, Chapter 10, Article 1: General. [http://apps.azsos.gov/public\\_services/Title\\_09/9-10.pdf](http://apps.azsos.gov/public_services/Title_09/9-10.pdf)

Arizona Administrative Code, Title 9, Chapter 10, Article 1:  
General [November 5, 2019]

<https://casetext.com/regulation/arizona-administrative-code/title-9-health-services/chapter-10-department-of-health-services-health-care-institutions-licensing/article-1-general/section-r9-10-121-disease-prevention-and-control>

Arizona Administrative Code, Title 9, Chapter 10, Article 8:  
Assisted Living Facilities.

[http://apps.azsos.gov/public\\_services/Title\\_09/9-10.pdf](http://apps.azsos.gov/public_services/Title_09/9-10.pdf)

Arizona Administrative Code, Title 9, Chapter 10, Article 1:  
General, Opioid Prescribing and Treatment. (R9-10-120)  
[January 1, 2019]

[http://apps.azsos.gov/public\\_services/Title\\_09/9-10.pdf](http://apps.azsos.gov/public_services/Title_09/9-10.pdf)

Arizona Department of Health Services, Bureau of  
Residential Facilities Licensing, Provider-Home.

<http://www.azdhs.gov/als/residential/providers.htm>

## Arkansas

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**Licensure Term** Assisted Living Facilities

**Opening Statement** Department of Human Services, Division of Provider Services and Quality Assurance, licenses and regulates assisted living facilities (ALFs). Facilities are designated as Level I or Level II Assisted Living. Unlike Level I facilities, Level II facilities must employ or have a registered nurse (RN) on staff.

ALF requirements for the two levels are the same unless otherwise noted.

**Legislative and Regulatory Update** Arkansas revised the Rules for Assisted Living Facilities Level II in January 2020.

The “No Patient Left Alone Act” was signed in to law in 2021.

**Definition** An assisted living facility is a building or buildings, section or distinct part of a building, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes, through its ownership or management, responsibility to provide assisted living services for a period exceeding 24 hours to more than three adult residents of the facility who are not relatives of the owner or administrator. A.C.A. 20-10-1703(1)(A). Assisted living services may be provided either directly or through contractual arrangement. An assisted living facility provides, at a minimum, services to assist residents in performing all activities of daily living (ADLs) on a 24-hour basis. Assisted living services means housing, meals, laundry, socialization, transportation, one or more personal services, and limited nursing services.

**Disclosure Items** Assisted living facilities must provide each prospective resident or the prospective resident's representative with a comprehensive consumer disclosure statement before the

prospective resident signs an admission agreement. The state specifies a variety of information that must be included in the occupancy agreement provided to the resident or his or her responsible party, such as the basic core services to be provided, a current statement of all fees and charges, and conditions or events resulting in termination of the occupancy admission agreement. Facilities that have an Alzheimer's Special Care Unit have additional disclosure requirements; see "Unit and Staff Requirements for Serving Persons with Dementia.

### **Facility Scope of Care**

The facility may supervise and assist with ADLs; provide 24-hour staff supervision by awake staff; assistance in obtaining emergency care 24 hours a day; assistance with social, recreational, and other activities; assistance with transportation; linen service; three meals a day; and medication assistance.

Level II facilities offer services that directly help a resident with certain routines and ADLs and assistance with medication only to the extent permitted by the Arkansas law, applicable regulation, and the Nurse Practice Act. The assessment for residents with health needs must be completed by a registered nurse (RN). In contrast, Level I facilities may not provide such services, and must ensure that the resident receives health care services under the direction of a licensed home health agency when they are needed on a short-term basis.

### **Third Party Scope of Care**

Other individuals or agencies may furnish care directly or under arrangements with the ALF. In Level I facilities, home health services may be provided by a certified home health agency on a short-term basis.

### **Admission and Retention Policy**

The facility must not admit or retain residents whose needs are greater than the facility is licensed to provide. Level I facilities may not provide services to residents who:

- (1) Need 24-hour nursing services except as certified by a licensed home health agency for a period of 60 days with one 30-day extension;
- (2) Are bedridden;
- (3) Have transfer assistance needs that the facility cannot meet with current staffing; or
- (4) Present a danger to self or others or engage in criminal activities.

Level II facilities may not provide services to residents who:

- (1) Need 24-hour nursing services;
- (2) Are bedridden;
- (3) Have a temporary (no more than 14 consecutive days) or terminal condition unless a physician or advanced practice nurse certifies the resident's needs may be safely met by a service agreement developed by the attending physician or advanced practice nurse and the resident;
- (4) Have transfer assistance needs that the facility cannot meet with current staffing; or
- (5) Present a danger to self or others or engage in criminal activities.

### **Resident Assessment**

Each resident must have an initial evaluation completed by the assisted living residence prior to admission to determine whether the resident's needs can be met by the assisted living facility, and the resident's needs are not greater than the facility is licensed to provide. The assessment covers the resident's degree or level of family support, level of activities of daily living functioning, cognitive level, behavioral impairment, and that identifies the resident's strengths and weaknesses. Subsequent needs assessment or evaluation is to be completed on each resident at least annually and more often as changes occur. There is no required standard form.

### **Medication Management**

Level I facility staff must provide assistance to enable residents to self-administer medications. However, facility personnel, staff, and employees are prohibited from administering medication.

In Level II facilities licensed nursing personnel may administer medication.

### **Square Feet Requirements**

Each apartment or unit of new construction or conversion shall have a minimum of 150 square feet per person or 230 square feet for two persons, excluding the entryway, closet or bathroom, or one hundred square feet (100 sq. ft.) per person or one hundred eighty square feet (180 sq. ft.) for two (2) persons if the room has a half or full bath or if there is a shared bathroom between two (2) rooms.

A Level II facility must maintain physically distinct parts or wings to house individuals who receive, or are medically eligible for, a nursing home level of care separate and apart

from those individuals who do not receive, or are not medically eligible for, the nursing home level of care. The facility must meet minimum space requirements for resident rooms of 150 square feet per person or 230 square feet for two (2) persons sharing a room, exclusive of entryway, closet, and bathroom, or 100 square feet per person or 180 square feet for two (2) persons if the room has a half or full bath or if there is a shared bathroom between two (2) rooms.

**Residents Allowed Per Room**

An apartment or unit must be single occupancy except in situations where residents are husband and wife or are two consenting adults who have requested and agreed in writing to share an apartment or unit. An apartment or unit may be occupied by no more than two persons.

**Bathroom Requirements**

Each apartment or unit must have a separate and complete bathroom with a toilet, bathtub or shower, and sink.

**Life Safety**

Each Assisted Living Facility built after the current regulations became effective (April 2001 by Act 1230) must meet the requirements adopted by local municipalities based on National Fire Protection Association (NFPA) 101, Life Safety Code, 1985, or the 2000 edition of the International Building Code (IBC), and must be in compliance with the Americans with Disabilities Act (1990). If the municipality in which the facility is located has not adopted requirements based on the above standards, or the Office of Long Term Care determines that the regulations adopted by the local municipality are not adequate to protect residents, the facility must meet the provisions of the 2000 Edition of the IBC, including the NFPA requirements referenced by the IBC. As such, all ALFs must be sprinklered.

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

Level I and II facilities may have an Alzheimer's special care unit. There are additional requirements in the areas of assessments, individual support plans for the residents, physical design, egress control, staffing, staff training, and therapeutic activities.

Facilities that have an Alzheimer's Special Care Unit must provide a facility-prepared statement to individuals or their families or responsible parties prior to admission that discloses the form of care, treatment, and related services

especially applicable to or suitable for residents of the special care unit.

Alzheimer's Special Care Units must meet the same staffing ratios specified for Level I facilities, however the census must be determined separately based solely on the number of residents in the Special Care Unit.

All staff must be trained within five months of hiring, with no less than eight hours of training per month during those five months. The following subjects must be covered in the training: facility policies; etiology, philosophy and treatment of dementia; stages of Alzheimer's disease; behavior management; use of physical restraints, wandering, and egress control; medication management; communication skills; prevention of staff burnout; activity programming; ADLs; individual-centered care; assessments; and creation of individual support plans. At least two hours of ongoing in-service training is required every quarter.

## **Staffing Requirements**

A full-time administrator (40 hours per week) must be designated by each assisted living facility. A second administrator must be employed either part-time or full-time depending on the number of beds in the facility.

Level I facilities must have sufficient staff to meet the needs of residents and must meet the staffing ratios specified in regulation. The ratios are based on number of residents and are designated for "day," "evening," and "night."

Level II facilities must employ or contract with at least one RN, licensed practical nurses, certified nursing assistants (CNAs), and personal care aides. The RN does not need to be physically present but must be available to the facility by phone or pager. The facility must have sufficient personnel, staff, or employees available to meet the needs of the residents. The facility must have a minimum of one staff person per 16 residents from 7:00 a.m. to 8:00 p.m. and one staff person per 16 residents from 8:00 p.m. to 7:00 a.m. In no event shall there be fewer than two staff persons on-duty at all times, including at least one CNA on the premises per shift.

## **Administrator Education/Training**

The administrator must be at least 21 years of age, have a high school diploma or a GED, have the ability and agree to comply with these rules, successfully complete a state criminal background check pursuant to A.C.A. 20-33-201, et seq., must not have been convicted, or have a

substantiated report, of abusing, neglecting, or mistreating persons, or misappropriation of resident property, and be a certified Assisted Living Facility Administrator through a certification program approved by the state or must be enrolled in a certification program with an expected completion date of within twelve (12) months.

**Staff Education/Training**

All staff, including contracted personnel who provide services to residents (excluding licensed home health agency staff), must receive orientation and training on the following topics:

- (1) Within seven calendar days of hire: building safety and emergency measures; appropriate response to emergencies; abuse, neglect, and financial exploitation and reporting requirements; incident reporting; sanitation and food safety; resident health and related problems; general overview of the job's specific requirements; philosophy and principles of independent living in an assisted living residence; and Residents' Bill of Rights;
- (2) Within 30 calendar days of hire: medication assistance or monitoring; communicable diseases; and dementia and cognitive impairment; and
- (3) Within 180 calendar days of hire: communication skills; review of the aging process, and disability sensitivity training.

All staff must have six hours per year of ongoing education and training.

**Entity Approving CE Program**

None specified.

**Medicaid Policy and Reimbursement**

Arkansas' Medicaid state plan reimburses for personal care services, including in assisted living facilities. A Level II facility may provide care and services to individuals who are medically eligible for nursing home level-of-care and receive services through the Medicaid Section 1915(c) home and community-based services waiver.

**COVID-19 Public Health Emergency**

The "No Patient Left Alone Act" was signed into law in 2021. Section 20-6-407, outlines how compassionate care visitation shall be allowed in a long-term care facility (assisted living facilities are included in this definition).

**Citations**

Rules and Regulations for Assisted Living Facilities Level I. Arkansas Department of Human Services, Division of Medical Services, Office of Long Term Care. [August 1,

2011]

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## California

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**Licensure Term** Residential Care Facilities for the Elderly (RCFE)

**Opening Statement** The California Department of Social Services (CDSS), Community Care Licensing Division (CCLD), licenses RCFEs. These facilities may also be known as assisted living facilities, retirement homes, and board and care homes.

**Legislative and Regulatory Update** For legislative updates, please see the following Provider Information Notices (PINs):

- PIN 19-23-ASC, 2019 Chaptered Legislation Affecting Adult and Senior Care Facilities: Summary and Implementation for legislation that became operative January 1, 2020, unless otherwise specified.
- PIN 21-05-ASC, 2020 Chaptered Legislation Affecting Adult and Senior Care Facilities: Summary and Implementation for legislation that became operative January 1, 2021, unless otherwise specified.
- PIN 21-11-CCLD, Changes to Administrator Certification Program Fees for legislation affecting administrator certification for CCLD facility administrators, including administrators of RCFEs, that became operative July 1, 2021.

For regulatory updates, please see the following PINs:

- PIN 20-22-CCLD, Regulation Update Regarding Simplified Criminal Records Exemptions for regulations affecting CCLD facilities, including RCFEs, that became effective October 1, 2020.

**Definition** An RCFE is a housing arrangement chosen voluntarily by the resident, the resident's guardian, conservator or other responsible person; where 75 percent of the residents are sixty years of age or older and where varying levels of care

and supervision are provided, as agreed to at time of admission or as determined necessary at subsequent times of reappraisal. Any younger residents must have needs compatible with other residents. See California Code of Regulations, Title 22 [section 87101\(r\)\(5\)](#).

## **Disclosure Items**

Prior to accepting a resident, the licensee must complete an admission agreement with the resident and/or their representative. The admission agreement must include basic and available additional services, service rates, payment provisions, and refund conditions. Upon signing of the admission agreement, the licensee must advise and provide residents and their representatives a copy of the personal rights of residents specified in Sections [87468](#) of Title 22 of the California Code of Regulations as applicable to the facility. In circumstances where a facility has no family council, written information shall be provided at the time of admission to the resident's family or resident representative of their right to form a family council.

For a rate or rate structure increase, the licensee is required to provide no less than 60 days' prior written notice to the resident or the resident's representative(s) setting forth the amount of the increase, reason for the increase, and a general description of the additional costs, except for an increase in the rate due to a change in the resident's level of care. For any rate increase due to a change in the resident's level of care, the licensee shall provide the resident and the resident's representative, if any, written notice of the rate increase within two business days after initially providing services at the new level of care. The notice shall include a detailed explanation of the additional services to be provided at the new level of care and an accompanying itemization of the charges.

Admission agreements also are required to include: a comprehensive description of any items and services provided under a single fee; a comprehensive description and the corresponding fee schedule of all basic services and other items and services not included in the single fee; a description of any preadmission fee (a licensee cannot require a preadmission fee from a recipient under the State Supplementary Program for the Aged, Blind and Disabled); an explanation of the use of third-party services; a comprehensive description of billing and payment procedures; conditions under which rates may be

increased; policy concerning family visits and other communication with residents; refund conditions; and conditions under which the agreement may be terminated. The admission agreement shall include requirements pertaining to the involuntary transfer or eviction. An RCFE's eviction notice must contain language stating that the licensee must file an unlawful detainer action in superior court and receive a written judgment signed by a judge in order to evict a resident who remains in the facility after the effective date of a 60-day, 30-day or three-day eviction. The admission agreement must include information about the relocation assistance offered by the facility and the facility's closure plan in order to assist residents in the event of a facility closure. Additional disclosures are required if the facility advertises or promotes specialized care, such as care of persons with dementia.

### **Facility Scope of Care**

An RCFE provides care and supervision to its residents, including assistance with activities of daily living (ADLs), observation and reassessment, and, when appropriate, self-releasing postural supports. Residents with the following conditions or in need of the following incidental medical services may be admitted or retained as long as the applicable statutes and regulations are followed, and these procedures and services are provided by an appropriately skilled professional: administration of oxygen, catheter care, colostomy/ileostomy care, contractures, diabetes, enemas/suppositories, incontinence, injections, intermittent positive pressure breathing machines, stage 1 and 2 pressure injury, and wound care. Dementia care, hospice care, and care for residents who are bedridden may be provided if statutory and regulatory requirements are met.

### **Third Party Scope of Care**

Outside agencies such as those providing home health or hospice services may provide licensed medical services within their scope of practice to residents at the facility. This is restricted to treatment of those conditions allowed in a licensed RCFE setting.

Private paid personal assistants (PPPAs) or caregivers may only provide services other than those the licensee is required to provide. The licensee must provide the basic services and assistance with ADLs, as specified in regulations. PPPAs, who must have a criminal background clearance, can provide services such as companionship or

additional baths beyond what the licensee is required to provide. PPAs may assist with the self-administration of medication, but only if the resident's physician documents that the resident can store and administer their own medications.

## **Admission and Retention Policy**

The regulations specify circumstances under which people may be accepted and retained. Residents shall not be admitted or retained if they have active communicable tuberculosis; require 24-hour skilled nursing or intermediate care; or the primary need for care and supervision results from either ongoing behavior caused by a mental disorder that would upset the general resident group or dementia, unless other requirements are met. Additionally, persons who have any of the following health conditions may not be admitted: stage 3 or 4 pressure injury, gastrostomy tubes, nasogastric tubes, staphylococcus aureus ("staph") infection or other serious infection, residents who depend on others to perform all ADLs, or tracheostomies, unless the licensee has submitted a written exception request to care for a specified condition, and the Department has approved the request.

An RCFE may issue a 30-day notice to a resident for: nonpayment of the rate for basic services within 10 days of due date; failure to comply with state or local law; failure to comply with general facility policies; or a need not previously identified if it is determined after a reappraisal and the licensee and person who performs the reappraisal believe that the facility is not appropriate for the resident. A change in the use of the facility requires a 60-day notice to the resident. The licensee, upon obtaining prior written approval from the department, may issue a three-day eviction notice upon finding good cause that the resident is engaging in behavior which is a threat to the mental and/or physical health or safety of self or others.

## **Resident Assessment**

Residents must be assessed prior to move in, including an evaluation of functional capacity, mental condition, and social factors. While no standardized form is required, a Functional Capability Assessment (LIC 9172) courtesy form is available at <http://www.cdss.ca.gov/cdssweb/entres/forms/English/LIC9172.PDF>. The appraisal must be updated at least once a year or upon significant change in condition, whichever is first. A medical assessment, signed by a physician, must

be conducted prior to acceptance in the RCFE and must be updated when required by the Department.

For residents with dementia, the medical assessment must be updated annually.

**Medication Management** Trained facility staff, unless they are appropriately skilled medical professionals acting within the scope of their practice, may not administer medications to residents, but may assist residents with the self-administration of medications.

**Square Feet Requirements** There is no minimum square feet requirement for rooms. Resident rooms must be furnished by the RCFE or resident and be of sufficient size to allow for mobility of the resident and equipment.

**Residents Allowed Per Room** A maximum of two residents is allowed per resident bedroom.

**Bathroom Requirements** Private and shared toilets, bathing, and lavatory facilities are allowed. There must be at least one toilet and wash basin for each six persons, and one bathtub or shower for each 10 persons, including residents, family, and facility-dwelling staff.

**Life Safety** Prior to licensure, each licensee must secure and maintain an appropriate facility fire clearance approved by the fire authority having jurisdiction. To obtain a fire clearance, the licensee must meet standards established by the State Fire Marshal and the local fire authority having jurisdiction for the protection of life and property against fire. All RCFEs must have smoke and carbon monoxide detectors.

Licensees must have a current, written emergency and disaster plan that contains elements, as specified. Emergency and disaster plans are required to include elements that include, but are not limited to: a plan for sheltering in place or evacuation; list of contact information for specified parties, including emergency personnel; at least two appropriate shelter locations that can house residents during an evacuation; staff assignments in the event of a disaster or an emergency; a process for communicating with residents, families, and others; and informing residents and responsible parties of the communication process. Licensees must also provide training on the emergency and disaster plan to each staff

member upon hire and annually thereafter; review of the emergency and disaster plan annually and update as necessary; conduct a drill for various emergency situations at least once quarterly for each shift as specified; specified information readily available to staff including contact information for the responsible party and physician for each resident; and as of July 1, 2019, an evacuation chair must be in each stairwell. The emergency and disaster plans must be made available, upon request, to any resident, responsible party for a resident, local emergency responders, and the local long-term care ombudsman. An applicant seeking licensure must submit the emergency and disaster plan with the initial license application.

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

RCFEs may admit residents who are diagnosed by a physician as having dementia if certain requirements are met, including an annual medical assessment, adequate supervision, enhanced physical plant safety requirements, and an appropriate activity program. Use of egress alert devices, delayed egress, and locked facility doors and perimeters are also allowed if specified additional requirements are met. Delayed egress and locked doors/perimeters require special fire clearances and are only allowed with prior approval from CCLD. Egress alert devices worn by the resident may be used with the prior written approval of the resident or conservator. Each non-conserved resident must sign a written statement upon admission that states the resident understands that the facility has exterior door locks or perimeter fence gate locks.

All staff must receive training in dementia care. There are additional training requirements for direct care staff who work in a facility where the licensee advertises, promotes, or otherwise holds him/herself out as providing special care, programming, and/or environments for residents with dementia or related disorders. The following are dementia care training requirements for direct care staff: 12 hours of dementia care training, six of which to be completed before working independently with residents and the remaining six hours within the first four weeks of employment; and at least eight hours of dementia care in-service training per year.

**Staffing Requirements**

All facilities shall have a qualified and currently certified administrator. An administrator, facility manager, or

designated substitute who is at least 21 years of age and has adequate qualifications must be on the premise of the facility 24 hours per day. Direct care staff must be at least 18 years of age. There are no specified staffing ratios. Facility personnel must be sufficient at all times to provide the services necessary to meet resident needs. In RCFEs caring for 16 or more residents, there must be a specified number of awake night staff on duty, which is determined by the number residents being cared for at the facility. There must be at least one staff member on duty and on the premises at all times who has CPR training.

### **Administrator Education/Training**

RCFE administrators must complete an 80-hour Initial Certification Training Program (60 hours of which must be attended in person) and pass a written test. Statute defines Core of Knowledge topics for administrator certification [Health and Safety Code sections [1569.616](#) and [1569.618](#); and California Code of Regulations, Title 22, [Section 87405](#)]. Administrators who possess a valid Nursing Home Administrator license are exempt from completing an approved Initial Certification Training Program and taking the related written test, but must complete 12 hours of training in the following Core of Knowledge topics:

- (1) laws, regulations, policies and procedural standards that impact the operations of RCFEs;
- (2) use and misuse of medication commonly used by the elderly in a residential setting; and
- (3) resident admission, retention, and assessment procedures. Administrators in facilities with a capacity of 16 or more residents must also have levels of college education and experience providing care to the elderly as specified in regulations.

Administrators must complete 40 hours of continuing education units every two years in areas related to the Core of Knowledge. These 40 hours must include eight hours in Alzheimer's disease and dementia training. Licensed Nursing Home Administrators with a current license are only required to complete 20 of the 40 hours of continuing education. Up to one-half of the 40 hours of continuing education may be satisfied through interactive online training, as specified pursuant to California Code of Regulations, Title 22, [Section 87407](#).

### **Staff Education/Training**

All staff must have on-the-job training or related experience in the job assigned to them. Direct care staff who assist

residents with ADLs must complete 40 hours of initial training, with 20 hours completed before working independently with residents and the remaining 20 hours completed within the first 4 weeks of employment. This training includes 12 hours of training on dementia care and 4 hours of training on postural supports, restricted health conditions, and hospice care and 16 hours of hands-on training within 4 weeks of employment. Direct care staff must complete 20 hours of annual training that includes 8 hours of training on dementia care and four on postural supports, restricted health conditions, and hospice care. Staff providing direct care to residents shall receive appropriate training in first aid from persons qualified by such agencies as the American Red Cross. All trainings must be documented and retained in facility personnel files/records. Food service and activity directors in facilities with a capacity of 16 or more must have experience and education or training as specified in regulations. Each RCFE licensee shall provide training in recognizing and reporting elder and dependent adult abuse, as prescribed by the California Department of Justice. Direct care staff who are licensed or certified medical professionals are also required to receive training. [Health and Safety Code sections [1569.625](#), [1569.626](#), and [1569.696](#); and California Code of Regulations, Title 22, [Section 87411](#)]

Prior to the admission of a resident with a restricted health condition, the licensee shall ensure that facility staff who will participate in meeting the resident's specialized care needs complete training provided by a licensed professional to meet those needs. Training shall include hands-on instruction in both general procedures and resident-specific procedures. Staff shall have knowledge and the ability to recognize and respond to problems and shall contact the physician, appropriately skilled professional, and/or vendor as necessary. [California Code of Regulations, Title 22, Sections [87611](#), [87613](#), [87633](#), and [87705](#)]

Direct care staff who assist residents with the self-administration of medication in RCFEs, excluding licensed health care professionals, must meet specified medication training requirements. In facilities licensed to provide care for 15 or fewer persons, direct care staff shall complete 10 hours of initial training, which includes 6 hours of hands-on training, within two weeks of employment. In facilities

licensed to provide care for 16 or more persons, the employee shall complete 24 hours of initial training, which includes 16 hours of hands-on training, within 4 weeks of employment. All direct care staff, who assist residents with the self-administration of medication in RCFEs must complete 8 hours of annual training. Effective January 1, 2019, RCFEs are required to provide training on the facility's emergency and disaster plan to each staff member upon hire and annually thereafter.

**Entity Approving CE Program**

The CCLD's Administrator Certification Section. See [http://www.cdss.ca.gov/inforesources/CCLD\\_ACS](http://www.cdss.ca.gov/inforesources/CCLD_ACS).

**Medicaid Policy and Reimbursement**

Medicaid does not typically cover RCFEs, however, RCFEs may apply to be providers of Assisted Living Waiver (ALW) services to eligible beneficiaries. Eligible beneficiaries residing in skilled nursing facilities or the community may enroll in ALW and be placed in approved RCFEs. On September 17, 2020, the Centers for Medicare and Medicaid Services (CMS) authorized California's request to temporarily modify Section 1915(c) Waiver enrollment policy for ALW to prioritize intake processing of waiver applicants residing in hospitals and skilled nursing facilities in areas of the state identified as "COVID-19 hotspots." The ALW program is currently implemented in the following counties: Alameda, Contra Costa, Fresno, Kern, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, San Mateo, Santa Clara, and Sonoma counties. California's ALW was renewed for five years effective March 1, 2019 by the Centers for Medicare & Medicaid Services and is overseen by the California Department of Health Care Services.

**COVID-19 Public Health Emergency**

The CDSS CCLD continues to monitor Centers for Disease Control and Prevention and California Department of Public Health guidance on COVID-19 and has a [COVID-19 Information and Resources](#) landing page on the CCLD website. The CDSS continues to provide COVID-19 guidance to RCFEs through monthly Provider Informational Calls, PINs, direct contact with facilities, and other support.

**Citations**

California Legislative Information. Residential Care Facilities for the Elderly Act (Health and Safety Code section 1569, et seq.) [https://leginfo.legislature.ca.gov/faces/codes\\_displayText.x](https://leginfo.legislature.ca.gov/faces/codes_displayText.x)

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California Code of Regulations (CCR), Title 22, Division 6, Chapter 8, Residential Care Facilities for the Elderly (RCFE).

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California Department of Health Care Services. Assisted Living Waiver.

<http://www.dhcs.ca.gov/services/ltc/Pages/AssistedLivingWaiver.aspx>

## Colorado

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**Licensure Term** Assisted Living Residences

**Opening Statement** The Department of Public Health and Environment licenses assisted living residences (ALRs). ALRs must comply with additional requirements if they provide a secure environment, which is when the right of any resident to move outside the environment during any hours is limited.

Residences that are certified to receive Medicaid reimbursement, called alternative care facilities, must meet additional requirements. Facilities are eligible for reduced licensing fees if 35 percent or more of the licensed beds are occupied by Medicaid enrollees for at least nine months in a fiscal year.

**Legislative and Regulatory Update** Colorado recently made significant changes to its regulations for ALRs, effective June 14, 2018. A 3-year roll out period was in effect following this date to ensure residences had opportunity to come into compliance with the new rules. The changes included, but are not limited to: abuse, neglect or exploitation reporting requirements; more specificity on staff background checks; training; emergency preparedness; admission and discharge criteria; the provision of nursing services; a fall management program; expanded resident rights; updated medication section; and physical plant standards and compliance with the Facility Guidelines Institute. An update to these rules was made again, with stakeholder input, and includes COVID-19 updates, effective June 14, 2021.

*SB22-154 - Increasing Safety In Assisted Living Residences*, concerning increasing safety in assisted living residences, and, in connection therewith, making an appropriation.

Section 1, with regard to the involuntary discharge of residents from an assisted living residence

- Requires a residence to provide written notice to the resident and other specified persons at least 30 days prior to the involuntary discharge, unless the reason for the involuntary discharge is because the resident needs a higher level of care than can be provided in the residence or the resident poses a harm to the resident or to other residents;
- If the involuntary discharge is due to a resident's nonpayment of monthly services and room and board, the residence may discharge the resident 31 days after the resident received the notice of discharge.
- Requires the residence to include certain information and documentation with the written notice; and
- Establishes a process for a resident or other specified persons to challenge an involuntary discharge, including the ability to file a grievance with the residence, a requirement that the residence respond to the grievance, the ability to appeal to the department of public health and environment (department), and the ability to request an administrative hearing. The bill establishes time frames for the grievance process.

Section 2 requires the state board of health (state board) to promulgate rules that:

- Require all residence administrators, on and after January 1, 2024, to meet or exceed the minimum educational training, and experience standards established by the state board regardless of the date the administrator was hired, and section 3 establishes a fine for the residence if the residence's administrator fails to meet the standards;
- Require the residence owner or residence to conduct a check of the Colorado adult protective services data system for any person responsible for the care and welfare of residents;
- Require the residence to comply with provisions concerning involuntary discharge of residents; and
- Establish a range of fines for violations, including violations that result in harm or injury to residents. The department shall make recommendations to the state board concerning the range of fines after consulting with the statutory advisory committee relating to assisted living residences.

Section 3 replaces the \$2,000 annual cap on the amount of fines that may be imposed by the department as an intermediate restriction or condition on a residence license and requires the department to impose a fine for any violation resulting in actual harm or injury to a resident. The new cap on fines is \$10,000 in a calendar year; except that the department may exceed the cap for an egregious violation that results in death or serious injury to a resident. The bill allows the department to determine the amount of the fine, consistent with state board rules, based on factors listed in the bill including, in part:

- The size of the residence and the number of residents impacted by the violation;
- The actual or potential harm to one or more residents;
- Prior violations or a pattern of violations; and
- The level of fine that will deter future violations.

Section 3 also:

- Allows, but does not require, the department to suspend, revoke, or refuse to renew a residence license if a resident is subject to mistreatment that causes injury to the resident; the residence's owner or administrator either directly caused the mistreatment or the mistreatment resulted from the administrator's failure to adequately train or supervise employees; and a directed written plan to correct the violation, in addition to the assessment of civil fines, has not or is not reasonably expected to correct the violations; and
- Permits the department to refuse to renew a license if the residence administrator does not meet or exceed the minimum educational, training, and experience standards established by the state board.

The bill appropriates \$74,509 from the general fund to the department to implement the bill. The appropriation is made with the assumption that the department will require 0.3 FTE to implement the bill. Of the appropriated amount, \$47,680 is reappropriated to the office of the governor for use by the office of information technology for information technology services.

*SB79 (2022) - Dementia Training Requirements Colorado  
Department of Public Health and Environment Department*

*of Health Care Policy and Financing Rules* states that by January 1, 2024, the state board of health shall adopt rules requiring covered facilities to provide dementia training for direct-care staff members. Specific requirements include:

- at least four hours of initial dementia training
- training for all direct care staff must be completed within one hundred twenty days
- after the effective date of the dementia training requirement, training must be completed within one hundred twenty days after the start of employment
- at least two hours of continuing education on dementia topics for all direct-care staff members every two years.

The content of the initial dementia training, which must be culturally competent and include the following topics:

- i. dementia diseases and related disabilities;
- ii. person-centered care;
- iii. care planning;
- iv. activities of daily living; and
- v. dementia-related behaviors and communication;

"Direct-care staff member" means a staff member caring for the physical, emotional, or mental health needs of residents in a covered facility and whose work involves regular contact with residents who are living with dementia diseases and related disabilities.

Proof of training completion is valid for 24 months from one employer to the next.

## **Definition**

ALRs are residential facilities that make available to three or more adults who are unrelated to the owner, either directly or indirectly through an agreement between the provider and the resident, room and board and at least the following services: personal services; protective oversight; social care due to impaired capacity to live independently; and regular supervision that must be available on a 24-hour basis, but not to the extent that regular 24-hour medical or nursing care is required.

Another type of assisted living is a residential treatment facility for the mentally ill, which has received program approval from the Department of Human Services and provides treatment for psychiatric needs for no more than 16 mentally ill individuals not related to the licensee and

are provided treatment commensurate to the individuals' psychiatric needs which has received program approval from the Department of Human Services.

An assisted living residence can also mean a Supportive Living Program residence that is certified by the Colorado Department of Health Care Policy and Financing to also provide health maintenance activities, behavioral management and education, independent living skills training and other related services as set forth in the supportive living program regulations.

### **Disclosure Items**

The ALR must ensure that a new resident is provided with and acknowledges receipt of the following information: how to obtain access to the assisted living residence policies and procedures; the resident's right to receive CPR or have a written advance directive refusing CPR; minimum staffing levels, whether the ALR has awake staff 24 hours a day, and the extent to which certified or licensed health care professionals are available on-site; whether the ALR has an automatic fire sprinkler system; whether the ALR uses egress alert devices; whether the ALR has resident location monitoring devices, when and where they are used, and how the ALR determines that a resident requires monitoring; whether the ALR operates a secure environment and what that means; the resident's individualized care plan that addresses his or her functional capability and needs; smoking prohibitions and/or designated smoking areas; the readily available on-site location of the most recent inspection report; and upon request, a copy of the most recent version of the ALR licensing rules. The written agreement between the parties must also cover specified topics. Additional disclosures are required if a resident is entering a secure environment.

### **Facility Scope of Care**

The facility must make available, either directly or indirectly, through a resident agreement the following services sufficient to meet the needs of the residents: a physically safe and sanitary environment; room and board; personal services; protective oversight; and social care and resident engagement. Personal services include, but are not limited to, a system for identifying and reporting resident concerns that require either an immediate individualized approach or ongoing monitoring and possible re-assessment. Protective oversight includes, but is not limited to, taking appropriate measures when confronted with an unanticipated situation

or event involving one or more residents and the identification of urgent issues or concerns that require an immediate individualized approach. Nurses may provide nursing services to support the personal care services provided to residents of the ALR, except that such services should not rise to the level that requires discharge as described below or becomes regular 24-hour medical or nursing care.

**Third Party Scope of Care** External service providers, which include, but are not limited to, home health, hospice, private pay caregivers, and family members are allowed. ALRs may enter into a written agreement with external service providers such as home health and hospice. Rules address coordination between the ALR and third-party providers. ALRs are responsible for overseeing contracted personnel and services.

**Admission and Retention Policy** Only residents whose needs can be met by the facility within its licensure category shall be admitted. The facility's ability to meet resident needs shall be based upon a comprehensive pre-admission assessment of the resident's: physical, health, and social needs; preferences; and capacity for self-care.

An ALR may not allow to move-in any person who:

- (1) needs regular 24-hour medical or nursing care;
- (2) is incapable of self administration of medication and the ALR does not have licensed or qualified staff;
- (3) has an acute physical illness that cannot be managed through medication or prescribed therapy;
- (4) has physical limitations that restrict mobility unless compensated for by available auxiliary aids or intermittent staff assistance;
- (5) has incontinence issues that cannot be managed by the resident or staff;
- (6) is profoundly disoriented to time, person and place with safety concerns that require a secure environment and the ALR does not provide a secure environment;
- (7) has a stage 3 or 4 pressure sore and does not meet other criteria;
- (8) has a history of conduct that has been disclosed to the ALR that would pose a danger to the resident or others, unless the ALR reasonably believes that the conduct can be managed through therapeutic approaches; or
- (9) needs restraints of any kind except in specified situations.

An ALR must arrange to discharge any resident who:

- (1) has an acute physical illness that cannot be managed through medication or prescribed therapy;
- (2) has physical limitations that restrict mobility unless compensated for by available auxiliary aids or intermittent staff assistance;
- (3) has incontinence issues that cannot be managed by the resident or staff;
- (4) has a stage 3 or 4 pressure sore and does not meet other specified criteria;
- (5) is profoundly disoriented to time, person and place with safety concerns that require a secure environment and the ALR does not provide a secure environment;
- (6) exhibits conduct that poses a danger to self or others and the ALR is unable to sufficiently address those issues through a therapeutic approach; or
- (7) needs more services than can be routinely provided by the ALR or an external service provider.

The ALR may also discharge for nonpayment of basic services in accordance with the resident agreement or the resident's failure to comply with a valid, signed resident agreement.

## **Resident Assessment**

An ALR must complete a comprehensive pre-admission assessment that includes: a resident's physical, mental and social need; cultural, religious and activity needs; preferences; and capacity for self-care. At the time the resident moves in, the ALR shall complete a comprehensive assessment that includes: information from the comprehensive pre-admission assessment; information regarding the resident's overall health and physical functioning ability; information regarding the resident's advance directives; communication ability and specific needs to facilitate effective communication; current diagnoses and any known or anticipated need or impact related to the diagnoses; food and dining preferences, unique needs and restrictions; individual bathroom routines, sleep and awake patterns; reactions to the environment and others, including changes that may occur at certain times or in certain circumstances; routines and interests; history and circumstances of recent falls and any known approaches to prevent future falls; safety awareness; types of physical, mental and social support required; and personal background, including information

regarding any other individuals who are supportive of the resident, cultural preferences and spiritual needs. The comprehensive assessment must be updated for each resident annually and whenever the resident's condition changes from baseline status.

There is no standard required assessment form.

**Medication Management**

All personal medication is the property of the resident and no resident shall be required to surrender the right to possess or self-administer any personal medication, unless an authorized practitioner has determined that the resident lacks the decisional capacity to possess or self-administer such medication safely. For residents who are unable to self-administer medications, medications must be given by a practitioner, nurse, qualified medication administration person, or certified nurse medication aide acting within the scope of practice. The regulations specify additional details regarding when staff may administer or assist with administering medication to a resident.

**Square Feet Requirements**

Private resident units must be a minimum of 100 square feet and double occupancy resident units must provide a minimum of 60 square feet per resident. Bathroom and closet areas shall not be included in the determination of square footage.

**Residents Allowed Per Room**

A maximum of two residents is allowed per resident unit. In facilities licensed prior to July 1, 1986, up to four residents are allowed per room, until either a renovation or a change of ownership occurs.

**Bathroom Requirements**

Shared bathrooms are permitted with at least one full bathroom for every six residents. A full bathroom shall consist of at least the following fixtures: a toilet, hand-washing station, mirror, private individual storage for resident personal effects, and shower. If one or more residents utilizes an auxiliary aid, the facility shall provide at least one full bathroom with fixtures positioned so as to be fully accessible to any resident utilizing an auxiliary aid.

**Life Safety**

An ALR must be constructed in conformity with the standards adopted by the Director of the Division of Fire Prevention and Control at the Colorado Department of Public Safety.

For any construction or renovations of a facility or agency initiated on or after July 1, 2020, the following requirements of the 2018 Editions, Facilities Guidelines Institute (FGI) including any errata and guideline interpretations adopted as of November 1, 2019, are incorporated by reference, as applicable to facility or agency license type: for residential facilities: Guidelines for Design and Construction of Residential Health, Care, and Support Facilities.

An ALR applying for an initial license after June 1, 2019 must comply with specified parts of the Guidelines for Design and Construction of Residential Health, Care and Support Facilities, Facility Guidelines Institute (FGI) (2018 Edition), unless otherwise indicated. Renovations of an existing ALR that is initiated after December 1, 2019 must also comply. ALRs that are located in single-family residential neighborhoods and are operating in structures designed to be single-family homes are exempt from compliance with FGI guidelines that each resident have access to a bathroom without entering a corridor and that the building have an elevator that is sized to accommodate a gurney and/or medical carts.

Existing facilities are required to meet the 2012 Life Safety Code, or NFPA 101A Guide on Alternative Approaches to Life Safety (2013 edition). Requirements for sprinklers, fire alarm systems, and smoke detection systems are dependent upon a facility's level of evacuation capability.

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

Secured units for the purpose of serving residents with Alzheimer's disease are allowed and additional requirements are set forth in the regulations.

Staffing must be adequate, and staff must be trained to meet residents' needs. For those facilities choosing to provide secured care, at least one trained staff member must be in the secured unit at all times. Before a staff member is allowed to work independently in a secure unit, the ALR must provide each staff member with a minimum of eight hours of training and education on the provision of care and services for residents with dementia/cognitive impairment. Each staff member assigned to the secure unit must complete eight hours of continuing education within each 12- month period beginning with the date of initial assignment.

## **Staffing Requirements**

An ALR must have an administrator who is responsible for the overall operation, and daily administration, management and maintenance of the facility. There are no staffing ratios in rule. Whenever one or more resident(s) are present in the ALR, there must be at least one staff member present who meets specified criteria and is capable of responding to an emergency, including at least one staff member onsite at all times who has first aid and CPR certifications. To determine appropriate routine staffing levels, the ALR must consider, at a minimum: the acuity and needs of the residents; the services outlined in the care plan; and the services set forth in the resident agreement. Staffing must be sufficient to help residents needing or potentially needing assistance, considering individual needs such as the risk of accident, hazards, or other challenging events.

## **Administrator Education/Training**

Each newly hired administrator must be at least 21 years of age, possess a high school diploma or equivalent, and have at least one year of experience supervising the delivery of personal care services that includes activities of daily living. There are exceptions to this requirement outlined in 6 CCR 1011-1 Chapter 7. They must also undergo a background check.

An administrator recognized by the Department as having been an ALR administrator prior to July 1, 2019 is not required to meet the new criteria. Prior requirements were that operators must be at least 21 years of age and must meet the minimum educational, training, and experience standards in one of the following ways: completing a Department of Public Health-approved program or having documented previous job-related experience or education equivalent to successful completion of such program.

Each administrator must have completed an administrator training program before assuming the position. An administrator training program must be conducted by an organization specified in the regulations and include at least 40 hours, 20 of which shall focus on applicable state regulation. The other 20 hours must provide an overview of topics such as business operations, daily business management, physical plant, resident care, and resident psychosocial needs.

## **Staff Education/Training**

Each staff member and volunteer who provide ALR services must complete an initial orientation before providing care and services to a resident. The orientation must include, at a minimum, all of the following:

- (1) the care and services provided by the ALR;
- (2) assignment of duties and responsibilities, specific to the staff member or volunteer;
- (3) hand hygiene and infection control;
- (4) emergency response policies and procedures (e.g., recognizing emergencies, fire response, basic first aid, serious illness injury);
- (5) reporting requirements, including occurrence reporting procedures within the facility;
- (6) resident rights;
- (7) house rules;
- (8) where to immediately locate a resident's advance directive; and
- (9) an overview of the assisted living residence's policies and procedures and how to access them for reference.

The ALR shall provide each staff member or volunteer with training relevant to their specific duties and responsibilities prior to working independently and includes the following topics:

1. Overview of state regulatory oversight applicable to the ALR;
2. Person-centered care;
3. The role of and communication with external service providers;
4. Recognizing behavioral expression and management techniques;
5. How to effectively communicate with residents that have hearing loss, limited English proficiency, Dementia, or other conditions that impair communication;
6. Training related to fall prevention;
7. How to safely provide lift assistance, accompaniment, and transport of residents;
8. Maintenance of a clean, safe, and healthy environment including appropriate cleaning techniques;
9. Food safety; and
10. Understanding the staff or volunteer's role in end of life care including hospice and palliative care.

**Entity Approving CE Program**

None specified.

**Medicaid Policy and Reimbursement**

A Medicaid Section 1915(c) home and community-based services waiver, the Elderly, Blind, and Disabled (EBD) Waiver, covers services in "alternative care facilities," which are ALRs certified by the Colorado Department of Health Care Policy and Financing to receive Medicaid reimbursement. The EBD Waiver covers people ages 65 and older who have a functional impairment or are blind as well as people ages 18-64 who are physically disabled or have a diagnosis of HIV or AIDS and require long-term supports and services in order to remain in a community setting. Facilities are reimbursed for services on a flat rate based on residents' income.

**COVID-19 Public Health Emergency**

When CCR Title 6, Chapter 7 was updated in 2021, it included updates resulting from COVID-19 and include:

1. Clarifying ombudsman-related standards to include that they may obtain a resident's contact information in order to ensure that the ombudsman has access to a resident when in-person contact cannot occur; and
2. Requiring that infection control policies be based on nationally recognized guidelines and guidance.

**Citations**

Colorado SB79 (2022)  
<https://legiscan.com/CO/text/SB079/2022>

Colorado SB22-154 (2022)  
<https://leg.colorado.gov/bills/sb22-154>

Department of Public Health and Environment, Health Facilities and Emergency Medical Services Division, Standards For Hospitals And Health Facilities, Chapter 7 - Assisted Living Residences. [June 14, 2021].  
<https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=9550&fileName=6%20CCR%201011-1%20Chapter%2007>

Code of Colorado Regulations. Title 6, Chapter 7: Assisted Living Residences. [various effective dates between June 14, 2018 and June 1, 2021]  
<https://www.sos.state.co.us/CCR/DisplayRule.do?action=ruleinfo&ruleId=3036&deptID=16&agencyID=144&deptName=Department%20of%20Public%20Health%20and%20Environment&agencyName=Health%20Facilities%20and%20E>

[mergency%20Medical%20Services%20Division%20\(1011,%201015%20Series\)&seriesNum=6%20CCR%201011-1%20Chapter%2007](https://www.sos.state.co.us/CCR/6%20CCR%201011-%201%20Chap%2002.pdf?ruleVersionId=6751&fileName=6%20CCR%20%201011-1%20Chap%2002)

Code of Colorado Regulations, Title 6, Chapter 2: General Licensing Standards. [effective June 14, 2021]  
<https://www.sos.state.co.us/CCR/6%20CCR%201011-%201%20Chap%2002.pdf?ruleVersionId=6751&fileName=6%20CCR%20%201011-1%20Chap%2002>

Code of Colorado Regulations, Title 6, Chapter 24: Medication Administration Regulations. [ effective July 1, 2017]  
<https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=7214&fileName=6%20CCR%201011-1%20Chapter%2024>

Colorado General Assembly, First Regular Session, 73rd General Assembly. HB 19-1268. Assisted Living Residence Referral Disclosures. <https://leg.colorado.gov/bills/hb19-1268>.

Colorado Department of Health Care Policy and Financing, Health First Colorado (Medicaid Program): Alternative Care Facilities. <https://hcpf.colorado.gov/alternative-care-facilities>.

Colorado Department of Health Care Policy and Financing. Elderly, Blind, and Disabled Waiver (EBD). <https://hcpf.colorado.gov/elderly-blind-disabled-waiver-ebd/>.

## Connecticut

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**Licensure Term** Assisted Living Services Agencies provide services in Managed Residential Communities

**Opening Statement** The Department of Public Health, Facility Licensing and Investigations Section licenses assisted living services agencies that provide assistance to residents of managed residential communities. Assisted living services agencies are required to be licensed, but managed residential communities are not. These communities must register with the Department of Public Health.

Alzheimer's special care units/programs provide specialized care or services for people with Alzheimer's disease or dementia and have separate licensure requirements.

**Legislative and Regulatory Update** Two Public Acts were enacted in 2021 related to the COVID-19 pandemic.

**Definition** Assisted living services agencies provide nursing services and assistance with activities of daily living (ADLs) to clients living within a managed residential community having supportive services that encourages clients primarily age 55 or older to maintain a maximum level of independence.

A managed residential community is a facility consisting of private residential units that provides a managed group living environment, including housing and services for clients primarily age 55 years or older. The operator of a managed residential community may also be licensed as an assisted living services agency.

**Disclosure Items** An assisted living services agency shall have a written bill of rights and responsibilities governing agency services which shall be provided and explained to each client at the time of admission to the agency. The bill of rights must

contain specified information, including, but not limited to: description of available services; admission criteria; explanation of complaint procedure; and circumstances under which a client may be discharged. Alzheimer's special care units or programs have additional written disclosure requirements described below.

**Facility Scope of Care**

Assisted living services agencies may provide nursing services and assistance with ADLs to residents with chronic and stable conditions as determined by a physician or health care practitioner. A managed residential community shall provide or arrange to make available core services including regularly scheduled meals, laundry service, transportation, housekeeping, and other services.

**Third Party Scope of Care**

Assisted living services agencies may contract with other organizations, agencies or individuals to provide defined services.

**Admission and Retention Policy**

The state does not specify discharge or admission requirements; however, each agency must develop written policies for the admission and discharge of clients. The admission criteria shall not impose unreasonable restrictions which screen out a client whose needs may be met by the agency. The discharge policies must include, but are not limited to, change in a resident's condition (when a resident is no longer chronic and stable), and what constitutes routine, emergency, financial, and premature discharge.

**Resident Assessment**

There is no standard required resident assessment form. A client service program must be completed by a registered nurse in consultation with the client, family, and others in the care of the client within seven days of admission and reviewed as the client's condition requires, but not less than every 120 days. The service program shall include the client's problems and needs; types and frequency of services and equipment required; medications, treatments, and other required nursing services; and other items. State law requires a yearly written certification by the resident's attending physician that the resident's condition is chronic and stable.

**Medication Management**

A licensed nurse may administer medications and/or pre-pour medications for clients who are able to self-administer medications. With the approval of the client or his or her

representative, an assisted living aide may supervise a client's self-administration of medications.

<b>Square Feet Requirements</b>	The managed residential community where services are offered must have private residential units that include a full bath, access to facilities, and equipment for the preparation and storage of food. Common space in the facility must be sufficient to accommodate 50 percent of the residents at any given time. The state does not specify minimum square foot requirements.
<b>Residents Allowed Per Room</b>	Managed residential communities may not require tenants to share units, though residents may choose to share a room. The state does not specify a maximum number of tenants that may share a unit.
<b>Bathroom Requirements</b>	Each unit must include a full bath.
<b>Life Safety</b>	Fire safety is not under the jurisdiction of the state Department of Public Health. Fire safety issues are the purview of local authorities. Managed residential communities must provide the department with evidence of compliance with local building codes and the Connecticut Fire Safety Code and Supplement.
<b>Unit and Staffing Requirements for Serving Persons with Dementia</b>	As of January 1, 2007, each Alzheimer's special care unit or program shall provide written disclosure to any person who will be placed in such a unit or program or their legal guardian/responsible party. The disclosure must be signed by the patient or responsible party and explain what additional care and treatment or specialized program will be provided in the Alzheimer's special care unit or program. Information shall include, but not be limited to: a written statement of the overall philosophy and mission of the Alzheimer's special care unit or program that reflects the needs of residents with Alzheimer's disease, dementia or other similar disorders; the process and criteria for placement within or transfer or discharge from the Alzheimer's special care unit or program; the process used for assessing and establishing and implementing the plan of care, including the method by which the plan of care is modified in response to changes in condition; the nature and extent of staff coverage, including staff to patient ratios and staff training and continuing education; the physical environment and design features appropriate to support the functioning of cognitively impaired adult residents; the

frequency and types of resident activities and the ratio of residents to recreation staff; the involvement of families and family support programs; and the cost of care and any additional fees. Alzheimer's special care units or programs shall develop a standard disclosure form that is reviewed annually and verify the accuracy of the information provided. Any significant change to the information reported pursuant to subsection must be updated not later than thirty days after such change.

All licensed and registered direct care staff in Alzheimer's special care units or programs must receive Alzheimer's and dementia-specific training annually that includes, but is not limited to:

- (1) not less than eight hours of dementia-specific training, which shall be completed not later than six months after the date of employment, and not less than eight hours of such training annually thereafter, and
- (2) annual training of not less than two hours in pain recognition and administration of pain management techniques. In such settings, at least one hour of Alzheimer's/dementia specific training must be provided to all non-direct care staff within six months of hire.

## **Staffing Requirements**

The assisted living services agency must appoint a supervisor of services, though an administrator is not required. The supervisor of assisted living services is responsible for ensuring that there are sufficient numbers of assisted living aides to meet client needs. The supervisor must be on site either: at least 20 hours per week for each ten or less full time or full time equivalent licensed nurses or assisted living aides; or at least 40 hours per week for each 20 or less full time or full time equivalent licensed nurses or assisted living aides. The supervisor must ensure that licensed nurse staffing is adequate at all times to meet client needs, though there are no staffing ratios. A registered nurse must be on call 24 hours a day. A managed residential community must employ an on-site service coordinator with specified duties that include ensuring that services are provided to all tenants and assisting tenants in making arrangements for their personal needs. In an assisted living services agency serving no more than 30 clients on a daily basis, one individual may serve as both the supervisor of assisted living services and the service coordinator under certain circumstances.

<b>Administrator Education/Training</b>	The supervisor must be a registered nurse with a baccalaureate degree in nursing and at least two years of experience in nursing, including one year in a home health agency or community health program; or with a diploma/associates degree in nursing with four years of clinical experience in nursing, including one year in a home health agency or community health program.
<b>Staff Education/Training</b>	Service coordinators hired after December 1, 1994 must have specified levels of education and/or experience. All staff must complete a 10-hour orientation program. The program must include specified topics, such as: the policies and procedures for medical emergencies, organization structure and the philosophy of assisted living, agency client services policies and procedures, agency personnel policies, and applicable regulations. Assisted living aides must pass a competency exam. Assisted living aides must have successfully completed a training and competency evaluation program as either a certified nurse's aide or home health aide. Each agency shall have an in-service education policy that provides an annual average of at least one hour bimonthly for each assisted living aide. Each agency shall provide training and education on Alzheimer's disease and dementia symptoms and care to all staff providing direct care upon employment and annually thereafter.
<b>Entity Approving CE Program</b>	None specified.
<b>Medicaid Policy and Reimbursement</b>	A Medicaid Section 1915(c) home and community-based services waiver, the Connecticut Home Care Program for Elders, covers services for people ages 65 and above who are at risk of nursing home.
<b>COVID-19 Public Health Emergency</b>	<p>Public Act 21-55 (sSB975) was effective in two parts, beginning July 1, 2021 and October 1, 2021. This bill added to the bill of rights for long-term care residents, including an individual's ability to use technology that facilitates virtual monitoring or virtual visitation.</p> <p>Public Act 31-71 (HB 6634) was enacted on June 24, 2021. This bill establishes:</p> <ol style="list-style-type: none"> <li>1. That long-term care facility residents, or their representatives, can designate an essential support</li> </ol>

- person and a secondary essential support person who may visit the resident despite general visitation restrictions;
2. That a statewide policy for visitation with long-term care residents be established; and
  3. That the duties of the State Long-Term Care Ombudsman's Office include addressing the impact of socialization, visitation, and the role of essential support persons on the health, safety, and well-being of nursing home residents.

## Citations

Connecticut Department of Social Services. Connecticut Home Care Program for Elders (CHCPE).  
<https://portal.ct.gov/DSS/Health-And-Home-Care/Connecticut-Home-Care-Program-for-Elders/Connecticut-Home-Care-Program-for-Elders-CHCPE>

Connecticut Administrative Code, Section 19-13-D105: Assisted Living Services Agency. [June 29, 2001]  
[https://eregulations.ct.gov/eRegsPortal/Browse/RCSA?id=Title\\_19Subtitle\\_19-13-DSection\\_19-13-d105&content=assisted%20living/](https://eregulations.ct.gov/eRegsPortal/Browse/RCSA?id=Title_19Subtitle_19-13-DSection_19-13-d105&content=assisted%20living/)

Department of Social Services. Connecticut Home Care Program for Elders (CHCPE).  
<https://portal.ct.gov/dss/Health-And-Home-Care/Connecticut-Home-Care-Program-for-Elders/Connecticut-Home-Care-Program-for-Elders-CHCPE>

## Delaware

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**Licensure Term** Assisted Living Facilities

**Opening Statement** The Delaware Department of Health and Social Services (DHSS), Division of Long Term Care Residents Protection, licenses assisted living facilities (ALFs) that offer living arrangements to medically stable persons who do not require skilled nursing services and supervision.

**Legislative and Regulatory Update** Delaware updated definitions (24 DE Reg. 579) effective December 1, 2020 as well as the specific requirements for COVID-19 (25 DE Reg. 761) effective February 1, 2022.

**Definition** Assisted living is a special combination of housing, supportive services, supervision, personalized assistance, and health care designed to respond to the individual needs of those who need help with activities of daily living and/or instrumental activities of daily living.

**Disclosure Items** Prior to executing a contract, each ALF must provide to prospective resident a complete statement with all charges for services, materials and equipment which shall, or may be, furnished to the resident during the period of occupancy. The state also specifies additional non-financial provisions that must be in the contract or service agreement. There is an additional disclosure statement required for facilities that offer specialized care for individuals with memory impairment (see 'Unit and Staffing Requirements for Serving Persons with Dementia' section below).

**Facility Scope of Care** Assisted living is designed to offer living arrangements to medically stable persons who do not require skilled nursing services and supervision. Facilities must provide the following services: ensure the resident's service agreement is properly implemented; provide or ensure the provision of all necessary personal services, including all ADLs; facilitate access to appropriate health care and social

services; and provide or arrange appropriate opportunities for social interaction and leisure activities.

**Third Party Scope of Care** A resident may contract with a home health agency to provide services with prior approval of the facility's executive director. A licensed hospice program may provide care for a resident. The hospice program must provide written assurance that, in conjunction with care provided by the assisted living facility, all of the resident's needs will be met without placing other residents at risk.

**Admission and Retention Policy** An assisted living facility may not admit, provide services to, or permit the provision of services to individuals who, based on the uniform resident assessment, meet any of the following conditions:

- (1) Require care by a nurse that is more than intermittent or for more than a limited period of time;
- (2) Require skilled monitoring, testing, and aggressive adjustment of medications and treatments where there is the presence of, or reasonable potential of, an acute episode unless there is a registered nurse (RN) to provide appropriate care;
- (3) Require monitoring of a chronic medical condition that is not essentially stabilized through available medications and treatments;
- (4) Are bedridden for more than 14 days;
- (5) Have stage III or IV skin ulcers;
- (6) Require a ventilator;
- (7) Require treatment for a disease or condition that requires more than contact isolation;
- (8) Have an unstable tracheotomy or a stable tracheotomy of less than six months' duration;
- (9) Have an unstable PEG tube;
- (10) Require an intravenous or central line with an exception for a completely covered subcutaneously implanted venous port, provided the assisted living facility meets the following standards:
  - (a) Facility records must include the type, purpose, and site of the port, the insertion date, and the last date medication was administered or the port flushed.
  - (b) The facility must document the presence of the port on the Uniform Assessment Instrument, the service plan, interagency referrals, and any facility reports.

- (c) The facility shall not permit the provision of care to the port or surrounding area, the administration of medication or the flushing of the port or the surgical removal of the port within the facility by facility staff, physicians, or third party providers;
- (11) Wander such that the assisted living facility would be unable to provide adequate supervision or security arrangements;
- (12) Exhibit behaviors that present a threat to the health or safety of themselves or others; and
- (13) Are socially inappropriate as determined by the assisted living facility such that the facility would be unable to manage the behavior after documented reasonable efforts for a period of no more than 60 days.

The provisions above do not apply to residents under the care of a hospice program licensed by the DHSS as long as the hospice program provides written assurance that, in conjunction with care provided by the assisted living facility, all of the resident's needs will be met without placing other residents at risk.

An assisted living facility may request a resident-specific waiver to serve a current resident who temporarily requires care otherwise excluded. The resident's condition should be expected to improve within 90 days.

## **Resident Assessment**

The "Uniform Assessment Instrument" sets forth standardized criteria developed by the Division of Long Term Care Residents Protection to assess each resident's functional, cognitive, physical, medical, and psychosocial needs and status. The assisted living facility must use the UAI to evaluate each resident on both an initial and ongoing basis. The UAI is available here: [https://www.dhss.delaware.gov/dhss/dhccq/files/dltcrp\\_uai\\_revision\\_01232008\\_final\\_a.pdf](https://www.dhss.delaware.gov/dhss/dhccq/files/dltcrp_uai_revision_01232008_final_a.pdf).

A prospective resident must have an initial resident assessment completed, using the Division-approved form, by an RN acting on behalf of the assisted living facility no more than 30 days prior to admission. In addition, within 30 days prior to admission, a prospective resident shall have a medical evaluation completed by a physician. Assisted living facilities must develop, implement, and adhere to a documented, ongoing quality assurance program that includes an internal monitoring process that tracks

performance and measures resident satisfaction. On at least a semiannual basis, each facility must survey each resident regarding his/her satisfaction with services provided. Facilities must retain all surveys for at least two years and they will be reviewed during inspections. Documentation that addresses actions that were taken as a result of the surveys must be maintained for at least one year.

**Medication Management**

Facilities must comply with the Nurse Practice Act. Residents may receive certain medications and treatments from unlicensed assistive personnel trained under the Assistance with Self-Administration of Medication (“AWSAM”) program and ALF Specific Course as approved by the Board of Nursing. The facility must establish and adhere to written medication policies and procedures that address a series of issues related to obtaining, storing, treatments and administering medication. A quarterly pharmacy review conducted by a pharmacist is required.

**Square Feet Requirements**

Resident kitchens must be available to residents either in their individual living unit or in an area readily accessible to each resident. For all new construction and conversions of assisted living facilities with more than 10 beds, there must be at least 100 square feet of floor space for each resident in a private bedroom and at least 80 square feet of floor space for each resident sharing a bedroom. This excludes alcoves, closets, and bathroom.

**Residents Allowed Per Room**

A maximum of two residents is allowed per resident unit.

**Bathroom Requirements**

Bathing facilities must be available either in an individual living unit or in an area readily accessible to each resident. If bathroom facilities are shared by residents, then there must be at least one working toilet, sink, and tub/shower for every four residents.

**Life Safety**

Assisted living facilities must comply with all applicable state and local fire and building codes. Facilities must develop and implement a plan for fire safety and emergencies through staff training and drills and a plan for relocation and/or evacuation and continuous provision of services to residents in the event of permanent or temporary closure of the facility. The evacuation plan must be approved by the fire marshal having jurisdiction and include the evacuation route, which must be conspicuously

posted on each floor and in each unit. Facilities are required to orient staff and residents to the emergency plan, conduct fire drills in accordance with state fire prevention regulations, conduct other emergency drills or training sessions on all shifts at least annually, and maintain records identifying residents needing assistance for evacuation.

Specified incidents must be reported within eight hours to the Division of Health Care Quality including, but not limited to: fire due to any cause, abuse, neglect, mistreatment, financial exploitation, resident elopement, death of a resident, significant injuries, a significant error or omission in medication/treatment, a burn greater than first degree, attempted suicide, poisoning, an epidemic, and circumstances providing a reasonable basis to suspect drugs have been diverted.

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

An assisted living facility that offers specialized care for individuals with memory impairment must disclose its policies and procedures that describe the form of care and treatment provided that is in addition to the care and treatment required by law and regulation.

Staff must be adequately trained, certified, and licensed to meet the requirements of the residents.

**Staffing Requirements**

Each facility must have a director who is responsible for the operation of the program. Facilities licensed for 25 beds or more must have a full-time nursing home administrator. Facilities licensed for five through 24 beds must have a part-time nursing home administrator on site and on duty at least 20 hours per week. The director of a facility for four beds or fewer must be on site at least eight hours a week.

Each facility must have a Director of Nursing (DON) who is an RN. Facilities licensed for 25 or more beds must have a full time DON; facilities licensed for five to 24 beds must have a part-time DON on site and on duty at least 20 hours a week; and a DON of a facility for four or fewer beds must be on site at least eight hours a week. Resident assistants must be at least 18 years of age. At least one awake staff person must be on site 24 hours per day who is qualified to administer or assist with self-administration of medication, has a knowledge of emergency procedures, basic first aid, CPR, and the Heimlich Maneuver. Overall staffing must be

sufficient in number and staff must be adequately trained, certified, or licensed to meet the needs of the residents and to comply with applicable state laws and regulations. There are no staffing ratios.

**Administrator  
Education/Training**

The nursing home administrator for facilities with five or more beds must maintain current certification as required by state law.

For facilities with four beds or fewer, the state specifies reduced requirements for the director of the facility and for the on-site manager. The director of a facility with four or fewer beds must: hold a baccalaureate degree in a health or social services field or business administration; hold an Associate's degree in a health or social services field or business administration and at least two years of full-time equivalent work experience in these disciplines; be an RN with a combined total of four years full-time equivalent education and related work experience; or have at least four years full-time equivalent work experience as a licensed practical nurse, or five years full-time equivalent work experience in a health or social services field or business administration. The on-site manager of a facility with four or fewer beds must: possess a high school diploma or its equivalent; be certified as a certified nurse assistant (CNA) with at least three years of experience providing care in a health care setting; complete an orientation program in accordance with the CNA regulations; and receive at least 12 hours of regular in-service education annually.

**Staff Education/Training**

Staff must be adequately trained to meet the needs of the residents and the facility must provide and document staff training. Facilities shall provide orientation training to all new staff.

Resident assistants must receive facility-specific orientation covering specified topics such as, but not limited to, fire and life safety, infection control, basic food safety, job responsibilities, and the health and psychosocial needs of the population being served. Resident assistants must receive at least 12 hours of in-service education annually.

On-site house managers of facilities with four beds or fewer must receive a minimum of 12 hours of in-service education annually.

**Entity Approving CE Program**

The Board of Nursing Home Examiners approves continuing education programs for assisted living facility licensed Nursing Home Administrators. The Delaware Division of Long Term Care Residents Protection approves continuing education courses for Certified Nurse Aides.

**Medicaid Policy and Reimbursement**

The Delaware Diamond State Health Plan Plus is a Medicaid managed long-term care program, which is currently being implemented throughout the state through a Section 1115 demonstration waiver. The program covers community-based residential alternatives that include Assisted Living Facilities.

**COVID-19 Public Health Emergency**

There are permanent regulatory changes related to the COVID-19 public health emergency. See Section 9.8 of the Assisted Living Facility regulations, “Specific Requirements for COVID-19” at

<https://regulations.delaware.gov/AdminCode/title16/Department%20of%20Health%20and%20Social%20Services/Division%20of%20Health%20Care%20Quality/3225.shtml>

**Citations**

Delaware Administrative Code. Title 16: Department of Health and Social Services: Division of Health Care Quality, 3225 Assisted Living Facilities.

<https://regulations.delaware.gov/AdminCode/title16/Department%20of%20Health%20and%20Social%20Services/Division%20of%20Health%20Care%20Quality/3225.shtml>.

Delaware Department of Health and Social Services, Division of Health Care Quality. Delaware Licensed Assisted Living Facilities.

<http://www.dhss.delaware.gov/dhss/dltcrp/assistedlivingfacilities.html>

Delaware Department of Health and Social Services, Division of Medicaid and Medical Assistance. Delaware Diamond State Health Plan (DSHP) 1115 Demonstration Waiver 2019 Annual Report.

<http://dhss.delaware.gov/dhss/dmma/medicaid.html>.

Delaware Health and Social Services. Delaware Diamond Health State Plan Plus Waiver Amendment Request. July 2011.

[http://dhss.delaware.gov/dhss/dmma/files/dshpplus\\_waiver.pdf](http://dhss.delaware.gov/dhss/dmma/files/dshpplus_waiver.pdf)

Delaware Final Order - 3225 Assisted Living Facilities, 24  
DE Reg. 579

<https://regulations.delaware.gov/register/february2022/final/25%20DE%20Reg%20761%2002-01-22.htm>

Delaware Final Order - 3225 Assisted Living Facilities, 25  
DE Reg. 761

<https://regulations.delaware.gov/register/december2020/final/24%20DE%20Reg%20579%2012-01-20.htm>

## District of Columbia

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**Licensure Term** Community Residence Facilities and Assisted Living Residences

**Opening Statement** The Department of Health, Health Regulation and Licensing Administration, licenses community residence facilities (CRFs) and assisted living residences (ALRs). ALRs can provide a higher level of care than CRFs.

CRFs are health care facilities, except hospitals, covered under the District of Columbia Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Code, § 32-1301 et seq. (1993 Repl. Vol.)).

Law 13-127, the "Assisted Living Residence Regulatory Act of 2000," was approved by the District City Council in 2000. After final rulemaking approval was received from the City Council June 8, 2007, the District of Columbia began accepting applications for licensure of ALRs in September 2007.

**Legislative and Regulatory Update** There have been no recent legislative or regulatory updates that affect Community Residence Facilities and Assisted Living Residences.

The Notice of Final Rulemaking for some regulations was published in the D.C. Register on April 3, 2020 at 67 DCR 3717. Regulations governing the practice of assisted living administrators and the licensure of said were not final or had not taken effect as of April 3, 2020. Consequently, the Department did not enforce the portions of the rulemaking that require an individual to be licensed by the District of Columbia Board of Long-Term Care Administration or otherwise authorized to practice assisted living administration in the District.

**Definition** CRF: Any facility that provides safe, hygienic, sheltered living arrangements for one or more individuals ages 18

years or older, who are ambulatory and able to perform the activities of daily living (ADLs) with minimal assistance. This definition includes facilities that provide a sheltered living arrangement for persons who desire or require supervision or assistance within a protective environment because of physical, mental, familial, or social circumstances.

ALR: Entity, whether public or private, for profit or not for profit, that combines housing, health, and personalized assistance, in accordance to individually developed service plans, for the support of individuals who are unrelated to the owner or operator of the entity.

The definition of ALR does not include a group home for individuals with intellectual disabilities as defined in section 2(5) of the HealthCare and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, or a mental health community residence facility as that term is used in Chapter 38 of Title 22 of the District of Columbia Municipal Regulations.

## **Disclosure Items**

CRF: A written copy of the rights and privileges specified by the District of Columbia shall be given to each resident and his or her sponsor, if any, upon admission.

ALR: A resident shall have the right to full disclosure of contract terms and billing practices that are fair and reasonable.

## **Facility Scope of Care**

CRF: A major goal of each community residence facility shall be to assist its residents in achieving an optimum level of function and self-care through education and retraining in ADLs.

ALR: In order to promote resident independence and aging in place in a residential setting, at a minimum, an ALR shall offer or coordinate payment for 24-hour supervision, assistance with scheduled and unscheduled ADLs, and instrumental ADLs living as needed, as well as provision or coordination of recreational and social activities and health services. Residents have the right to have access to appropriate health and social services, including social work, home health, nursing, rehabilitative, hospice, medical, dental, dietary, counseling, and psychiatric

services in order to attain or maintain the highest level of practicable physical, mental and psychosocial well-being.

**Third Party Scope of Care** CRF: The Residence Director shall assist each resident in obtaining rehabilitation services from qualified therapists.

ALR: Under certain conditions, ALR residents have the right to arrange directly for medical and personal care with an outside agency. An ALR shall facilitate access for a resident to appropriate health and social services, including social work, home health agencies, nursing, rehabilitative, hospice, medical, dental, dietary, counseling, and psychiatric services.

**Admission and Retention Policy** CRF: Residents may not be admitted who are in need of professional nursing care, unable to perform ADLs with minimal assistance, incapable of proper judgment in taking action for self-preservation under emergency conditions and disoriented to person and place. Persons not generally oriented as to time and place or persons substantially ambulatory but needing limited personal assistance in case of an emergency may be admitted to a CRF by special permission of the Mayor. Such permission shall only be granted if the Mayor is satisfied that the CRF has sufficient staff to ensure the safety of those residents. Admission requirements that are predicted upon religion, sex, organizational membership, or similar requirements shall be in writing.

ALR: Residents may not be admitted who have been assessed as: being a danger to themselves or others or exhibit behavior that significantly and negatively impacts the lives of others; or are at high risk for health or safety complications which cannot be adequately managed by the ALR and require more than 35 hours per week of skilled nursing and home health aide services combined. Additionally, an ALR may not admit residents who are in need of more than intermittent skilled nursing care; or require treatment of stage III or IV skin ulcers, ventilator services, or treatment for an active, infectious, and reportable disease or a disease or condition that requires more than contact isolation.

**Resident Assessment** CRF: Each resident shall have a pre-admission medical examination by a physician not more than 30 days prior to his or her admission to a community residence facility.

Each resident's personal physician must certify that the resident is free of communicable disease and shall provide the community residence facility with a written report, including sufficient information concerning the resident's health to assist the CRF in providing adequate care, including any treatment orders, drugs prescribed, special diets, and a rehabilitation program. Each resident must also have an annual examination by a physician.

ALR: A medical, rehabilitation, and psychosocial assessment of the resident shall be completed within 30 days prior to admission. Additionally, a functional assessment must be completed within 30 days prior to admission, using a standardized form approved by the Mayor. An Individualized Service Plan must be developed prior to admission.

### **Medication Management**

CRF: Residents may store medication in a safe and secure place.

ALR: Must ensure that an initial assessment identifies whether a resident: (1) is capable of self-administering his or her own medications; (2) is capable of self-administering his or her own medication, but requires a reminder to take medications or requires physical assistance with opening and removing medications from the container, or both; or (3) requires that medications be administered by a licensed nurse or a trained medication employee who has successfully completed the training program and is certified to administer medication. Licensed nurses, physicians, physician assistants, and trained medication employees may administer medications to residents or assist residents with taking their medications.

### **Square Feet Requirements**

CRF: The combined total of all community space provided by a CRF shall afford at least 25 square feet of space above the basement per resident. Each dwelling unit must contain the following minimum amount of floor area: at least 130 square feet in habitable rooms for the first occupant, and at least 90 square feet of additional floor area in habitable rooms for each additional occupant. Each room used for sleeping purposes by one occupant shall be a habitable room containing at least 70 square feet, and each room used for sleeping by two or more occupants shall be a habitable room containing at least 50 square feet of habitable room area for each occupant.

ALR: Any ALR located in a building newly constructed or renovated after June 24, 2000 shall ensure that bedrooms provide at least 80 square feet of habitable space for single occupancy and 120 square feet of habitable space for double occupancy. Any residence (from prior to June 24, 2000) shall ensure that bedrooms provide at least 70 square feet of habitable space for single occupancy resident units and 100 square feet of habitable space in double occupancy resident units.

**Residents Allowed Per Room**

CRF: A maximum of four residents is allowed per resident unit.

ALR: None specified.

**Bathroom Requirements**

CRF: Where the residents of a CRF share a water closet, lavatory, and bathing facilities, at least one lavatory, one water closet, and one bathing facility shall be provided for the use of each six occupants of the CRF. In each facility employing more than three full-time employees (including the Residence Director), toilet and lavatory facilities separate from the rooms used by residents shall be provided. In each facility with more than 30 residents, when residents have the use of common living or eating space on floors other than floors on which their bedrooms are located, additional toilets and lavatories shall be provided on those floors in the proportion of one toilet and lavatory for each 30 residents.

ALR: Must ensure that there is one full bathroom for every six residents including live-in family or staff. Additional full or half baths shall be available to non-live-in staff. For any ALR with 17 beds or more, no more than four residents may share a common bathroom.

**Life Safety**

CRF: Each CRF that has residents in sleeping rooms above the second floor, or which has more than six residents in sleeping rooms above the street floor level, shall provide the following:

(1) Access to two separate means of exit for all sleeping rooms above the street level, at least one of which shall consist of an enclosed interior stair, or a horizontal exit, or a fire escape, all arranged to provide a safe path of travel to the outside of the building without traversing any corridor or space exposed to an unprotected vertical opening; or

(2) Alternative arrangements or methods which, according to reasonable equivalency criteria and in the opinion of the Mayor, secure safety to life from fire.

Each CRF shall comply with § 914 of the D.C. Building Code (DCMR Title 12).

ALR: An ALR shall comply with the Life Safety Code of the National Fire Protection Association, NFPA 101, 1997 edition as follows: (1) an ALR shall be in compliance with Chapter 22, New Residential Board and Care Occupancies, Life Safety Code of the National Fire Protection Association; and (2) an existing community residence facility that is converting to an ALR shall be in compliance with Chapter 23, Existing Residential Board and Care Occupancies, of the Life Safety Code of the National Fire Protection Association. The District of Columbia Building Code requires ALRs to have at least two means of escape from every sleeping room when more than six residents are housed above or below the street floor level. All facilities must be protected throughout by an approved supervised automatic sprinkler system in accordance with specified provisions regardless of the number or arrangements of floors or number of occupants. Approved portable fire extinguishers must be located on each level and an approved smoke detector system must be installed. Every facility must have in effect and available written copies of an approved plan for the protection and evacuation of all residents.

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

CRF: None specified.

ALR: After the first year of employment, and at least annually thereafter, staff members shall complete a minimum of 12 hours of training on cognitive impairments approved by a nationally recognized and creditable organization with expertise in Alzheimer's disease and related disorders.

**Staffing Requirements**

CRF: A residence director must be responsible for the daily overall management of the facility. There must be a sufficient number of qualified employees and other adults in each CRF to provide for the welfare, comfort, and safety of residents at all times of the day and night. There are no staffing ratios. All persons employed in a CRF shall have a pre-employment medical examination by a licensed physician and shall be certified annually by the examining

physician to be in good health and free of communicable diseases.

ALR: An ALR shall be supervised by an Assisted Living Administrator who shall be responsible for personnel and services within the facility. The ALR shall employ staff and develop a staffing plan in accordance with the Assisted Living Residence Act to assure the safety and proper care of residents. There are no staffing ratios.

**Administrator  
Education/Training**

CRF: The residence director must be at least 21 years of age. If there are 30 or more residents in the facility, the director must have a Bachelor's degree or at least three years full-time experience in a field directly related to the administration of the program or services of the facility.

ALR: The Assisted Living Administrator must be at least 21 years of age and possess at least a high school diploma or general equivalency diploma or have served as an operator or administrator of a licensed CRF in the District of Columbia for at least one of the past three years in addition to other requirements of the Act. An Assisted Living Administrator shall complete 12 hours annually of training on cognitive impairments.

**Staff Education/Training**

CRF: None specified.

ALR: All staff shall be properly trained and be able to demonstrate proficiency in the skills required to effectively meet the requirements of the Act. Prior to the date of hire, an employee must meet one of the specified criteria, such as being a certified nursing assistant or home health aide or be trained under a plan approved by the Mayor which covers specified topics for a minimum of 40 hours. Within seven days of employment, new staff must be training on specified topics, such as their specific duties, the philosophy of the ALR, services provided, and resident rights. After the first year of employment, staff members must complete 12 hours of in-service training in specified areas on an annual basis.

**Entity Approving CE  
Program**

Licensing boards and commissions as applicable for licensed professional staff.

**Medicaid Policy and Reimbursement**

Medicaid funding for assisted living is available under the Section 1915(c) Elderly and Persons with Physical Disabilities Waiver Program.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

Code of the District of Columbia. Title 44, Chapter 1: Assisted Living Residence Regulation.

<https://beta.code.dccouncil.us/dc/council/code/titles/44/chapters/1/>

Code of the District of Columbia. Title 44, Chapter 5: Health-Care and Community Residence Facility Hospice and Home Care Licensure.

<https://beta.code.dccouncil.us/dc/council/code/titles/44/chapters/5/>

District of Columbia. Assisted Living Residences Regulations. <https://dchealth.dc.gov/node/187502>

District of Columbia. Community Residence Facilities Regulations. <https://dchealth.dc.gov/publication/community-residential-facilities-elderly-and-physically-disabled>

District of Columbia Municipal Regulations and Register. Chapter 22- B101: Assisted Living Facilities.

<https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterN%20um=22-B101&ChapterId=631>

District of Columbia Municipal Regulations and Register. Chapter 22- B34: Community Residence Facilities.

<https://www.dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterN um=22-B34&ChapterId=613>

Department of Health Care Finance. Medicaid: Elderly and Persons with Physical Disabilities Waiver Program.

<https://dhcf.dc.gov/publication/epd-waiver-program>

## Florida

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**Licensure Term** Assisted Living Facilities

**Opening Statement** The Agency for Health Care Administration (the Agency), Bureau of Health Facility Regulation, licenses assisted living facilities (ALFs) which can range in size from one resident to several hundred. Facilities are licensed to provide routine personal care services and can have additional specialty licenses for more specific services.

The purpose of specialty licenses is to allow individuals to "age in place" in familiar surroundings that can adequately and safely meet their continuing health care needs. Specialty licenses include limited nursing services (LNS), extended congregate care (ECC), and limited mental health (LMH) services. To obtain a specialty license, facilities must meet additional requirements, including those related to staffing and staff training.

**Legislative and Regulatory Update** Effective July 1, 2020, HB 767: Assisted Living Facilities

- (1) Creates a definition for assistive device (429.02(7), F.S.)
- (2) Allows residents that use assistive devices to be admitted to an ALF (429.26(1)(b), F.S.)
- (3) Clarifies definition of physical restraint – does not include any device that the resident chooses to use AND is able to remove or avoid independently, or any bandage material used for the purpose of binding a wound or injury (429.02(19), F.S.)
- (4) Allows the use of physical restraints in ALFs when ordered by a physician and consented to by the resident, the resident's representative or designee, or surrogate, guardian, or attorney in fact and requires the Agency to develop rules for care planning, staff monitoring, and periodic review of a physician (429.41(1)(j), F.S.)
- (5) A facility that is licensed to provide extended congregate care services shall maintain a written progress

report on each person who receives such nursing services from the facility's staff which describes the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident's health (429.07(3)(b)3).

(6) Use of personnel; emergency care. Persons under contract to the facility, facility staff, or volunteers, who are licensed according to part I of chapter 464, or those persons exempt under s. 464.022(1), and others as defined by rule, may administer medications to residents, take residents' vital signs, *change residents' bandages for minor cuts and abrasions*, manage individual weekly pill organizers for residents who self-administer medication, give prepackaged enemas ordered by a physician, observe residents, document observations on the appropriate resident's record, report observations to the resident's physician, and contract or allow residents or a resident's representative, designee, surrogate, guardian, or attorney in fact to contract with a third party, provided residents meet the criteria for appropriate placement as defined in s. 429.26. Nursing assistants certified pursuant to part II of chapter 464 may take residents' vital signs as directed by a licensed nurse or physician.

(7) In the presence of the resident, confirming that the medication is intended for that resident, orally advising the resident of the medication name and dosage reading the label, opening the container, removing a prescribed amount of medication from the container, and closing the container. The resident may sign a written waiver to opt out of being orally advised of the medication name and dosage. The waiver must identify all of the medications intended for the resident, including names and dosages of such medications, and must immediately be updated each time the resident's medications or dosages change (429.256(3)(b), F.S.).

(8) Assistance of self-administration of medications does not include: Assisting with medications ordered by the physician or health care professional with prescriptive authority to be given "as needed," unless the order is written with specific parameters that preclude independent judgment on the part of the unlicensed person, and at the request of a competent resident requesting the medication is aware of his or her need for the medication and understands the purpose for taking the medication (429.256(4)(g), F.S.).

(9) Gives the Agency the authority to establish rules for core trainer registration and removal requirements (429.52(12), F.S.). Administrative Rule Changes include:

1) 59A-36.007, effective August 16, 2021

- a. Requires ALFs to include in their admission packets policies on assistive devices.
- b. Requires ALFs to ensure that a resident is using their assistive device safely.
- c. Requires that staff know how to operate and utilize the assistive device when assisting residents with their ADLs.
- d. Requires the ALF to have policies on requirements and methods for assessing the physical condition of assistive devices that could injure the resident.
- e. Policy must include provision for recommending repair or replacement.
- f. The ALF is responsible for repair and replacement of facility-owned, communal assistive devices. Documentation of each assistive device the resident uses must be in their record
- g. All assistive devices must be clean, in good repair, and free of hazards.
- h. Facility staff must encourage and allow the resident to function with independence when using the assistive device

2) 59A-36.007(5)(d)10.

- a. Requires ALFs to include in their admission packet policies on physical restraints.

3) 59A-36.007(8)

- a. Requires that a written care plan must be developed within 14 days of the physician prescribing the restraint and prior to use on the resident.
- b. Care plan must specify the device being used as a restraint; the maximum amount of time the device is to be applied or in use each day; in what manner and frequency staff will monitor, observe, and report to the physician any injuries, increase in agitation, signs & symptoms of depression, or decline in mobility or function related to the use of the prescribed restraint.
- c. The device must be applied safely and appropriately.

- d. The physician must review the use of the restraint annually; documentation of the review must be maintained in the resident's record.
  - e. If the resident's ability to remove or avoid the device fluctuates, then the device must be considered a restraint, and all requirements of the subsection apply.
- 4) 59A-36.007(6)(c)
- a. The facility is only required to keep nursing notes and nursing progress notes when facility staff are providing the nursing services.
  - b. Communications occur at least once every 30 days and when there is a significant change in the resident's condition.
  - c. If physician ordered treatments or services occur less often than once every 30 days, then those communications must be in accordance with the treatment/service schedule & whenever there is a significant change in the resident's condition.
  - d. Unsuccessful attempts at communication must be documented on 2 separate days – including the name of the person from the third-party provider with whom contact was attempted, the method of communication, and the date and time of the attempts. The attempts must be in accordance with the timeframes previously mentioned.
- 5) 59A-36.007(10) – provision of care and services in a manner that reduces the risk of disease transmission
- a. Hand hygiene – alcohol-based rubs, antiseptic handwash, handwashing with soap and water
  - b. Standard precautions used when there is an anticipated exposure to transmissible infectious agents in blood, body fluids, secretions, non-intact skin, and mucous membranes during the provision of personal services
  - c. "Personal services" means direct physical assistance with or supervision of the activities of daily living, the self-administration of medication, or other similar services that the agency may define by rule. The term may not

be construed to mean the provision of medical, nursing, dental, or mental health services.

- d. ALF is required to clean and disinfect reusable medical equipment and communal assistive devices that have been designed for use by multiple residents before and after each use according to the manufacturer's recommendations.
- 6) 59A-36.007(5) Nursing Services was removed due to duplication of statute 429.255.
  - 7) 59A-36.008, effective August 16, 2021
    - a. 59A-36.008(3)(b) – orally advising the resident of the names and dosages of their medications during the assistance with self-administration of medications.
    - b. Removing the language of the term “competent resident”
  - 8) 59A-36.028, effective August 16, 2021
    - a. Require submission of a core training schedule
    - b. Adding the potential for monitoring to be conducted virtually.
    - c. Failure to provide a schedule within 10 business days of the request.
    - d. Failure to comply with corrective action plan within 45 days.
    - e. Failure to have a student passage rate at or above 55%.
    - f. Failure to conduct an ALF core training session in the preceding calendar year.
    - g. Failure to submit at least 10 examinee names to the Agency's contracted testing vendor in the preceding calendar year.

## **Definition**

An assisted living facility is designed to provide personal care services in the least restrictive and most home-like environment. These facilities can range in size from one resident to several hundred and may offer a wide variety of personal and nursing services designed specifically to meet an individual's personal needs.

An assisted living facility is any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, regardless of whether operated for profit, which through its

ownership and management provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.

## **Disclosure Items**

The facility must make available to potential residents a written statement(s) that includes, but is not limited to, the following information:

- (1) The facility's admission and continued residency criteria;
- (2) The daily, weekly or monthly charge to reside in the facility and the services, supplies, and accommodations provided by the facility for that rate;
- (3) Personal care services that the facility is prepared to provide to residents and additional costs to the resident, if any;
- (4) Nursing services that the facility is prepared to provide to residents and additional costs to the resident, if any;
- (5) Food service and the ability of the facility to accommodate special diets;
- (6) The availability of transportation and additional costs to the resident, if any;
- (7) Any other special services that are provided by the facility and additional cost if any;
- (8) Social and leisure activities generally offered by the facility; and
- (9) Any services that the facility does not provide but will arrange for the resident and additional cost, if any.

## **Facility Scope of Care**

An assisted living facility must provide care and services appropriate to the needs of residents accepted for admission to the facility. A facility must provide personal supervision and supervision of or assistance with activities of daily living (ADLs) as appropriate, provide social and leisure activities, assist residents making appointments, and provide or arrange for transportation. Facilities may employ or contract with a nurse to provide specified services.

Facilities may hold any of three specialty licenses: an extended congregate care license allows facilities to provide more extensive ADL assistance and nursing services to frail residents; a limited nursing services license allows nurses to provide services under their state practice act as long as the resident meets admission and continued residency requirements; a limited mental health license

allows facilities to serve low-income, chronically mentally ill residents.

**Third Party Scope of Care** When residents require specified care or services from a third-party provider, the facility administrator or designee must take action to assist in facilitating the provision of those services and coordinate with the provider to meet the specific service goals, unless residents decline the assistance. Providers are required to have policies and procedures to ensure the coordination of care with third party providers.

**Admission and Retention Policy** An individual must meet the following minimum criteria in order to be admitted to a facility holding a standard, limited nursing services, or limited mental health license: be at least 18 years of age; be free from any signs and symptoms of any communicable disease that is likely to be transmitted to other residents or staff (an individual who has human immunodeficiency virus (HIV) infection may be admitted to a facility, provided that the individual would otherwise be eligible for admission); be able to perform the ADLs, with supervision or assistance if necessary; be able to transfer, with assistance if necessary; be capable of taking medication, by either self-administration, assistance with self-administration, or administration of medication; not require 24-hour licensed professional mental health treatment; not be bedridden; and not have any stage 3 or 4 pressure sores. A resident requiring care of a stage 2 pressure sore may be admitted in specified circumstances. Residents admitted to standard, limited nursing services, or limited mental health licensed facilities may not require certain nursing services, such as but not limited to assistance with tube feeding or management of postsurgical drainage tubes and wound vacuum devices. See regulations for additional criteria.

A resident must be discharged if he or she is no longer able to meet the admission criteria or, in some instances, is bedridden for more than seven days. It is the facility administrator's responsibility to determine a resident is appropriate for admission and remains appropriate for continued residency during the resident's stay. The facility is required to have an admission policy and the facility must be prepared and able to provide or arrange for services appropriate or necessary to meet resident needs. A

resident must receive a face-to-face medical exam every three years to determine appropriate continued residency.

### **Resident Assessment**

Within 60 days prior to residents' admission, but no later than 30 days after admission, residents shall be examined by a physician or advanced registered nurse practitioner who shall provide the administrator with a medical examination report. Medical examinations conducted up to 30 days after a resident's admission to the facility can be recorded on the Resident Health Assessment form (AHCA Form 1823) or the practitioner's medical examination form. For those residents examined 60 days prior to admission, any information required that is not contained in the medical examination report conducted or is missing from the AHCA Form 1823 must be obtained by the administrator or designee within 30 days after admission and placed in the resident's record. The AHCA 1823 Form may be accessed at the following link: <https://www.flrules.org/Gateway/reference.asp?No=Ref-04006>.

### **Medication Management**

For facilities that provide medication administration, a staff member licensed to administer medications must be available to administer medications in accordance with a health care provider's order or prescription label. Unlicensed staff may not assist with the contents of pill organizers. Unlicensed staff may provide hands-on assistance with self-administered medications. In order for an unlicensed staff person to provide assistance with the self-administration of medication, he/she must be 18 years of age or older and complete six hours of medication assisting training upon hire and then two hours of medication assisting training annually. This training must include specified topics and be taught by a registered nurse, or a licensed pharmacist. A licensed health care provider's order is required when a licensed nurse provides assistance with self-administration or administration of medications, including over-the-counter products. Assisted living facilities may not require a resident to have a physician's order for over-the-counter medication unless a nurse is involved in assistance with self administration or administration.

### **Square Feet Requirements**

Private resident units must provide a minimum of 80 square feet of usable floor space and multiple-occupancy resident rooms must provide a minimum of 60 square feet per

resident. An additional minimum of 35 square feet of living and dining space per resident is required.

**Residents Allowed Per Room**

Prior to October 17, 1999, a maximum of four persons were permitted for multiple occupancy. Resident bedrooms designated for multiple occupancy in facilities newly licensed or renovated six months after October 17, 1999, shall have a maximum occupancy of two persons.

**Bathroom Requirements**

Shared bathrooms are permitted and a facility must provide one toilet and sink per six residents and one bathing facility per eight residents.

**Life Safety**

Effective March 26, 2018, a regulatory update requires each assisted living facility to prepare a detailed plan to serve as a supplement to its Comprehensive Emergency Management Plan, to address emergency environmental control in the event of the loss of primary electrical power in that assisted living facility. Additional information on this update can be found in the Regulatory and Legislative Updates section.

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

Facilities that advertise special care for persons with Alzheimer's disease or related disorders (special care units) must have a physical environment that provides for the safety and welfare of residents; offer activities specifically designed for these residents; have 24- hour staffing availability; and employ staff who have completed an eight-hour approved training course and four hours of continuing education per year.

Staff who interact on a daily basis with residents with Alzheimer's disease or related disorders, but do not provide direct care to such residents, and staff who provide direct care to residents with Alzheimer's disease or related disorders are required to obtain 4 hours of initial training within 3 months of employment. Initial training, entitled "Alzheimer's Disease and Related Disorders Level I Training," must address the following subject areas: understanding Alzheimer's disease and related disorders; characteristics of Alzheimer's disease; communicating with residents with Alzheimer's disease; family issues; resident environment; and ethical issues.

Facility staff who provide direct care to residents with Alzheimer's disease or related disorders must obtain an

additional 4 hours of training, entitled “Alzheimer’s Disease and Related Disorders Level II Training,” within 9 months of employment. Training must address the following subject areas: behavior management; assistance with ADLs, activities for residents, stress management for the care giver; and medical information. Staff in special care units must also complete four hours of continuing education per year.

## **Staffing Requirements**

Every facility must be under the supervision of an administrator who is responsible for the operation and maintenance of the facility. Staffing must be sufficient to meet residents' needs. Minimum staffing ratio requirements are specified in regulations and vary depending upon the number of residents (e.g., a total of 375 staff hours would be required each week at a facility with 46-55 residents.). At least one employee certified in first aid and cardiopulmonary resuscitation must be present at all times when residents are on the premises All staff are required to undergo a background screening that includes a national FBI fingerprint check, captured digitally.

## **Administrator Education/Training**

Administrators must have a high school diploma or GED. Additionally, administrators and managers must successfully complete the assisted living facility core training requirements within 90 days of the date of becoming a facility administrator or manager. The required training must be taught by an Agency registered, qualified trainer, include at least 26 hours of training, and cover at least the following topics:

- (1) State law and rules relating to assisted living facilities;
- (2) Resident rights and identifying and reporting abuse, neglect, and exploitation;
- (3) Special needs of elderly persons, persons with mental illness, and persons with developmental disabilities and how to meet those needs;
- (4) Nutrition and food service, including acceptable sanitation practices for preparing, storing, and serving food;
- (5) Medication management, recordkeeping, and proper techniques for assisting residents with self-administered medication;
- (6) Fire safety requirements, including fire evacuation drill procedures and other emergency procedures; and
- (7) Care of persons with Alzheimer’s disease and related disorders.

Administrators must score at least 75% on an Agency approved vendor competency test to indicate successful completion of the training requirements. A new facility administrator must complete the required training and education, including the competency test, within 90 days after date of employment.

Administrators who attended core training prior to July 1, 1997 and managers who attended the core training program prior to April 20, 1998 shall not be required to take the competency test. Administrators licensed as nursing home administrators in accordance with chapter 468, Part II, F.S., are exempt from this requirement. Administrators must complete 12 hours of continuing education every two years on topics related to assisted living.

**Staff Education/Training**

The state requires a variety of training depending on the position and type of service or care provided. Effective October 1, 2015, each new assisted living facility employee who has not previously completed core training must attend a pre-service orientation provided by the facility before interacting with residents. The preservice orientation must be at least two hours in duration and cover topics that help the employee provide responsible care and respond to the needs of facility residents. Upon completion, the employee and the administrator of the facility must sign a statement that the employee completed the required preservice orientation. The facility must keep the signed statement in the employee's personnel record.

**Entity Approving CE Program**

None specified.

**Medicaid Policy and Reimbursement**

Florida has two Section waivers that cover Medicaid services in assisted living:

- (1) Section 1915 (b)/(c) Long-Term Care Managed Care that provides long-term services and supports to individuals ages 65 or older and individuals ages 18-64 with disabilities, including individuals over the age of 18 with a diagnosis of cystic fibrosis, AIDS, or a traumatic brain or spinal cord injury. Program recipients receive their services through competitively selected managed care organizations.
- (2) Section 1915(c) Developmental Disabilities Individual Budgeting (iBudget) Waiver that covers home and

community-based services and supports persons with developmental disabilities living at home or in a home-like setting and taking an individual budgeting approach, and provide enhanced opportunities for self-determination.

## **COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

## **Citations**

Agency for Health Care Administration. Assisted Living Facility.

[https://ahca.myflorida.com/mchq/health\\_facility\\_regulation/assisted\\_living/alf.shtml](https://ahca.myflorida.com/mchq/health_facility_regulation/assisted_living/alf.shtml)

Florida Administrative Code and Florida Administrative Register. Chapter: Assisted Living Facilities (updated July 1, 2019)

<https://www.flrules.org/gateway/ChapterHome.asp?Chapter=59A-36>

Agency for Health Care Administration. Welcome to Medicaid!

<http://ahca.myflorida.com/Medicaid/index.shtml>

Agency for Health Care Administration. Developmental Disabilities Individual Budgeting (iBudget) Waiver.

[https://ahca.myflorida.com/Medicaid/hcbs\\_waivers/ibudget.shtml](https://ahca.myflorida.com/Medicaid/hcbs_waivers/ibudget.shtml)

Agency for Health Care Administration. Federal Authorities Long-term Care.

[https://ahca.myflorida.com/medicaid/Policy\\_and\\_Quality/Policy/federal\\_authorities/federal\\_waivers/ltc\\_fed\\_auth.shtml](https://ahca.myflorida.com/medicaid/Policy_and_Quality/Policy/federal_authorities/federal_waivers/ltc_fed_auth.shtml)

Agency for Health Care Administration, Health Facility and Agency Licensing Division, Assisted Living Facility. Rule: 59A-36.007: Resident Care Standards.

<https://www.flrules.org/gateway/ruleno.asp?id=59A-36.007>

Agency for Health Care Administration, Health Facility and Agency Licensing Division, Assisted Living Facility. Rule: 59A-36.008: Medication Practices.

<https://www.flrules.org/gateway/ruleno.asp?id=59A-36.008>

Agency for Health Care Administration, Health Facility and Agency Licensing Division, Assisted Living Facility. Rule: 59A-36.028: ALF Minimum Core Training Curriculum Requirements.

<https://www.flrules.org/gateway/ruleno.asp?id=59A-36.008>

## Georgia

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**Licensure Term** Personal Care Homes and Assisted Living Communities

**Opening Statement** The Department of Community Health, Healthcare Facility Regulation Division, licenses personal care homes (PCHs) and assisted living communities (ALCs). While the two levels of licensure have many common requirements, ALC standards are more stringent than PCHs in a number of areas, including disclosure, required services, admission thresholds, resident assessment, medication management, physical plant requirements, staffing, staff training, and fire safety. Requirements apply to both settings unless otherwise noted. PCHs tend to be much smaller homes.

Facilities that provide “memory care” services must meet additional requirements.

Legislation enacted in 2011 and subsequent rules allow the use of unlicensed “proxy caregivers” in licensed facilities. Proxy caregivers are unlicensed persons who have been determined qualified to have the necessary knowledge and skills, acquired through training by a licensed health care professional, to perform “health maintenance activities,” including the administration of medications.

**Legislative and Regulatory Update** In 2021, Georgia updated Chapter 111-8-62: Personal Care Homes (November 17, 2021) and Chapter 111-8-63: Rules and Regulations for Assisted Living Communities (November 22, 2021); and Chapter 111-8-16: Disaster Preparedness Plans (November 12, 2020).

In 2020, the Georgia legislature passed HB 987 to amend Chapter 5 of Title 30, Title 31, and Title 43 of the Official Code of Georgia Annotated. This bill adds training requirements, staffing ratio requirements, financial stability requirements, requirements pertaining to certified medication aides, and new requirements related to pandemics and epidemics.

## Definition

PCH: Any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal services for two or more adults who are not related to the owner or administrator by blood or marriage.

ALC: A personal care home serving 25 residents or more that is licensed by the department to provide assisted living care. Assisted living care means the specialized care and services provided by an assisted living community which includes the provision of personal services, the administration of medications by a certified medication aide, the provision of assisted self-preservation, and the provision of limited nursing services.

Memory Care Center/Unit: Means the additional watchful oversight systems, program, activities and devices that are required for residents who have cognitive deficits which may impact memory, language, thinking, reasoning, or impulse control, and which place the residents at risk of eloping. No memory care center shall be operated and no residents admitted without a certificate which is current under the rules and regulations.

## Disclosure Items

Facilities or programs for persons with Alzheimer's or related dementia have additional disclosure requirements. See "Unit and Staffing Requirements for Serving Persons with Dementia."

PCH: None specified.

ALC: Must complete and maintain an accurate, current licensed residential care profile on file with the Department and must provide services consistent with the information reported.

## Facility Scope of Care

For both PCHs and ALCs, personal services provided must include 24-hour responsibility for the well-being of the residents and protective care and watchful oversight.

An ALC must also provide assisted living care, including protective care and watchful oversight that meet the needs of the residents it admits and retains. Protective care includes the provision of personal services, the

administration of medications by a certified medication aide and the provision of assisted self-preservation.

**Third Party Scope of Care** None specified.

**Admission and Retention Policy** PCH: Except for aging in place exceptions, residents must be ambulatory and may not require the use of physical or chemical restraints, isolation, or confinement for behavioral control. Residents must not be bedridden or require continuous medical or nursing care and treatment.

Aging in Place Exceptions - The home may allow up to three (3) non-ambulatory residents to remain in the home to support an aging in place strategy that is in the best interests of the resident, subject to the requirements of the Department and may be revoked by the Department at any time, as part of the survey process.

ALC: Residents' physical condition must be such that the resident is capable of actively participating in transferring from place to place and must be able to participate in the social and leisure activities provided in the community. The resident must not have active tuberculosis or require continuous medical or nursing care and treatment or require physical or chemical restraints, isolation or confinement for behavioral control.

**Resident Assessment**

PCH: There is requirement for a specific resident assessment form. A sample physician's report form is available at the agency Web site under Long Term Care Programs, Personal Care Homes. Additional requirements for Specialized Memory Care Units or Homes specify that a physical examination completed within 30 days prior to admission must be provided to the facility and must clearly reflect that the resident has a diagnosis of probable Alzheimer's disease or other dementia and has symptoms that demonstrate a need for placement in the specialized unit. In addition, there is a post-admission assessment requirement that addresses family supports, ADLs, physical care needs, and behavior impairment.

ALC: Facilities must complete an assessment addressing the resident's care needs, taking into account the resident's family supports, the resident's functional capacity relative to the activities of daily living, physical care needs, medical information provided, cognitive and behavioral

impairments, if any, and personal preferences relative to care needs. An individual care plan, including all elements specified in the regulations, at minimum, must be developed within 14 days of admission and updated annually or more frequently if the resident's needs change substantially.

## **Medication Management**

PCH: All medications must be self-administered by the resident except when the resident requires administration of oral or topical medication by or under the supervision of a functionally literate staff person. There are exceptions. Staff may administer epinephrine and insulin under established medical protocols.

Further, licensed nursing staff of a Specialized Memory Care Unit or Home may administer medications to residents who are incapable of self administration of medications. The use of "proxy caregivers" in licensed facilities also allows unlicensed staff who have been trained to perform "health maintenance activities," including the administration of medications by a proxy caregiver. Proxy caregivers must be designated by the resident and determined to have the requisite skills necessary to administer medications. Certified medication aides are also permitted.

Medications for residents living in the memory care center must be provided to the residents by a proxy caregiver trained in accordance with the requirements of Chapter 111-8-100; a licensed registered nurse; a licensed practical nurse working under the supervision of a physician or registered nurse; or a certified medication aide subject to the requirements listed in the Rules.

ALC: Can allow the self-administration of medications, provide assistance with self-administration using unlicensed staff, or use certified medication aides (at a minimum) to administer medications.

## **Square Feet Requirements**

Private and shared resident units must provide a minimum of 80 square feet per resident.

PCH: may continue to use the minimum 70 square feet standard if approved prior to or on February 6, 1981 to operate with bedrooms with a minimum of 70 square feet of usable floor space per resident; have continuously

operated since that date; and seeking licensure as assisted living communities.

ALC: Must have at least 80 square feet for residents' private living space. There must be safe access for residents with varying degrees of functional impairments. The community's handrails, doorways, and corridors must accommodate mobility devices.

**Residents Allowed Per Room**

PCH: A maximum of four residents is allowed per resident unit. In specialized memory care units or homes, a maximum of two residents is allowed per room.

ALC: Can have a maximum of two residents sharing a bedroom.

**Bathroom Requirements**

PCH: Common toilets, lavatories, and bathing facilities are permitted. At least one functional toilet and lavatory must be provided for each four residents and at least one bathing or showering facility must be provided for each eight residents living in a home.

ALC: Facilities must have a separate toilet and lavatory for the staff's use. There must be at least one toilet and lavatory must be provided for each four residents' use based on the licensed capacity of the assisted living community. There must be at least one bathing or showering facility must be provided for each eight residents based on the licensed capacity of the assisted living community.

**Life Safety**

PCH: Facilities licensed for two to six beds must meet all local fire safety ordinances. Facilities licensed for seven or more beds must comply with state fire safety regulations. Sprinkler systems are required in all homes with seven or more beds and in areas where local ordinances require such systems. All personal care homes, regardless of size, must have sufficient smoke detectors that are hard wired into the building's electrical system with a battery backup. Georgia has adopted the 2000 edition of the National Fire Protection Association (NFPA) 101 Life Safety Code.

ALC: Must meet all local fire safety ordinances and must be rated as a limited or existing healthcare facility.

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

Rules for Specialized Memory Care Units or Homes include requirements concerning disclosure of information; physical design, environment, and safety; staffing and initial staff orientation; initial staff training; special admission requirements for unit placement, post-admission assessment, individual service plans, and therapeutic activities. Facilities that serve residents who have cognitive deficits that may place them at risk for unsafe wandering behavior must have safety devices on doors and current pictures of residents on file, and train staff on elopement procedures.

For both types of licensure, facilities or programs that advertise, market, or offer to provide specialized care, treatment, or therapeutic activities for one or more persons with a probable diagnosis of Alzheimer's disease or Alzheimer's-related dementia must disclose the form of care, treatment, or therapeutic activities provided beyond that care, treatment, or therapeutic activities provided to persons who do not have a probable diagnosis of Alzheimer's disease or Alzheimer's-related dementia. Disclosure must be made in writing on a standard disclosure form. Additional Requirements for Specialized Memory Care Units or Homes specify that a facility that holds itself out as providing additional or specialized care to persons with probable diagnoses of Alzheimer's disease or other dementias or charges rates in excess of that charged other residents because of cognitive deficits must meet additional requirements including disclosure of information.

In addition to the requirements for all staff, staff in facilities that serve residents with cognitive deficits must develop and train staff on policies and procedures to deal with residents who may elope from the facility. Staff of a specialized memory care unit or home must also have training on the facility's philosophy of care for residents with dementia, common behavior problems, behavior management techniques, the nature of Alzheimer's disease and other dementias, communication skills, therapeutic interventions and activities, the role of the family, environmental modifications that create a more therapeutic environment, development of service plans, new developments in diagnosis and therapy, skills for recognizing physical or cognitive changes that warrant medical attention, and skills for maintaining resident safety.

ALC/PCH: At a minimum, the memory care center must provide the following staffing:

- (1) One dementia trained direct care staff person for every 12 residents on-site during all waking hours and for every 15 residents on-site during all non-waking hours based on a monthly average; provided, however, that such ratio is adequate to meet the needs of the residents;
- (2) One registered professional nurse, licensed practical nurse, or certified medication aide on-site at all times;
- (3) Two direct care staff persons on-site at all times, with at least one on each occupied floor; and
- (4) One registered professional nurse or licensed practical nurse on-site or available in the building at all times as follows:
  - (A) For memory care centers with one to 12 residents, a minimum of 8 hours per week;
  - (B) For memory care centers with 13 to 30 residents, a minimum of 16 hours per week;
  - (C) For memory care centers with 31 to 40 residents, a minimum of 24 hours per week; or
  - (D) For memory care centers with more than 40 residents, a minimum of 40 hours per week.

## **Staffing Requirements**

For both types of licensure, at least one administrator, on-site manager, or responsible staff person, all of whom must be at least 21 years of age, must be on the premises 24 hours a day. There must be sufficient staff to meet residents' needs always.

PCH: There should be a minimum of one on-site staff person per 15 residents during waking hours and one staff person per 20 residents during non-waking hours. Additionally, there must be 1 direct care staff on-site at all times on each floor.

ALC: There should be a minimum of one on-site staff person per 15 residents during waking hours and one staff person per 20 residents during non-waking hours. Additionally, there must be 2 direct care staff on-site at all times with one on each floor.

RN/LPN Coverage in ALC: One registered professional nurse or licensed practical nurse on-site or available in the building at all times as follows:

- For communities with one to 30 residents, a minimum of 8 hours per week;
- For communities with 31 to 60 residents, a minimum of 16 hours per week;
- For communities with 61 to 90 residents, a minimum of 24 hours per week;
- For communities with more than 90 residents, a minimum of 40 hours per week;

Memory Care: At a minimum, the memory care center must provide the following staffing:

- (i) One dementia trained direct care staff person for every 12 residents on-site during all waking hours and for every 15 residents on-site during all non-waking hours based on a monthly average; provided, however, that such ratio is adequate to meet the needs of the residents;
- (ii) One registered professional nurse, licensed practical nurse, or certified medication aide on-site at all times;
- (iii) Two direct care staff persons on-site at all times, with at least one on each occupied floor; and
- (iv) One registered professional nurse or licensed practical nurse on-site or available in the building at all times as follows:
  - For memory care centers with one to 12 residents, a minimum of 8 hours per week;
  - For memory care centers with 13 to 30 residents, a minimum of 16 hours per week;
  - For memory care centers with 31 to 40 residents, a minimum of 24 hours per week; or
  - For memory care centers with more than 40 residents, a minimum of 40 hours per week.

**Administrator  
Education/Training**

For ALC and PCH licensed for twenty-five (25) or more beds must hold a valid license from the State Board of Long Term Care Facility Administrators with an effective date no greater than sixty (60) days from the date of hire or July 1, 2021, whichever is later.

PCH with twenty-four (24) beds or less: Administrator must have either an Associate's Degree or a G.E.D. or high school diploma and 2 years of experience working in a licensed personal care home or other healthcare related setting.

**Staff Education/Training**

For both PCHs and ALCs, all persons working in the facility must receive work-related training acceptable to the state Department of Community Health within the first 60 days of employment. Training is required in the following areas: CPR, first aid, emergency procedures, medical and social needs and characteristics of the resident population, residents' rights, the long-term care resident abuse reporting act, and general infection control principles. Additionally, all staff must complete a minimum of five hours on fire safety training within 90 days of employment. Additionally, a minimum of two hours of fire safety refresher training shall be required every three years from the date of initial training. Direct care staff must complete a total of at least 24 hours of continuing education within the first year of employment. All direct care staff, including the administrator or on-site manager, must have at least sixteen (16) hours of training per year.

**Entity Approving CE Program**

Courses are approved by Department of Community Health, Healthcare Facility Regulation Division staff during routine facility inspections.

The State Board of Long Term Care Facility Administrator's Board approves continuing education for licensed ALC/PCH Administrators. Thirty (30) clock hours of continuing education are required biennially to renew a license.

**Medicaid Policy and Reimbursement**

Medicaid reimbursement is generally not available for ALCs. A Section 1915(c) Medicaid home and community-based services waiver may reimburse services provided in two models of PCHs, which are much smaller homes.

Found in the Elderly & Disabled Waiver Program, the Community Care Services Program and Service Options Using Resources in a Community Environment Programs serve frail elderly and disabled Georgians otherwise eligible under a nursing facility level of care through the provision of case management for service coordination, adult daycare, alternative living services, personal care, home-delivered meals, and respite care for family caregivers.

**COVID-19 Public Health Emergency**

On June 30, 2020, HB 987 was enacted and includes specific COVID-19 related provisions, including notification and communication of COVID-19 or another airborne infectious disease, minimum personal protective equipment

supplies, maintenance and posting of policies and procedures related to infection control and mitigation, and including an epidemic and pandemic plan as part of the facilities' disaster preparedness plan.

Chapter 111-8-16: Disaster Preparedness Plans was revised and became effective November 12, 2020. The updated rules were made to comply with portions of HB 987. The update includes provisions for long-term care facilities to maintain a pandemic plan as part of the disaster preparedness plan. Additionally, 111-8-16.05 was added and:

1. Directs long-term care facilities on notification and communication requirements regarding occurrences of airborne infectious diseases;
  - 1) Minimum requirements for personal protective equipment; and
  3. Requirements on maintenance and publication of policies and procedures related to infection control and mitigation.

## Citations

Georgia Department of Community Health, Division of Healthcare Facility Regulation. HFR Laws & Regulations. <https://dch.georgia.gov/divisionsoffices/healthcare-facility-regulation/hfr-laws-regulations>

Georgia State Amendments to the International Fire Code, 2012 Edition. [January 1, 2014]  
[https://dca.ga.gov/sites/default/files/2014\\_ifcamendments.pdf](https://dca.ga.gov/sites/default/files/2014_ifcamendments.pdf)

Georgia Medicaid. Waiver Programs. <https://medicaid.georgia.gov/programs/all-programs/waiver-programs>

Georgia 2019-2020 Regular Session – HB 374.  
<http://www.legis.ga.gov/Legislation/20192020/185105.pdf>

Georgia 2019-2020 Regular Session – HB 987.  
<https://www.legis.ga.gov/api/legislation/document/20192020/194812>

## Hawaii

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**Licensure Term** Assisted Living Facilities

**Opening Statement** The Department of Health, Office of Health Care Assurance (OHCA) licenses assisted living facilities. Assisted living facility regulations have been in effect since August 1999.

**Legislative and Regulatory Update** There are no recent legislative or regulatory updates that affect assisted living in Hawaii.

**Definition** An assisted living facility consists of a building complex offering dwelling units to individuals and services to allow residents to maintain an independent assisted living lifestyle.

**Disclosure Items** None specified. However, guidelines have been developed through a work group comprised of providers and the department and have been in use since 2001. The proposed amendments to the Chapter rules will address disclosure.

**Facility Scope of Care** The facility must provide: 24-hour on-site direct care staff to meet the needs of the residents; three meals daily, seven days a week, including modified diets and snacks which have been evaluated and approved by a dietician on a semi-annual basis and are appropriate to the residents' needs and choices; laundry services to the extent that the resident is unable to perform these tasks for him or herself; opportunities for individual and group socialization; services to assist the resident in performing all activities of daily living, including bathing, eating, dressing, personal hygiene, grooming, toileting, and ambulation; nursing assessment, health monitoring, and routine nursing tasks, including those which may be delegated to unlicensed assistive personnel by a currently licensed registered nurse under the provisions of the state Board of Nursing; and household services essential for the health and comfort of the resident (e.g. floor cleaning, dusting, bed making, etc.).

The facility must also have the capability to provide or arrange access to the following services: transportation for medical and social appointments; ancillary services for medically related care (e.g., physician, pharmacist, therapy, podiatry, etc.), barber or beauty care services, social or recreational opportunities, and other services necessary to support the resident; services for residents who have behavior problems requiring ongoing staff support, intervention, and supervision; social work services; and maintenance of a personal fund account for residents showing deposits and withdrawals.

**Third Party Scope of Care** The facility may arrange access to ancillary services for medically related care (e.g., physician, podiatrist) and social work services.

**Admission and Retention Policy** There are no specific limitations on the admission of residents unless otherwise indicated by restrictions placed through the County Building Department review and/or as determined by the ability of the facility to meet the resident's needs. A resident must receive a written 14-day notice of discharge if his or her behavior imposes an imminent danger to him/herself or others, if the facility cannot meet the resident's needs for services with available support services, services are not available, or the resident or responsible person has a documented established pattern in the facility of not abiding by agreements necessary for assisted living. Residents shall receive a written notice when the facility has had its license revoked, not renewed, or voluntarily surrendered or for nonpayment of charges by the resident. Guidelines have been developed through a work group of providers and the department and have been in use since 2001. The proposed amendments to the Chapter rules will address these requirements.

**Resident Assessment** There is no specific resident assessment form required. However, the facility staff must conduct a comprehensive assessment of each resident's needs, plan and implement responsive services, maintain and update resident records as needed, and periodically update the plan. The plan should reflect the assessed needs of the resident and resident choices and should include the resident's level of involvement; support principles of dignity, privacy, choice, individuality, independence, and home-like environment; and should include significant others who participate in the

delivery of services. The plan should additionally include a written description of what services will be provided, who will provide the services, when the services will be provided, how often services will be provided, and the expected outcome. Guidelines have been developed by a work group comprised of providers and the department and have been in use since 2001. The proposed amendments to the Chapter rules will address these requirements.

**Medication Management**

The facility must have medication management policies related to self-medication and the administration of medication. Facilities may provide assistance with self-administration of medications and unlicensed assistive personnel may provide this assistance as delegated by a registered nurse (RN) under state administrative rules Title 16, Chapter 89 Nurses and the National Council of State Boards of Nurses Inc. (NCSBN) Nursing Model Act. Residents who self-medicate with prescription drugs or maintain over-the-counter drugs in their units must have all their medications reviewed by either a registered pharmacist, RN, or physician at least every 90 days. Medications administered by the facility must be reviewed at least once every 90 days by an RN or physician, and in compliance with applicable state law and administrative rules.

**Square Feet Requirements**

Facilities must provide each resident with an apartment unit with the following: a bathroom, refrigerator, and cooking capacity, including a sink; a unit that is a minimum of 220 square feet, not including the bathroom.

**Residents Allowed Per Room**

None specified.

**Bathroom Requirements**

Each resident unit shall have a separate bathroom with a sink, shower, and toilet.

**Life Safety**

Facilities must meet requirements set forth by state and county building occupancy and fire codes, as per the International Building Code and the National Fire Protection Association, respectively. The level of compliance for fire rating is determined by both the number of residents occupying a facility and whether residents are ambulatory, self-preserving, or wheelchair bound. All counties are currently adopting International Building Code standards, and county fire authorities are reviewing their respective fire codes in an effort to be consistent.

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

None specified.

**Staffing Requirements**

Facilities must employ direct care staff and an administrator who is accountable for providing training for all facility staff in the provision of services and principles of assisted living. There are no required staffing ratios. All staff must be in compliance with current department tuberculosis clearance procedures. All staff must be trained in cardiopulmonary resuscitation and first aid. Licensed nursing staff must be available seven days a week to meet the care management and monitoring needs of the residents. Facilities must make arrangements for an RN to conduct resident assessments and to train and supervise staff.

**Administrator Education/Training**

The administrator or director must have at least two years of experience in a management capacity in the housing, health care services, or personal care industries. The completion of an assisted living facility administrator's course or course equivalent is required.

**Staff Education/Training**

All facility staff must complete orientation on the philosophy, organization, practice, and goals of assisted living. Additionally, a minimum of six hours annually of regularly scheduled in-service training is required, and all staff must be trained in CPR and first aid.

Beginning July 1, 2017, licensed registered nurses and licensed practical nurses must complete continuing competency requirements as defined by the Hawaii State Board of Nursing prior to the renewal of their license.

**Entity Approving CE Program**

The Hawaii State Department of Commerce and Consumer Affairs, Board of Nursing approves whether the criteria for the continuing competency requirements have been met; they do not approve nursing contact hours/CEs.

**Medicaid Policy and Reimbursement**

Hawaii has a Medicaid Home and Community Based Services waiver program through the Hawaii Section 1115 Demonstration Waiver Program called QUEST Integration. This is a managed care program that provides opportunity for those assisted living facilities that have entered into an agreement with Hawaii's Department of Human Services to

be reimbursed for services provided to a Medicaid eligible resident.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

Hawaii Administrative Rules, Title 11, Chapter 90: Assisted Living Facility. [1999]

<http://health.hawaii.gov/opppd/files/2015/06/11-90.pdf>

Hawaii Administrative Rules, Title 16, Chapter 89: Nurses.

[2018] <https://cca.hawaii.gov/pvl/files/2013/08/HAR-89-C.pdf>

Hawaii Administrative Rules, Title 11, Chapter 103: Licensure and Certification Fees for Health Care Facilities and Agencies. [2018]

<https://health.hawaii.gov/opppd/files/2018/03/11-103.pdf>

State of Hawai'i Department of Human Services. Med-QUEST Division. <https://medquest.hawaii.gov/en.html>

## Idaho

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**Licensure Term** Residential Assisted Living Facilities

**Opening Statement** The Idaho Department of Health and Welfare licenses residential assisted living facilities. The purpose of a residential assisted living facility is to provide choice, dignity, and independence to individuals needing assistance with daily activities and personal care. The licensing rules set standards for providing services that maintain a safe and healthy environment.

**Legislative and Regulatory Update** There were no recent legislative or regulatory updates pertaining to Residential Assisted Living Facilities.

**Definition** A Residential Assisted Living Facility is a facility or residence, however named, operated on either a profit or nonprofit basis for the purpose of providing necessary supervision, personal assistance, meals, and lodging to three or more adults not related to the owner.

**Disclosure Items** Each facility must develop and follow a written admission policy that is available to the public and shown to any potential resident. The admission agreement for private pay residents must include the following:

- (1) The purpose, quantity, and characteristics of available services;
- (2) Any restrictions or conditions imposed because of religious or philosophical reasons;
- (3) Limitations concerning delivery of routine personal care by persons of the opposite gender;
- (4) Notification of any residents who are on the sexual offender registry and who live in the facility. The registry may be accessed at: [https://www.isp.idaho.gov/sor\\_id/search.html](https://www.isp.idaho.gov/sor_id/search.html); and
- (5) Appropriateness of placement to meet the needs of the resident, when there are non-resident adults or children residing in the facility.

In the admission agreement for private pay residents, the facility must identify services, supports, and applicable rates. The resident's monthly charges must be specific, and services included in the basic service rate and the charged rate must be described. Basic services must include: rent, utilities, food, activities of daily living (ADLs) services, supervision, first aid, assistance with and monitoring of medications, laundering of linens owned by the facility, emergency interventions, coordination of outside services, routine housekeeping, maintenance of common areas, and access to basic television in common areas. The facility must disclose all prices, formulas, and calculations used to determine the resident's basic services rate. The facility must describe additional services that are not contained in the basic services and the rates charged for the additional services or supplies. The facility may charge private pay residents for the use of personal supplies, equipment, and furnishings, but must disclose a detailed list of those charges.

The facility must provide methods, including contacting the Ombudsman for the Elderly, by which a resident may contest charges or rate increases. The facility also must identify staffing patterns and qualifications of staff on duty during a normal day and disclose the conditions under which the resident can remain in the facility if payment for the resident shifts to a publicly funded program.

The administrator of a residential assisted living facility must disclose in writing at or before the time of admission if the facility does not carry professional liability insurance. If the facility cancels professional liability insurance, all residents must be notified of the change in writing.

**Facility Scope of Care**

The facility must supervise residents, provide assistance with ADLs and instrumental activities of daily living, and deliver services to meet the needs of residents.

**Third Party Scope of Care**

Residents are permitted to contract for services with third parties.

**Admission and Retention Policy**

A resident will be admitted or retained only when the facility has the capability, capacity, and services to provide appropriate care, or the resident does not require a type of service for which the facility is not licensed to provide or which the facility does not provide or arrange for, or if the

facility does not have the personnel, appropriate in numbers and with appropriate knowledge and skills to provide such services. No resident will be admitted or retained who requires ongoing skilled nursing or care not within the legally licensed authority of the facility. Such residents include:

- (1) A resident who has a gastrostomy tube, arterial-venous shunts, or supra-pubic catheter inserted within the previous 21 days;
- (2) A resident who is receiving continuous total parenteral nutrition or intravenous therapy;
- (3) A resident who requires physical restraints, including bed rails;
- (4) A resident who is comatose, except for a resident who has been assessed by a physician or authorized provider who has determined that death is likely to occur within thirty (30) days;
- (5) A resident who is on a mechanically supported breathing system, except for residents who use positive airway pressure devices only for sleep apnea, such as CPAP or BiPAP;
- (6) A resident who has a tracheotomy who is unable to care for the tracheotomy independently;
- (7) A resident who is fed by a syringe;
- (8) A resident with open, draining wounds for which the drainage cannot be contained;
- (9) A resident with a stage III or IV pressure ulcer or a pressure injury that is unstageable; or
- (10) A resident with pressure injury or open wound that is not improving bi-weekly.

For any resident who has needs requiring a nurse, the facility must ensure that a licensed nurse is available to meet the needs of the resident. Licensed nursing care must not be delegated to unlicensed personnel.

A resident will not be admitted or retained who has physical, emotional, or social needs that are not compatible with the other residents in the facility or who is violent or a danger to himself or others.

Any resident requiring assistance in ambulation must reside on the first story unless the facility complies with Sections 401 through 404 of the Idaho Administrative Code (i.e., have fire sprinklers). Residents who are not capable of self evacuation must not be admitted or retained by a

facility that does not comply with National Fire Protection Association (NFPA) Standard 101, “Life Safety Code, 2000 Edition, Chapter 33, Existing Residential Board and Care Impracticable Evacuation Capability;” (i.e., have fire sprinklers).

**Resident Assessment**

Prior to or on the day of admission the facility must assess all residents. In the case of private pay residents, the facility may develop an assessment form or use the uniform assessment tool developed by the Department of Health and Welfare. In the case of residents whose costs are paid by state funds, the uniform assessment developed by the Department must be used. The facility must develop an interim care plan to guide services until the assessment can be completed.

**Medication Management**

A licensed professional nurse is responsible for delegation of all nursing functions. Unlicensed staff that successfully complete an assistance-with-medications course and have been delegated to provide assistance with medications by a licensed nurse are permitted to assist residents with self-administration of medication. A licensed professional nurse is required to check the medication regimen for residents on at least a quarterly basis.

**Square Feet Requirements**

Square footage requirements for resident sleeping rooms must provide for not less than 100 square feet of floor space per resident in a single-bed sleeping room and not less than 80 square feet of floor space per resident in a multi-bed sleeping room. For facilities constructed after January 1, 2021, square footage requirements for resident sleeping rooms must provide at least 100 square feet of floor space per resident for both single-bed and multi-bed sleeping rooms.

**Residents Allowed Per Room**

A maximum of two residents is allowed per resident unit (unless a facility was licensed prior to July 1, 1991, in which case four residents can be housed per room). When there is any change in ownership of the facility, the maximum number of residents allowed in any room is two.

**Bathroom Requirements**

One toilet must be provided for every six residents. One tub or shower must be provided for every eight residents.

**Life Safety**

All residential care or assisted living facilities are required to have interconnected smoke detectors and fire alarm

systems. A facility licensed for three to 16 beds is required to have a residential sprinkler system. A facility licensed for 17 beds or more (or a multilevel building) must have a commercial fire sprinkler system. Facilities that accept or keep residents who cannot self-evacuate must be fully sprinklered.

Upon a change of ownership all unsprinklered facilities must have a sprinkler system installed before the facility will be licensed. All new facilities must have a sprinkler system before they will be licensed. The State of Idaho adopts NFPA standards.

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

If the facility accepts and retains residents who have cognitive impairment, the facility must provide an interior environment and exterior yard that is secure and safe.

If the facility admits or retains residents with a diagnosis of dementia, staff must be trained in the following topics: overview of dementia; symptoms and behaviors of people with memory impairment; communication with people with memory impairment; resident's adjustment to the new living environment; behavior management; ADLs; and stress reduction for facility personnel and resident. If a resident is admitted with a diagnosis of dementia or if a resident acquires this diagnosis, and if staff have not been trained in this area, staff must be trained within 30 calendar days. In the interim, the facility must meet the resident's needs.

**Staffing Requirements**

Each facility will be organized and administered under one administrator, except in certain circumstances. If an administrator oversees more than one building, they are required to submit a shared plan of operation. The rules state how many facilities can be under one administrator based on licensed beds. It also details requirement to obtain an approved plan, the hours the administrator should be on site and rescinding of the shared plan of operation.

The administrator must be on site sufficiently to provide for safe and adequate care to the residents to meet the terms of negotiated service agreements. The facility's administrator or his/her designee must be reachable and available at all times and must be available to be on site at the facility within two hours. The administrator must provide supervision for all personnel including contract personnel.

There are additional requirements for administrators of multiple facilities.

For facilities licensed for 15 beds or less, there must be at least one or more qualified and trained staff up and awake and immediately available, in the facility during resident sleeping hours. For facilities licensed for 16 beds or more, qualified and trained staff must be up and awake and immediately available in the facility during resident sleeping hours. For facilities with residents housed in detached buildings or units, there must be at least one qualified and trained staff present and available in each building or unit when residents are present in the building or unit. The facility also must ensure that each building or unit complies with the requirements for on-duty staff during resident sleeping hours in accordance with the facility's licensed bed capacity. A variance will be considered based on the facility's written submitted plan of operation.

The facility will employ and the administrator will schedule sufficient personnel to provide care, during all hours, required in each resident's negotiated service agreement, to ensure residents' health, safety, comfort, and supervision, and to assure the interior and exterior of the facility is maintained in a safe and clean manner; and to provide for at least one direct care staff with certification in First Aid and CPR in the facility at all times. Facilities with multiple buildings or units will have at least one direct care staff with certification in first aid and CPR in each building or each unit at all times.

### **Administrator Education/Training**

Administrators must be licensed by the state. In addition to completing a course and passing an exam, applicants must obtain experience in an assisted living facility under the direction of a licensed administrator. Those with a high school diploma or equivalent must obtain 800 hours of experience. Those with an associate degree from an accredited college or university or equivalent must obtain 400 hours of experience and those with a Bachelor's degree must obtain 200 hours of experience.

Those holding a valid Idaho nursing home administrator license who wish to be licensed as a residential care facility administrator must pass the Board-approved residential care administrator examination and meet all requirements set forth in state law; however, the examination may be

waived if the individual submits evidence of at least one year of leadership or management experience in a residential assisted living facility or nursing facility within the five years preceding his or her application.

Licensed administrators are to receive 12 hours of continuing education each year as approved by the Bureau of Occupational Licenses. Basic first aid, CPR, medication assistance, or fire safety courses shall not be considered for continuing education credit.

### **Staff Education/Training**

Staff must have a minimum of 16 hours of job-related orientation training before they are allowed to provide unsupervised personal assistance to residents. Staff who have not completed the orientation training requirements must work under the supervision of a staff member who has completed the orientation training. All orientation training must be completed within 30 days of hire. The state specifies which topics must be covered in the orientation training.

A facility admitting and retaining residents with a diagnosis of dementia, mental illness, developmental disability, or traumatic brain injury must train staff to meet the specialized needs of these residents. Staff must receive specialized training within 30 days of hire or of admission of a resident with one of these conditions. See "Unit and Staff Training for Serving Persons with Dementia" section for staff training at facilities with residents with a diagnosis of dementia.

For mental illness, staff are to be trained in the following areas: overview of mental illness; symptoms and behaviors specific to mental illness; resident's adjustment to the new living environment; behavior management; communication; integration with rehabilitation services; ADLs; and stress reduction for facility personnel and residents.

Development disability staff are to be trained in the following areas: overview of developmental disabilities; interaction and acceptance; promotion of independence; communication; behavior management; assistance with adaptive equipment; integration with rehabilitation services; ADLs; and community integration.

For residents with traumatic brain injury, staff are to be trained in the following areas: overview of traumatic brain injury; symptoms and behaviors specific to traumatic brain injury; adjustment to the new living environment; behavior management; communication; integration with rehabilitation services; ADLs; assistance with adaptive equipment; and stress reduction for facility personnel and residents. Each employee is to receive eight hours of job-related continuing training per year. When policies or procedures are added, modified, or deleted, staff are to receive additional training relating to the changes.

**Entity Approving CE Program**

The Board of Examiners of Residential Care Facility Administrators approves courses that are relevant to residential care administration. There is no application process. Courses of study relevant to residential care facility administration and sponsored or provided by the following entities or organizations shall be approved for continuing education credits: accredited colleges or universities; federal, state or local government entities; national or state associations; or, otherwise approved by the Board based upon documentation submitted by the licensee or course provider reviewing the nature and subject of the course and its relevancy to residential care administration, name of instructor(s) and their qualifications, date, time and location of the course and procedures for verification of attendance.

**Medicaid Policy and Reimbursement**

A Medicaid state plan service and a Medicaid home and community-based services waiver reimburses for personal care. State Plan services are available to residents who meet the state's definition of medical necessity, which requires that the resident may need no more than 16 hours of personal care services per week.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

IDAPA 16 – Idaho Department of Health and Welfare, Division of Licensing and Certification 16.03.22: Residential Assisted Living Facilities.

<https://adminrules.idaho.gov/rules/current/16/160322.pdf>

Idaho Legislature, Title 39: Health And Safety, Chapter 33: Idaho Residential Care Or Assisted Living Act.

<https://legislature.idaho.gov/statutesrules/idstat/Title39/T39CH33/SECT39-3305/>

Idaho Administrative Code, Idaho Administrative Procedure Act 16, Title 03, Chapter 19: Rules Governing Certified Family Homes. [July 1, 2018]

<https://adminrules.idaho.gov/rules/current/16/160319.pdf>

Idaho Administrative Code, Idaho Administrative Procedure Act 24, Title 19, Chapter 1: Rules of the Board of Examiners of Residential Care Facility Administrators. [April 11, 2019].

<https://adminrules.idaho.gov/rules/current/24/241901.pdf>

Idaho Administrative Code, Idaho Administrative Procedure Act 16, Title 02, Chapter 19: Food Safety and Sanitation Standards for Food Establishments. [March 29, 2017]

<https://adminrules.idaho.gov/rules/current/16/160219.pdf>

Idaho Department of Health and Welfare. Home Care: Personal Care Services and Home & Community-Based Waivers

<http://healthandwelfare.idaho.gov/Medical/Medicaid/HomeCare/tabid/215/Default.aspx>.

## Illinois

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**Licensure Term** Assisted Living Establishments and Shared Housing Establishments

**Opening Statement** The Illinois Department of Public Health regulates assisted living establishments and shared housing establishments through one set of rules. Assisted living requires single-occupancy private apartment units, whereas shared housing does not.

All requirements described below apply to both types of establishments unless otherwise noted. Supportive living facility is a separate category of residential settings that accept Medicaid.

**Legislative and Regulatory Update** There are no recent legislative or regulatory updates to the requirements for assisted living or shared housing establishments.

**Definition** Assisted Living Establishment: Provides community-based residential care for at least three unrelated adults (at least 80 percent of whom are 55 years of age or older) who need assistance with activities of daily living (ADLs), including personal, supportive, and intermittent health-related services available 24-hours per day, if needed, to meet the scheduled and unscheduled needs of a resident.

Shared Housing Establishment: Provides community-based residential care for 16 or fewer unrelated adults (at least 80 percent of whom are 55 years of age or older) who need assistance with housing, ADLs, and personal, supportive, and intermittent health-related services. This care must be available 24-hours per day, if needed, to meet the scheduled and unscheduled needs of a resident.

**Disclosure Items** Each establishment shall provide a resident or representative with the following information at the time the resident is accepted into the establishment: (1) a copy of current resident policies or a resident handbook; (2)

whether each unit has independent heating and cooling controls and their location; (3) the establishment's policy concerning response to medical emergency situations; and (4) whether the establishment provides therapeutic diets. An establishment must fill out an Alzheimer's Special Care Disclosure Form if they offer care to residents with Alzheimer's disease in a special unit.

**Facility Scope of Care**

Establishments must provide mandatory services, including: three meals per day; housekeeping; laundry; security; an emergency communication response system; and assisted with ADLs as required by each resident. Assistance with ADLs includes personal, supportive, and intermittent health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of the resident.

**Third Party Scope of Care**

Home health agencies unrelated to the assisted living establishment may provide services under contract with residents.

**Admission and Retention Policy**

No individual shall be accepted for residency or remain in residence if: (1) the establishment cannot provide or secure appropriate services, (2) the individual requires a level of service or type of service for which the establishment is not licensed or which the establishment does not provide, or (3) the establishment does not have the staff appropriate in numbers and with appropriate skill to provide such services. The state specifies circumstances in which a person shall not be accepted for residency, including but not limited to: residents who pose a serious threat to self or others, have serious mental or emotional problems, who are in need of more than a specified amount of nursing care, or who require total assistance with two or more ADLs.

**Resident Assessment**

A physician's assessment must be completed no more than 120 days prior to a resident moving into any establishment. Reevaluations must be completed at least annually. There is no required form but the assessment must include an evaluation of the individual's physical, cognitive, and psychosocial condition, and documentation of the presence or the absence of tuberculosis infection. Establishments may develop their own tools for evaluating residents. Documentation of evaluations and reevaluations may be in

any form that is accurate, addresses the resident's condition, and incorporates the physician's assessment.

<b>Medication Management</b>	All medications must be self-administered or may be administered by licensed personnel as an optional service. Staff may give medication reminders and monitor residents to make sure they follow the directions on the container.
<b>Square Feet Requirements</b>	State requirements do not specify minimum square footage requirements for individual units.
<b>Residents Allowed Per Room</b>	Assisted living and shared housing units are individual units except in cases in which residents choose to share a unit. For assisted living establishments, a maximum of two individuals can choose to share a unit. The requirements for shared housing establishments do not specify a maximum number of residents allowed in a room.
<b>Bathroom Requirements</b>	Assisted living and shared housing units are individual units except in cases in which residents choose to share a unit; a maximum of two individuals can choose to share a unit.
<b>Life Safety</b>	Assisted living and shared housing establishments must comply with National Fire Protection Association Life Safety Code 101, Chapter 32 (New Residential Board & Care Occupancies), 2000 Edition, or Life Safety Code 101A, Chapters 6 (Evaluating Evacuation Capability) and 7 (Board and Care Occupancies), 2001 Edition. The state is undergoing rule revision to adopt the 2012 edition.
<b>Unit and Staffing Requirements for Serving Persons with Dementia</b>	An establishment offering to provide a special program for persons with Alzheimer's disease and related disorders (among other things) must: <ol style="list-style-type: none"><li>(1) Disclose specified information to the Department of Public Health and to potential or actual residents;</li><li>(2) Ensure a representative is designated for each resident;</li><li>(3) Ensure the continued safety of all residents including, but not limited to, those who may wander and those who may need supervision and assistance during emergency evacuations;</li><li>(4) Provide coordination of communications with each resident, resident's representative, relatives, and other persons identified in the resident's service plan;</li><li>(5) Provide in the service plan appropriate cognitive stimulation and activities to maximize functioning;</li></ol>

- (6) Provide an appropriate number of staff for its resident population. (At least one staff member must be awake and on duty at all times.); and
- (7) Provide at least 1.4 hours of services per resident per day.

The manager of an establishment providing Alzheimer's care or the supervisor of an Alzheimer's program must be 21 years of age and have either:

- (1) a college degree with documented course work in dementia care, plus one year of experience working with persons with dementia; or
- (2) at least two years of management experience with persons with dementia.

The manager or supervisor must complete, in addition to other training requirements, six hours of annual continuing education regarding dementia care.

All staff members must receive, in addition to other required training, four hours of dementia-specific orientation prior to assuming job responsibilities. Training must cover, at a minimum, the following topics:

- (1) basic information about the causes, progression, and management of Alzheimer's disease and other related dementia disorders;
- (2) techniques for creating an environment that minimizes challenging behavior;
- (3) identifying and alleviating safety risks to residents with Alzheimer's disease;
- (4) techniques for successful communication with individuals with dementia; and
- (5) resident rights.

Direct care staff must receive 16 hours of on-the-job supervision and training following orientation. Training must cover:

- (1) encouraging independence in and providing assistance with ADLs;
- (2) emergency and evacuation procedures specific to the dementia population;
- (3) techniques for creating an environment that minimizes challenging behaviors;
- (4) resident rights and choice for persons with dementia, working with families, and caregiver stress; and
- (5) techniques for successful communication.

Direct care staff must annually complete 12 hours of in-service education regarding Alzheimer's disease and other dementia disorders.

## **Staffing Requirements**

**Assisted Living Establishment:** Must have a full-time manager. The establishment shall have staff sufficient in number with qualifications, adequate skills, education and experience to meet the 24-hour scheduled and unscheduled needs of residents and who participate in ongoing training to serve the resident population. There are no staffing ratios. At least one staff member must be awake, on duty, and on site 24 hours per day. There must be a minimum of one direct care staff person who is CPR-certified, awake, and on duty at all times in assisted living establishments.

**Shared Housing Establishments:** Must have a manager, who may oversee no more than three establishments if they are located within 30 minutes driving time during non-rush hour and if the manager may be immediately contacted by an electronic communication device. The establishment shall have staff sufficient in number with qualifications, adequate skills, education and experience to meet the 24-hour scheduled and unscheduled needs of residents and who participate in ongoing training to serve the resident population. There are no staffing ratios. Shared housing establishments must have at least one staff member on site at all times, except in certain situations, such as taking a resident to the emergency room or planned or unplanned trips to the grocery store, that would require the staff person to be away for a brief period of time. In such situations, arrangements shall be made to monitor the safety of the residents in accordance with the service delivery plan. There must be a minimum of one direct care staff person who is CPR-certified, awake, and on duty at all times in assisted living establishments.

## **Administrator Education/Training**

The administrator must be a high school graduate or equivalent and at least 21 years of age. The manager must receive training and orientation in care and service system delivery and have at least: one year of management experience in health care, housing or hospitality or providing similar services to the elderly; or two years of experience in health care, housing, or hospitality or providing similar services to the elderly.

Each manager shall complete a minimum of eight hours of ongoing training, applicable to the employee's responsibilities, every 12 months after the starting date of employment. The training shall include:

- (1) promoting resident dignity, independence, self-determination, privacy, choice, and resident rights;
- (2) disaster procedures;
- (3) hygiene and infection control;
- (4) assisting residents in self-administering medications;
- (5) abuse and neglect prevention and reporting requirements; and
- (6) assisting residents with ADLs.

### **Staff Education/Training**

All personnel must have training and/or experience in the job assigned to them. An ongoing in-service training program is required to ensure staff have the necessary skills to perform job duties. Each new employee must complete orientation within 10 days of their start date on topics such as the establishment's philosophy and goals; resident rights; and abuse and neglect prevention and reporting requirements. Within 30 days, each employee must complete an additional orientation on specified topics such as orientation to the characteristics and needs of the establishment's residents; internal establishment requirements, policies, and procedures; and training in assistance with ADLs appropriate to the job.

Each manager and direct care staff member shall complete a minimum of eight hours of ongoing training, applicable to the employee's responsibilities, every 12 months after the starting date of employment. The training shall include:

- (1) promoting resident dignity, independence, self-determination, privacy, choice, and resident rights;
- (2) disaster procedures;
- (3) hygiene and infection control;
- (4) assisting residents in self-administering medications;
- (5) abuse and neglect prevention and reporting requirements; and
- (6) assisting residents with ADLs.

### **Entity Approving CE Program**

None specified.

### **Medicaid Policy and Reimbursement**

Illinois operates the Supportive Living Program (SLP) under a Section 1915(c) Home and Community Based Services (HCBS) waiver. SLP offers people aged 65 and older and

people with physical disabilities aged 22 and older HCBS as an alternative to nursing facility placement. ~~and~~ has authority to serve up to 12,262 Medicaid residents in Fiscal Year 2021. Under this program, Medicaid may cover services for Medicaid beneficiaries receiving services from SLP providers. The Department of Healthcare and Family Services, which administers the state Medicaid program, certifies and monitors SLP providers. These providers offer similar services as assisted living and shared housing but operate under different requirements. In 2018, there are 153 operating SLP providers with a total of 12,700+ apartments and another 11 sites under development. Assisted living establishments are not Medicaid-certified providers.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

Illinois General Assembly, Health Facilities and Regulation Chapter 210: Assisted Living and Shared Housing Act. [January 1, 2001]  
<https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1217&ChapterID=21>

Joint Committee on Administrative Rules, Administrative Code, Title 77, Chapter I, Subchapter c, Part 295: Assisted Living and Shared Housing Establishment Code. [July 31, 2015]  
<http://www.ilga.gov/commission/jcar/admincode/077/07700295sections.html>

Department of Healthcare and Family Services, Illinois Supportive Living Program.  
<https://www.illinois.gov/hfs/MedicalPrograms/slf/Pages/default.aspx>

Joint Committee on Administrative Rules, Administrative Code, Title 89, Chapter I, Subchapter d, Part 146, Subpart B: Supportive Living Facilities.  
<https://www.ilga.gov/commission/jcar/admincode/089/0890146sections.html>

## Indiana

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**Licensure Term** Residential Care Facilities

**Opening Statement** Two Indiana agencies have jurisdiction over the services generally described as assisted living: Department of Health (IDOH) and Family and Social Services Administration (FSSA). IDOH regulates the licensure requirements for residential care facilities. A health facility that provides residential nursing care or administers medications prescribed by a physician must be licensed as a residential care facility. FSSA, through the Division of Aging, maintains a registry of establishments filing disclosures for Housing with Services Establishments. A facility that provides services, such as room, meals, laundry, activities, housekeeping, and limited assistance in activities of daily living (ADLs), without providing administration of medication or residential nursing care, is not required to be licensed.

The Housing with Services Establishments Act has been in effect since 1998 and requires any residential care facility or any entity providing assisted living services that does not require licensure to register with the Division of Aging of the FSSA and disclose its name, address, and telephone number. This is not a certification or licensure process, but instead helps the FSSA to learn about the number and types of facilities in Indiana.

**Legislative and Regulatory Update** Senate Bill 202 added provisions for visitations during a declared emergency or crisis and was effective April 29, 2021.

<b>Definition</b>	Residential Care Facility means a health care facility that provides residential nursing care. Residential nursing care may include, but is not limited to, the following: (1) Identifying human responses to actual or potential health conditions; (2) Deriving a nursing diagnosis; (3) Executing a minor regimen based on a nursing diagnosis or executing minor regimens as prescribed by a physician, physician assistant, chiropractor, dentist, optometrist, podiatrist, or nurse practitioner; and (4) Administering, supervising, delegating, and evaluating nursing activities as described above.
<b>Disclosure Items</b>	Facilities must provide the resident or the resident's representative a copy of the contract between the resident and the facility prior to admission, which must include a statement describing the facility's licensure status as well as other information, such as facility services and information on charges, among other items. Facilities also must provide each resident with a copy of the annual disclosure document that the facility files with the Division of Aging, pursuant to the Housing with Services Establishments Act. Residential care facilities must advise residents, upon admission, of the resident's rights specified in Indiana law and regulation. Residential care facilities that provide specialized care for individuals with Alzheimer's disease or dementia must prepare a disclosure statement on a required form.
<b>Facility Scope of Care</b>	Residential care facilities must provide personal care and assistance with ADLs based upon individual needs and preferences. The facility must provide, arrange, or make available three well-planned meals a day, seven days a week. The facility must also provide appropriate activities programming and provide and/or coordinate scheduled transportation to community-based activities. A residential care facility may provide residential nursing care and administer medications prescribed by a physician.
<b>Third Party Scope of Care</b>	A resident has the right to choose his or her own attending physician and contract for on-site health care services including home health, hospice, and personal care.
<b>Admission and Retention Policy</b>	The resident must be discharged if the resident: (1) Is a danger to self or others;

- (2) Requires 24-hour, comprehensive nursing care or comprehensive nursing oversight;
- (3) Requires less than 24-hour comprehensive nursing care, comprehensive nursing oversight or rehabilitative therapies and has not entered into a contract with an appropriately licensed provider of the resident's choice to provide those services;
- (4) Is not medically stable; or
- (5) Meets any two of the following three criteria: requires total assistance with eating, toileting, or transferring.

## **Resident Assessment**

While there is no required form, an evaluation of the individual needs of each resident must be initiated prior to admission and must be updated at least semi-annually and when there is a substantial change in the resident's condition. The minimum scope and content of the resident evaluation must include, but is not limited to:

- (1) the resident's physical, cognitive, and mental status;
- (2) the resident's independence in ADLs;
- (3) the resident's weight taken on admission and semi-annually thereafter; and
- (4) if applicable, the resident's ability to self-administer medications.

Following the evaluation, the residential care facility must identify and document the services to be provided and specify the scope, frequency, need, and preference of the resident for such services.

## **Medication Management**

Each facility shall choose whether it administers medication and/or provides residential nursing care. These policies shall be outlined in the facility policy manual and clearly stated in the admission agreement. The administration of medications and the provision of residential nursing care shall be as ordered by the resident's physician and shall be supervised by a licensed nurse on the premises or on call. Medication shall be administered by licensed nursing personnel or qualified medication aides. Administration of medications means preparation and/or distribution of prescribed medications. Administration does not include reminders, cues, and/or opening of medication containers or assistance with eye drops, such as steadying the resident's hand, when requested by a resident.

<b>Square Feet Requirements</b>	Private resident units must be a minimum of 100 square feet and multiple-occupancy resident units must provide a minimum of 80 square feet per resident.
<b>Residents Allowed Per Room</b>	For facilities and additions to facilities for which construction plans are submitted for approval after July 1, 1984, resident rooms shall not contain more than four residents' beds.
<b>Bathroom Requirements</b>	For facilities licensed after April 1, 1997, each unit must have a private toilet, lavatory, and tub or shower. Facilities licensed prior to April 1, 1997 must abide by certain resident to bathtub/shower and resident to toilet/lavatory ratios as set forth in regulation.
<b>Life Safety</b>	No life safety code surveys are required for residential care facilities. The state fire marshal's office surveys these facilities for fire safety precautions. Sanitation and safety standards must be in accordance with ISDH Residential Care Facility rules.
<b>Unit and Staffing Requirements for Serving Persons with Dementia</b>	<p>If a facility locks, secures, segregates, or provides a special program or special unit for residents with Alzheimer's disease, related disorders, or dementia, and advertises to the public that it is offering a special care unit, it must prepare a written disclosure statement on a required form that includes, but is not limited to, information on the following:</p> <ol style="list-style-type: none"> <li>(1) The mission or philosophy concerning the needs of residents with Alzheimer's disease, a related disorder, or dementia;</li> <li>(2) The criteria used to determine that a resident may placement, transfer, or discharge into/from a special care unit;</li> <li>(3) The process for the assessment, establishment, and implementation of a plan for special care, including how and when changes are made to a plan of care;</li> <li>(4) Information about staff including number of staff available and training provided;</li> <li>(5) The frequency and types of activities for residents with dementia;</li> <li>(6) Guidelines for using physical and chemical restraints;</li> <li>(7) An itemization of the health facility's charges and fees for special care; and</li> <li>(8) Any other features, services, or characteristics that distinguish the care provided in special care.</li> </ol>

This form must be filed with the FSSA Division of Aging annually and made available to anyone seeking information on services for individuals with dementia. Facilities required to submit an Alzheimer's and dementia special care unit disclosure form must designate a qualified director for the special care unit.

Staff who have contact with residents in dementia units must have (additionally) a minimum of six hours of dementia-specific training within six months and three hours annually thereafter to meet the needs of cognitively impaired residents. In facilities required to submit an Alzheimer's and dementia special care unit disclosure form, a designated director must have specified work experience.

Facilities that are required to submit an Alzheimer's and dementia special care unit disclosure must designate a director for the Alzheimer's and dementia special care unit. The director shall have a minimum of one year of work experience with dementia or Alzheimer's residents within the previous five years. The director shall have a minimum of 12 hours of dementia-specific training within three months of initial employment as the director and 6 hours annually thereafter to: meet the needs or preferences, or both, of cognitively impaired residents; and gain understanding of the current standards of care for residents with dementia.

## **Staffing Requirements**

Staff shall be sufficient in number, qualifications, and training in accordance with applicable state laws and rules to meet the 24-hour scheduled and unscheduled needs of the residents and services provided. The number, qualifications, and training of staff shall depend on skills required to provide for the specific needs of the residents.

A minimum of one awake staff person, with current CPR and first aid certificates, shall be on site at all times. If 50 or more residents of the facility regularly receive residential nursing services and/or administration of medication, at least one nursing staff person shall be on site at all times. Residential facilities with more than 100 residents regularly receiving residential nursing services and/or administration of medication shall have at least one additional nursing staff person awake and on duty at all times for every 50 residents.

Any unlicensed employee providing more than limited assistance with ADLs must either be a certified nurse aide or a home health aide.

## **Administrator Education/Training**

Administrators must have either a comprehensive care facility administrator's license or a residential care/assisted living facility administrator's license. Administrators must complete:

(1) A baccalaureate or higher degree in any subject from an accredited institution of higher learning; or

(2) An associate degree in health care from an accredited institution of higher learning and a specialized course of study in long-term health care administration approved by the Indiana State Board of Health Facility Administrators (Board) for nursing facility administrators or a specialized course of study in residential care administration for assisted living administrators; or

(3) A specialized course of study in long-term health care administration approved by the Indiana State Board of Health Facility Administrators if obtaining a nursing facility administrator's license. Those obtaining a residential care/assisted living administrator's license must complete a specialized course in residential care administration approved by the Indiana State Board of Health Facility Administrators.

They must complete a 1,040-hour administrator-in-training program supervised by a board-certified preceptor if obtaining a nursing facility administrator's license. Those obtaining a residential care/assisted living administrator's license must complete an 860-hour administrator-in-training program supervised by a board-certified preceptor. A waiver of the educational and six-month administrator-in-training requirements for the nursing facility and residential care/assisted living administrator's license may be granted if the individual qualifies under the Indiana State Board of Health Facility Administrators equivalents.

Administrators must complete 40 hours of continuing education biannually.

## **Staff Education/Training**

Prior to working independently, each employee must be given an orientation that must include specific information. There must be an organized in-service education and training program planned in advance for all personnel in all departments at least annually. For nursing personnel, this

shall include at least eight hours per calendar year; for non-nursing personnel, it shall include at least four hours per calendar year. The facility must maintain complete records of all trainings.

**Entity Approving CE Program**

Health Facility Administrators Board

**Medicaid Policy and Reimbursement**

Assisted living services are available under the state's Aged and Disabled and Traumatic Brain Injury Section 1915(c) waivers. All providers of these services must have a Residential Care Facility license from ISDH.

**COVID-19 Public Health Emergency**

Senate Bill 202 added provisions for visitations during a declared emergency or crisis and was effective April 29, 2021. These new provisions require that facilities allow visitations from a family member, legal representative, clergy, or an essential family caregiver in compassionate care situations.

**Citations**

Family and Social Services Administration. Aged and Disabled Waiver.

<https://www.in.gov/medicaid/members/home-and-community-based-services/aged-and-disabled-waiver/>

Family and Social Services Administration. Medicaid HCBS, Indiana Home- and Community-Based Services Waivers. <http://www.in.gov/fssa/da/3476.htm>

Indiana General Assembly, 2020 Code, Title 12, Article 10, Chapter 5.5: Alzheimer's and Dementia Special Care Disclosure. [2017]

<http://iga.in.gov/legislative/laws/2020/ic/titles/012>

Indiana Administrative Code, Title 410, 16.2 Health Facilities; Licensing and Operational Standards. [2013]

<https://www.in.gov/health/files/A00162.pdf>

Indiana Administrative Code, Title 840, Indiana State Board of Health Facility Administrators Regulations. [December 29, 2021] [http://iac.iga.in.gov/iac/iac\\_title?iact=840](http://iac.iga.in.gov/iac/iac_title?iact=840)

Senate Bill 202 2021 Regular Session.

<https://legiscan.com/IN/text/SB0202/id/2370900/Indiana-2021-SB0202-Enrolled.pdf>

Indiana State Department of Health, Residential Care  
Facility Licensing Program.  
<http://www.in.gov/isdh/20227.htm>

## Iowa

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**Licensure Term** Assisted Living Programs and Dementia-specific Assisted Living Programs

**Opening Statement** The Department of Inspections and Appeals (DIA), Health Facilities Division, licenses assisted living programs (ALPs). Programs are certified, which is the functional equivalent of licensure.

**Legislative and Regulatory Update** Iowa DIA updated the assisted living rules in September 2021 in response to a change in the scope of practice updates from the Board of Nursing. This change disallowed licensed practical nurses to complete initial evaluations.

**Definition** "Assisted living" means provision of housing with services, which may include (but are not limited to) health-related care, personal care, and assistance with instrumental activities of daily living (IADLs) to three or more tenants in a physical structure that provides a homelike environment. Assisted living also includes encouragement of family involvement, tenant self-direction, and tenant participation in decisions that emphasize choice, dignity, privacy, individuality, shared risk, and independence. Assisted living includes the provision of housing and assistance with IADLs only if personal care or health-related care is also included. Assisted living includes 24-hours per day response staff to meet scheduled and unscheduled or unpredictable needs in a manner that promotes maximum dignity and independence and provides supervision, safety, and security.

**Disclosure Items** Assisted Living Programs must provide a copy of a required written occupancy agreement to the tenant or tenant's legal representative as well as any subsequent changes. The occupancy agreement must clearly describe the rights and responsibilities of the tenant and the program and must also include (but is not limited to) the following information:

- (1) A description of all fees, charges, and rates describing tenancy and basic services covered, and any additional and optional services and their related costs;
- (2) A statement regarding the impact of the fee structure on third-party payments, and whether third-party payments and resources are accepted by the Assisted Living Program;
- (3) The procedure followed for nonpayment of fees;
- (4) Identification of the party responsible for payment of fees and identification of the tenant's legal representative, if any;
- (5) The term of the occupancy agreement;
- (6) A statement that the Assisted Living Program shall notify the tenant or the tenant's legal representative, as applicable, in writing at least 30 days prior to any change being made in the occupancy agreement;
- (7) A statement that all tenant information shall be maintained in a confidential manner to the extent required under state and federal law;
- (8) Occupancy, involuntary transfer, and transfer criteria and procedures, which ensure a safe and orderly transfer;
- (9) The internal appeals process provided relative to an involuntary transfer;
- (10) The program's policies and procedures for addressing grievances between the Assisted Living Program and tenants, including grievances relating to transfer and occupancy;
- (11) A statement of the prohibition against retaliation as prescribed in section 231C.13;
- (12) The emergency response policy;
- (13) The staffing policy which specifies if nurse delegation will be used and how staffing will be adapted to meet changing tenant needs;
- (14) In Dementia-specific Assisted Living Programs, a description of the services and programming provided to meet the life skills and social activities of tenants;
- (15) The refund policy;
- (16) A statement regarding billing and payment procedures;
- (17) The telephone numbers for filing a complaint with the department, the office of the tenant advocate, and reporting dependent adult abuse;
- (18) A copy of the program's statement on tenants' rights;
- (19) A statement that the tenant landlord law applies to Assisted Living Programs; and

(20) A statement that the program will notify the tenant at least 90 days in advance of any planned program cessation, which includes voluntary decertification, except in cases of emergency.

Occupancy agreements and related documents executed shall be maintained by the ALP in program files from the date of execution until three years from the date the occupancy agreement is terminated. A copy of the most current occupancy agreement shall be provided to members of the general public, upon request.

**Facility Scope of Care**

Programs may provide assistance with up to four activities of daily living (ADLs), and IADLs. In addition, health-related care (by an RN or LPN) may be provided on a part-time or intermittent basis only, not to exceed 28 hours per week.

**Third Party Scope of Care**

A program may contract for personal care or health-related services. However, the certified assisted living program is accountable for meeting all minimum standards.

**Admission and Retention Policy**

A program may not knowingly admit or retain a tenant who: requires more than part-time or intermittent health-related care; is bed-bound; is under the age of 18; requires routine two-person assistance to stand, transfer, or evacuate; on a routine basis, has unmanageable incontinence; is dangerous to self or other tenants or staff; is in an acute stage of alcoholism, drug addiction, or uncontrolled mental illness; is medically unstable; requires maximal assistance with ADLs; or, despite intervention, chronically urinates or defecates in places that are not considered acceptable according to societal norms, such as on the floor or in a potted plant. "Part-time or intermittent care" means licensed nursing services and professional therapies that are provided in combination with nurse-delegated assistance with medications or activities of daily living and do not exceed 28 hours per week.

The state may grant a waiver of the occupancy and retention criteria for an individual tenant on a time-limited basis when it is the choice of the tenant, the program is able to provide staff necessary to meet the tenant's service needs, and it will not jeopardize the health safety, security, or welfare of the tenant, staff, and other tenants. In addition, the tenant must have been diagnosed with a terminal illness and admitted to hospice, and the tenant

accedes the criteria for retention and admission for a temporary period of less than six months. Terminal diagnosis means within six months of end of life.

### **Resident Assessment**

A program shall evaluate each tenant's functional, cognitive and health status within 30 days of occupancy. A program shall also evaluate each tenant's status as needed with significant change, but not less than annually, to determine continued eligibility for the program and to determine any changes to services needed. There are no specific forms required, but the selected forms must be submitted with the application for certification. Programs must develop individualized service plans at specified intervals.

### **Medication Management**

Tenants self-administer medications or the tenant may delegate the administration to the program.

If administration of medications is delegated to the program by the tenant or tenant's legal representative, the medications shall be administered by a registered nurse, licensed practical nurse, advanced registered nurse practitioner licensed in Iowa, or by an individual who has successfully completed a department-approved medication aide or manager course and passed the respective department-approved medication aide or manager examination.

A program that administers prescription medications or provides health care professional-directed or health-related care must provide for a registered nurse to monitor, at least every 90 days or after a significant change in condition, each tenant receiving program-administered prescription medications for adverse reactions and ensure that the medication orders are current and the medications are administered consistent with those orders.

Medication administration includes medication "setup," described as routine prompting, cueing, and reminding; opening containers or packaging at the resident's direction; reading instructions or other label information; and/or transferring medications from the original container into suitable medication dispensing containers.

### **Square Feet Requirements**

For programs operating in new construction built on or after July 4, 2001, private tenant single occupancy units must be a minimum of 240 square feet for new construction or a

minimum of 190 square feet for a structure being converted or rehabilitated for assisted living. Double occupancy tenant units must be a minimum of 340 square feet for new construction and a minimum of 290 square feet for a structure being converted or rehabilitated for assisted living. Floor area excludes bathrooms and door swing.

**Residents Allowed Per Room**

A maximum of one resident may live in a single occupancy apartment. One or two residents may live in a double occupancy apartment. Apartments are classified as single or double occupancy by square footage.

**Bathroom Requirements**

Each tenant unit must have a bathroom, including a toilet, sink, and bathing facilities.

**Life Safety**

All new facilities must be sprinklered. Smoke detection is required. Smoke alarms and smoke detection systems shall comply with National Fire Protection Association (NFPA) 101, 2003 Edition, Chapter 32 (New Board & Care) or Chapter 33 (Existing Board and Care) and NFPA 72, National Fire Alarm Code. Approved smoke alarms shall be installed inside every sleeping room, outside every sleeping area in the immediate vicinity of the bedrooms, and on all levels of the resident unit. Corridors and spaces open to corridors shall be provided with smoke detectors, arranged to initiate an alarm that is audible in all sleeping areas. Sprinkler systems must comply with NFPA 13 or 13R standards.

Building type may determine which type of sprinkler system should be installed. The type of smoke detection required varies depending on whether a facility is new, existing, sprinkled or not.

When the assisted living facility is attached to a health care facility that is certified for Medicaid and Medicare patients, the facility must comply with either Chapter 32 or Chapter 33 of the NFPA 2000 edition of the Life Safety Code.

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

ALPs may be certified as a dementia care unit if they meet additional requirements. The Department approves the memory care program after reviewing the facility's policies, staffing plan, admission and discharge criteria, safety procedures, and service plan.

Dementia-specific assisted living program means a certified assisted living program that: (1) serves fewer than 55 tenants or has five or more tenants who have dementia between Stages 4 and 7 on the GDS; (2) serves 55 or more tenants and 10 percent or more of the tenants have dementia between Stages 4 and 7 on the GDS; or (3) holds itself out as providing specialized care for persons with dementia, such as Alzheimer's disease in a dedicated setting.

Other than declaring their program to be dementia-specific, ALPs can also be determined as dementia-specific if they meet the criteria on two sequential monitoring visits as outlined in [481 –69.2](#).

The required education for dementia-specific programs also includes an element of hands-on training. See [481–69.30\(5\)](#).

A program must be designed to meet the needs of tenants with dementia. Service plans must include planned and spontaneous activities based on the tenant's abilities and personal interests.

An operating alarm system shall be connected to each exit door in a dementia-specific program. A program serving a person with a cognitive disorder or dementia, whether in a general or dementia-specific setting, shall have written procedures regarding alarm systems and appropriate staff response if a tenant with dementia is missing. A program serving persons with cognitive impairment or dementia must have the means to disable or remove the lock on an entrance door and must do so if the presence of the lock presents a danger to the health and safety of the tenant. Dementia-specific programs are exempt from some of the structural requirements for general assisted living programs. (Exemptions include that self-closing doors are not required for individual dwelling units or bathrooms; dementia-specific programs may choose not to provide bathing facilities in the living units; and square footage requirements for tenant rooms are reduced.)

All personnel employed by or contracting with a dementia-specific program shall receive a minimum of eight hours of dementia-specific education and training within 30 days of either employment or the beginning date of the contract. All

personnel employed by or contracting with a dementia-specific program shall receive a minimum of two hours of dementia-specific continuing education annually. Direct-contact personnel shall receive a minimum of eight hours of dementia-specific continuing education annually. Specific topic areas must be covered in the training.

### **Staffing Requirements**

All Assisted Living Programs must be overseen by an RN. Sufficiently trained staff must be available at all times to fully meet tenants' scheduled and unscheduled or unpredictable needs in a manner that promotes maximum dignity and independence and provides supervision, safety, and security. There are no staffing ratios. An assisted living program shall have one or more staff persons who monitor tenants as indicated in each tenant's service plan. The staff shall be able to respond to a call light or other emergent tenant needs and be in the proximate area 24 hours a day on site. "Proximate area" is defined as a 5-minute response time.

### **Administrator Education/Training**

All programs employing a new program manager after January 1, 2010 shall require the manager within six months of hire to complete an assisted living management class whose curriculum includes at least six hours of training specifically related to Iowa rules and laws on Assisted Living Programs. Managers who have completed a similar training prior to January 1, 2010 shall not be required to complete additional training to meet this requirement. All programs employing a new delegating nurse after January 1, 2010 shall require the delegating nurse within six months of hire to complete an assisted living manager class or assisted living nursing class whose curriculum includes at least six hours of training specifically related to Iowa rules and laws on assisted living. A minimum of one delegating nurse from each program must complete the training. If there are multiple delegating nurses and only one delegating nurse completes the training, the delegating nurse who completes the training shall train the other delegating nurses in the Iowa rules and laws on assisted living. As of January 1, 2011, all programs shall have a minimum of one delegating nurse who has completed the training.

### **Staff Education/Training**

All personnel must be able to implement the program's accident, fire safety, and emergency procedures, and assigned tasks. Within 30 days of beginning employment,

all program staff shall receive training by the program's RN(s). Training for noncertified staff shall include, at a minimum, the provision of ADLs and IADLs. Training for noncertified staff shall include, at a minimum, the provision of ADLs and IADLs. Certified and noncertified staff shall receive training regarding service plan tasks (e.g., wound care, pain management, rehabilitation needs and hospice care) in accordance with medical or nursing directives and the acuity of the tenants' health, cognitive or functional status.

**Entity Approving CE Program**

None specified.

**Medicaid Policy and Reimbursement**

Iowa's Medicaid Section 1915(c) home and community-based services (HCBS) waiver program covers consumer-directed attendant care services in assisted living programs through six individual waivers: Intellectual Disability waiver; Elderly waiver; Health and Disability waiver; Brain Injury waiver; Physical Disability waiver; and AIDS/HIV waiver. Iowa moved to managed long term services in supports in 2015, with all of the Medicaid waiver service plan and authorizations under the managed care organizations. In addition, the State Supplementary Assistance In-Home Health program provides funding for services in assisted living when the HCBS waiver maximum is met and additional services are needed.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

Iowa Code. Chapter 231C: Assisted Living Programs.  
<https://www.legis.iowa.gov/docs/code//231C.pdf>

Iowa Administrative Code, Title 481, Chapter 67: General Provisions for Elder Group Homes, Assisted Living Programs, and Adult Day Services. [February 10, 2021]  
<https://www.legis.iowa.gov/docs/iac/chapter/03-28-2018.481.67.pdf>

Iowa Administrative Code, Title 481, Chapter 69: Assisted Living Programs. [March 16, 2016]  
<https://www.legis.iowa.gov/docs/iac/chapter/03-28-2018.481.69.pdf>

Iowa Code, Chapter 231C: Assisted Living Programs  
<https://www.legis.iowa.gov/docs/code/2018/231C.pdf>

Iowa Department of Human Services. Medicaid Programs: Home and Community Based Services (HCBS) Waiver Program. <http://dhs.iowa.gov/ime/members/medicaid-a-to-z/hcbs/waivers>

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IME Bureau of Long-Term Care. Consumer-Directed Attendant Care (CDAC) Member Handbook. [December 2011].  
[https://dhs.iowa.gov/sites/default/files/CDAC\\_Handbook\\_Consumer.pdf?123020211711](https://dhs.iowa.gov/sites/default/files/CDAC_Handbook_Consumer.pdf?123020211711)

Iowa Compendium of Residential Care and Assisted Living Regulations and Policy: 2015 Edition.  
<https://aspe.hhs.gov/sites/default/files/private/pdf/110471/15alcom-IA.pdf>

Iowa ARC 5920C, Inspections and Appeals Department [481]. <https://www.legis.iowa.gov/docs/aco/arc/5920C.pdf>

## Kansas

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**Licensure Term** Assisted Living Facilities, Residential Health Care Facilities, and Home Plus

**Opening Statement** The Kansas Department for Aging and Disability Services licenses assisted living facilities, residential health care facilities, and “home plus” residences or facilities.

**Legislative and Regulatory Update** There are no recent regulatory updates affecting assisted living in Kansas.

**Definition** Assisted Living Facility: Any place or facility caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for ADL limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24 hours a day, seven days a week for the support of resident independence.

Residential Health Care Facility: Any place or facility, or a contiguous portion of a place or facility, caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for ADL limitations and in which the place or facility includes individual living units and provides or coordinates personal care or supervised nursing care available on a 24-hour, seven-days-a-week basis for the support of resident independence.

Home Plus: Any residence or facility caring for not more than 12 individuals not related within the third degree of

relationship to the operator or owner by blood or marriage unless the resident in need of care is approved for placement by the secretary of the department of social and rehabilitation services, and who, due to functional impairment, needs personal care and may need supervised nursing care to compensate for ADL limitations. The level of care provided residents shall be determined by preparation of the staff and rules and regulations developed by the department on aging. An adult care home may convert a portion of one wing of the facility to a not less than five-bed and not more than 12-bed home plus facility provided that the home plus facility remains separate from the adult care home, and each facility must remain contiguous. Any home plus that provides care for more than eight individuals shall adjust staffing personnel and resources as necessary to meet residents' needs in order to maintain the current level of nursing care standards. Personnel of any home plus who provide services for residents with dementia shall be required to take annual dementia care training.

**Disclosure Items**

At or before admission each resident shall be provided a statement setting forth the general responsibilities and services and daily or monthly charges for such responsibilities and services. At the time of admission, facilities shall provide in writing to the resident or the resident's legal representative the state statutes related to advance medical directives, as well as a copy of resident rights, the facilities' policies and procedures for advance medical directives, and the facility grievance policy.

**Facility Scope of Care**

Direct care staff may provide assistance with ADLs. Skilled nursing services are not prohibited; however, they generally must be limited, intermittent, or routine in scope. Wellness and health monitoring is required.

**Third Party Scope of Care**

The negotiated service agreement can include provision of licensed home health agency or hospice services, as well as services provided gratuitously by family members or friends.

**Admission and Retention Policy**

Residents may be admitted if the facility can meet their needs. Residents will be discharged if their safety, health, or welfare is endangered. Residents with one or more of the following conditions shall not be admitted or retained, unless the negotiated service agreement includes services

sufficient to meet the needs of the resident: unmanageable incontinence; immobility if the resident is totally dependent with mobility to exit the building; a condition requiring a two-person transfer; ongoing skilled nursing intervention needed 24 hours per day; or unmanageable behavioral symptoms. The operator or administrator shall ensure that any resident whose clinical condition requires the use of physical restraints is not admitted or retained. Resident functional capacity screens are conducted before admission and annually after admission or upon significant change. The facility must give the resident a 30-day notice of transfer or discharge.

### **Resident Assessment**

On or before admission, a licensed nurse, licensed social worker, or the administrator or operator must conduct a functional capacity screen on each resident as specified by the Department on Aging. A facility may choose to integrate the specified screen in an instrument developed by the facility. A functional capacity screen must be conducted at least annually or following a significant change in the resident's physical, mental, or psychosocial functioning. A licensed nurse shall assess any resident whose functional capacity screening indicates the need for health care services.

### **Medication Management**

Facilities can manage their residents' medication or allow residents to engage in the self-administration of medication. Self administration of medication means the determination by a resident of when to take a medication or biological and how to apply, inject, inhale, ingest, or take a medication or biological by any other means, without assistance from nursing staff. A licensed nurse must perform an assessment and determine the resident can perform self administration of medication safely. The assessment must include an evaluation of the resident's physical, cognitive, and functional ability to safely and accurately self-administer and manage medications independently.

Any resident may choose to have personal medication administered by family members or friends gratuitously. A licensed pharmacist shall conduct a medication regimen review for each resident whose medication is managed by the facility at least quarterly and each time the resident experiences any significant change. Residents who self-administer medications must be offered a medication

review conducted by a licensed pharmacist at least quarterly and each time a resident experiences a significant change in condition.

**Square Feet Requirements** Each assisted living facility shall contain apartments with at least 200 square feet of living space, not including the toilet room, closets, lockers, wardrobes, other built-in fixed items, alcoves and vestibules.

Each residential health care facility shall provide individual living units which include at least 100 square feet of living space not including the toilet room, closets, lockers, wardrobes, other built-in fixed items, alcoves, and vestibules.

While square feet requirements are not specified for home plus, the rules include other requirements for the general building interior such as resident bedrooms.

**Residents Allowed Per Room** None specified.

**Bathroom Requirements** Each assisted living facility shall contain apartments that include a toilet room with a toilet, lavatory, and a bathtub or shower accessible to a resident with disabilities.

**Life Safety** All licensed Residential Health Care and Assisted Living Facilities shall meet the requirements identified in Chapter 33 of National Fire Protection Association (NFPA) 101, Life Safety Code, 2006 edition.

Any facility built or remodeled after February 2011 shall meet the requirements identified in Chapter 32 of NFPA 101, Life Safety Code, 2006 edition. All new construction must submit a code footprint from a licensed architect/engineer to the Office of the Kansas State Fire Marshal for approval at least 30 days prior to the start of construction. The code footprint must comply with the NFPA Life Safety Code 101, 2006 edition, and must be approved before construction begins. All construction projects shall be subject to a final on-site approval inspection prior to occupancy. The state fire marshal's office conducts an annual inspection of any facility that is licensed.

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

In facilities that admit residents with dementia, in-service education on treatment of behavioral symptoms must be provided. Direct care staff must be present in the special care section at all times.

Before assignment to the special care section or facility, each staff member must be provided with a training program related to the specific needs of the residents to be served and evidence of completion of the training is to be maintained in the employee's personnel records.

**Staffing Requirements**

A full-time operator (not required to be a licensed administrator if less than 61 residents are in the facility) or administrator must be employed by the facility and sufficient numbers of qualified personnel are required to ensure that residents receive services and care in accordance with negotiated service agreements. There are no minimum staffing ratios. Direct care staff or licensed nursing staff shall be awake and responsive at all times. A registered professional nurse shall be available to provide supervision to licensed practical nurses.

**Administrator Education/Training**

Operators and administrators must: be at least 21 years of age; possess a high school diploma or equivalent; hold a Kansas license as an adult care home administrator or have successfully completed an operator training course and passed the test approved by the Secretary of Kansas Department of Health and Environment; and have authority and responsibility for the operation of the facility and compliance with licensing requirements. No person shall represent that they are an operator unless they are registered.

**Staff Education/Training**

Orientation is required for all new employees and regular in-service education regarding the principles of assisted living is required for all employees. All staff must have training pertaining to abuse, neglect, and exploitation, and in disaster and emergency preparedness. All unlicensed employees who provide direct care to residents must successfully complete a 90-hour nurse aide course and pass a test.

**Entity Approving CE Program**

Registered Operators require 30 CEs every two years: 15 in the core area of Administration, 10 in Resident Care and up to 5 Elective. Continuing education hours are approved by the Kansas Department for Aging and Disability

Services under the Health Occupations Credentialing. Their director is Tabettha Mojica ([tabetha.mojica@ks.gov](mailto:tabetha.mojica@ks.gov)) and education administrator is Michael Hays ([mike.hays@ks.gov](mailto:mike.hays@ks.gov)).

## **Medicaid Policy and Reimbursement**

The state's Medicaid managed care programs, KanCare, covers assisted living via a Section 1915(c) Medicaid home and community-based services waiver. The waiver covers services in assisted living facilities that are enrolled as providers and only for residents who meet nursing home level of care criteria. Payment for services is based on a resident plan of care. KanCare currently has three managed care plans: UnitedHealthcare, Sunflower Health Plan and Aetna. Medicaid policy and eligibility are administered by the Kansas Department of Health and Environment, Division of Health Care Finance.

## **COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

## **Citations**

Kansas Department for Aging and Disability Services. Statutes and Regulations for the Licensure and Operation of Assisted Living/Residential Health Care Facilities. [https://kdads.ks.gov/docs/librariesprovider17/general-provider-pages/provider-statutes-and-regulations/ksa-and-kar-for-adult-care-homes/assisted-living---residential-health-care-facilities.pdf?sfvrsn=9c9706ee\\_2](https://kdads.ks.gov/docs/librariesprovider17/general-provider-pages/provider-statutes-and-regulations/ksa-and-kar-for-adult-care-homes/assisted-living---residential-health-care-facilities.pdf?sfvrsn=9c9706ee_2)

Kansas Department for Aging and Disability Services. Kansas Statutes Annotated (K.S.A.) and Kansas Administrative Regulations (K.A.R.) for Adult Care Homes. <https://kdads.ks.gov/provider-home/statutes-and-regulations>

Kansas Department for Aging and Disability Services. Long Term Services & Supports. [https://kdads.ks.gov/kdads-commissions/long-term-services-supports/home-community-based-services-\(hcbs\)-programs](https://kdads.ks.gov/kdads-commissions/long-term-services-supports/home-community-based-services-(hcbs)-programs)

Kansas Department for Aging and Disability Services. Survey, Certification, & Credentialing. Health Occupations Credentialing. <https://kdads.ks.gov/kdads-commissions/survey-certification-and-credentialing-commission/health-occupations-credentialing>

KanCare. Health Plan Information.  
<https://www.kancare.ks.gov/providers/health-plan-information>

## Kentucky

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<b>Agency</b>	Cabinet for Health and Family Services, Department for Aging and Independent Living
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**Licensure Term** Certified Assisted Living Communities

**Opening Statement** Assisted living communities must be certified by the Kentucky Cabinet for Health & Family Services, Department for Aging and Independent Living. Assisted living communities are considered private business entities and no public funding is available for services provided in this setting.

**Legislative and Regulatory Update** Legislative:  
Senate Bill 11 (2022) modernized Kentucky's assisted living (AL) social model to align more closely with the majority of states. The legislation allows AL communities to deliver basic health services in an environment that encourages meaningful aging in place. Providers choose how much care to offer within the broader definition of AL. Should a provider choose to only serve low-acuity, social-model residents who do not reside in a secured dementia unit, staffing will be different in quantity and qualification than if the provider delivers basic health services. All AL providers will now require a license rather than a certification. All AL providers that have a memory care unit will be licensed as a basic health services model. Providers will staff, train and implement policies and procedures appropriate to the care being provided.

Regulatory:  
Following the promulgation of administrative regulation 910 KAR 4:010, AL centers will have different requirements for training staff. All current and new direct care staff who provide care to patients who exhibit symptoms of Alzheimer's disease or other dementias must complete a total of (6) hours of training and then three (3) hours annually. All new direct care staff must complete the initial 6-hour dementia care training before providing services to clients who exhibit symptoms of Alzheimer's disease or other dementias.

<b>Definition</b>	Assisted living community means a series of living units on the same site certified under KRS 194A.707 to provide services for five or more adult persons not related within the third degree of consanguinity to the owner or manager.
<b>Disclosure Items</b>	An assisted living community must provide any interested person with: (1) A copy of relevant sections of the statute (KRS 194A.700 to 194A.729) and relevant administrative regulations (910 KAR 1:240), and (2) A description of any special programming, staffing, or training if the assisted living community markets itself as providing special programming, staffing, or training on behalf of clients with particular needs or conditions.
<b>Facility Scope of Care</b>	Communities must provide assistance with activities of daily living and instrumental activities of daily living and make available three meals and a snack each day, scheduled daily social activities, and assistance with self-administration of medication.
<b>Third Party Scope of Care</b>	Clients may arrange for additional services under direct contract or arrangement with an outside agent, professional, provider, or other individual designated by the client if permitted by the policies of the facility.
<b>Admission and Retention Policy</b>	Clients must be ambulatory or mobile non-ambulatory, unless due to a temporary condition, and must not be a danger to themselves or others. The assisted living community must have provisions for assisting any client who has received a move-out notice to find appropriate living arrangements prior to the actual move-out date.
<b>Resident Assessment</b>	Each assisted living community must complete a functional needs assessment upon move in and once every 12 months thereafter and as needed due to a change in function or condition. A preassessment can be completed prior to move in for screening purposes, but this is not required. The assessment must be updated to meet the ongoing needs of the client. Clients living on special programming units will have a functional needs assessment completed prior to entering into a lease agreement and at least annually thereafter. The assessment is not a standardized form.

**Medication Management** Medication administration is not permitted. The assisted living community provides assistance with self-administration of medication that is prepared or directed by the client, the client's designated representative, or a licensed health care professional who is not the owner, manager, or employee of the assisted living community.

**Square Foot Requirements** Assisted living community rooms must be at least 200 square feet for single occupancy, or for double occupancy if the room is shared with a spouse or another individual by mutual agreement. Per statute, facilities in existence or under construction on or before July 14, 2000, are exempt from the 200 square feet minimum requirement.

**Residents Allowed Per Room** A maximum of two clients is allowed per resident unit and only by mutual agreement.

**Bathroom Requirements** Each living unit in new facilities must provide a private bathroom equipped with a tub or shower. Shared bathing facilities in facilities under construction on or before July 14, 2000, shall have a minimum of one bathtub or shower for each five clients.

**Life Safety** Documentation of compliance with applicable building and life safety codes is required. The following items are reviewed: annual state fire marshal inspections (including sprinkler systems, smoke detectors, fire extinguishers, etc.), health department inspections, elevator inspections, boiler inspections, beauty shop and beautician licenses, food establishment licenses, and certificates of occupancy.

**Unit and Staffing Requirements for Serving Persons with Dementia** An assisted living community shall provide any interested person with a description of any special programming, staffing, or training if it markets itself as providing special programming, staffing, or training on behalf of clients with particular needs or conditions.

The assisted living community must maintain a description of dementia-specific staff training that is provided, including at a minimum the content of the training, the number of offered and required hours of training, the schedule for training, and the staff who are required to complete the training.

**Staffing Requirements** A designated manager must be at least 21 years of age, have at least a high school diploma or a GED, and have

demonstrated management or administrative ability to maintain the daily operations. One awake staff member shall be on site at all times and staffing shall be sufficient in number and qualification to meet the 24-hour scheduled needs of the clients. There are no staffing ratios.

A criminal records check must be applied for from the Kentucky Administrative Offices of the Court, the Kentucky Justice and Public Safety Cabinet, or an assisted living community may use Kentucky's national background check program (KARES – Kentucky Applicant Registry and Employment Screening program). The criminal records check can be applied for no sooner than 45 days prior to but no later than 7 days following an employee's first day of work. A check of the Central Registry, the Adult Protective Services Caregiver Misconduct Registry and the Nurse Aide Abuse Registry is also required upon initial date of hire and annually thereafter. The KARES program outlines offenses that would exclude an applicant from being employable in a long term care facility or an assisted living community (906 KAR 1:190).

**Administrator  
Education/Training**

A designated manager must have at least a high school diploma or a GED and have demonstrated management or administrative ability to maintain the daily operations.

**Staff Education/Training**

All staff and management must receive orientation within 90 days of hire and in-service education annually on specified topics applicable to their assigned duties. If the assisted living community provides special programming, it must provide consumers a description of dementia-specific staff training provided, including but not limited to the content of the training, the number of offered and required hours of training, the schedule for training, and the staff who are required to complete the training.

All current and new direct care staff who provide care to patients who exhibit symptoms of Alzheimer's disease or other dementias must complete a total of (6) hours of training and then three (3) hours annually. All new direct care staff must complete the initial 6-hour dementia care training before providing services to clients who exhibit symptoms of Alzheimer's disease or other dementias.

**Entity Approving CE  
Program**

None specified.

**Medicaid Policy and Reimbursement**

Medicaid does not cover services or reimbursement for assisted living clients or communities.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

Kentucky Revised Statutes, Title XVII, Chapter 194A, 700 to 729: Assisted Living Communities. [November 23, 2014]  
<https://apps.legislature.ky.gov/law/statutes/chapter.aspx?id=38056>

Kentucky Administrative Regulations, Title 910, Chapter 1, Section 240: Certification of Assisted-Living Communities [March 11, 2019]  
<https://apps.legislature.ky.gov/Law/kar/910/001/240.pdf>

Kentucky Administrative Regulations, Title 906, Chapter 1, Section 190: Kentucky National Background Check Program. [November 27, 2018]  
<https://apps.legislature.ky.gov/law/kar/906/001/190.pdf>

Kentucky Cabinet for Health and Family Services, Division of Community Alternatives.  
<https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx>

## Louisiana

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**Licensure Term** Adult Residential Care Provider

**Opening Statement** The Louisiana Department of Health, Health Standards Section, licenses four levels of adult residential care: personal care homes (Level 1), shelter care homes (Level 2), assisted living facilities (Level 3), and adult residential care (Level 4).

In 2010, responsibility for the licensing and regulation of adult residential care homes/facilities was transferred from the Department of Social Services to the Department of Health (formerly the Department of Health and Hospitals). Regulations for adult residential care homes/facilities went into effect in March 1999.

**Legislative and Regulatory Update** Louisiana's assisted living regulations were last revised in October 2021.

**Definition** Adult residential care provider (ARCP) means a facility, agency, institution, society, corporation, partnership, company, entity, residence, person or persons, or any other group that provides adult residential care for compensation to two or more adults who are unrelated to the licensee or operator. Adult residential care services include, at a minimum: assistance with activities of daily living, assistance with instrumental activities of daily living, lodging, and meals.

Level 1 ARCP – an ARCP that provides adult residential care for compensation to two or more residents but no more than eight who are unrelated to the licensee or operator in a setting that is designed similarly to a single-family dwelling.

Level 2 ARCP – an ARCP that provides adult residential care for compensation to nine or more residents but no more than 16 who are unrelated to the licensee or operator in a congregate setting that does not provide independent

apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety.

Level 3 ARCP – an ARCP that provides adult residential care for compensation to 17 or more residents who are unrelated to the licensee or operator in independent apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety.

Level 4 ARCP – an ARCP that provides adult residential care for compensation to 17 or more residents who are unrelated to the licensee or operator in independent apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety. The moratorium on licensure of Level 4 adult residential care providers expired July 1, 2018.

## **Disclosure Items**

The ARCP shall provide to prospective residents written information regarding conditions for residency, services, costs, fees and policies/procedures. This written information shall include, but is not limited to the following:

- (1) The application process and the possible reasons for rejection of an application;
- (2) Types of residents suitable to the facility;
- (3) Services offered and allowed in the facility;
- (4) Resident's responsibilities;
- (5) Policy regarding smoking;
- (6) Policy regarding pets;
- (7) Fee structure, including but not limited to any additional costs for providing services to residents during natural disasters; and
- (8) Criteria for termination of residency agreement.

## **Facility Scope of Care**

The ARCP must provide or coordinate, to the extent needed or desired by each resident, the following services: assistance with activities of daily living (ADLs) and instrumental activities of daily living (IADLs); meals; laundry; opportunities for individual and group socialization including regular access to the community resources; transportation; housekeeping services essential for health and comfort of the resident, and a recreational program. It is the facility's responsibility to ensure that needed services are provided, even if those services are provided by the resident's family or by a third party or contracted provider.

Intermittent nursing services may be provided by level 4 ARCPs only.

**Third Party Scope of Care** Residents may provide or arrange for care in the facility at their own expense that is not available through the facility as long as the resident remains in compliance with the conditions of residency. Health-related services beyond those allowed for by these regulations shall not be arranged for or contracted by a facility.

**Admission and Retention Policy** ARCPs may not admit individuals whose conditions or care needs are beyond the scope of the facility's capacity to deliver services and ensure residents' health, safety and welfare. ARCPs may not admit residents with:

- (1) Unstageable, Stage 3 or Stage 4 4 pressure ulcers;
- (2) Use of feeding tubes, including but not limited to, nasogastric or gastrostomy tube;
- (3) Ventilator dependency;
- (4) Dependency on BiPap, CPAP or other positive airway pressure devices without the ability to self-administer at all times;
- (5) Coma;
- (6) Continuous IV/TPN therapy;
- (7) Wound vac therapy;
- (8) Active communicable tuberculosis; or
- (9) Any condition requiring chemical or physical restraints.

Residents with a prohibited condition may remain in residence for up to 90 days provided that certain conditions are met.

Residents must be discharged/involuntarily terminated if they are a danger to themselves or others or if the resident is transferred to another institution during which payment is not made to retain their bed at the facility. Residents must also be discharged if their mental or physical condition deteriorates to a level requiring services that cannot be provided in accordance with the licensing regulations or exceeding those agreed upon in the residency agreement and person-centered service plan; however, ARCPs may accept or retain residents in need of additional care beyond routine personal care if the resident can provide or arrange for his/her own care and this care can be provided through appropriate private-duty personnel. Additionally, the level of care required in order to accommodate the resident's

additional needs must not amount to continuous nursing care (e.g., does not exceed 90 days).

### **Resident Assessment**

An assessment shall be initiated upon entry to the ARCP and completed within seven calendar days of the date that the resident moves into the ARCP to determine the service needs and preferences of the resident. The ARCP shall complete and maintain a pre-residency screening of prospective residents to assess their needs and appropriateness of residency. The assessment must include, for example, a screening of the resident's physical and mental status, need for personal assistance, and need for assistance with ADLs and IADLs. Within 30 calendar days after the date the resident moves in, the ARCP designated staff in conjunction with the resident or the resident's representative, if applicable, shall develop a PCSP using information from the assessment.

### **Medication Management**

Staff may supervise the self-administration of prescription and nonprescription medication. This assistance shall be limited to reminders, cueing, opening containers, assistance in pouring medication, and bringing containers of oral medications to residents. Assistance with self-administration may be provided by staff members who hold no professional licensure, as long as that employee has documented training on the policies and procedures for medication assistance, including the limitations of assistance, and this training must be completed at least annually.

Staff administration of medications may be provided by all levels of facilities. The facility shall administer medications to residents in accordance with their plan. Medications shall be administered only by an individual who is currently licensed to practice medicine or osteopathy by the appropriate licensing agency for the state, or by an individual who is currently licensed as a registered nurse (RN) or licensed practical nurse (LPN) by the appropriate state agency. However, intravenous therapy may be administered on a time limited basis by staff under the supervision of a licensed RN, physician, or advanced practice nurse in a level facility 4 only.

The ARCP, the resident, or the resident's representative, if applicable, may contract with an individual or agency to administer resident's prescribed medications. The ARCP

shall ensure that medications shall be administered by an individual who is currently professionally licensed in Louisiana to administer medications.

**Square Feet Requirements** For level 1 and 2 facilities, each single occupancy bedroom must have a floor area of at least 100 net square feet and each multiple occupancy bedroom space has a floor area of at least 70 net square feet for each resident. Bathrooms and closets/wardrobes are not included in the calculation.

For level 3 and 4 facilities, efficiency/studio living units shall have a minimum of 200 net square feet of floor space, excluding bathrooms and closets/wardrobes. Living units with separate bedrooms shall have a living area (living/dining/kitchenette) of at least 190 net square feet, excluding bathroom and closets. Each separate bedroom shall have a minimum of 100 net square feet, excluding bathroom and closet or wardrobe space.

**Residents Allowed Per Room** A maximum of two residents is allowed per resident unit. Both individuals shall agree in writing to this arrangement.

**Bathroom Requirements** For level 1 and 2 facilities, there must be one bathroom for every four residents. For level 3 and 4 facilities, each apartment must have a separate and complete bathroom. Entrance to a bathroom from one bedroom shall not be through another bedroom. Grab bars and non-skid surfacing or stripes shall be installed in all showers and bath areas. Facilities shall provide public restrooms of sufficient number and location to serve residents and visitors.

**Life Safety** All new construction is required to have smoke detectors and sprinklers in accordance with National Fire Protection Association (NFPA) 101 Life Safety Code requirements (2003 edition). Louisiana promulgated NFPA standards and on Jan. 1, 2007 adopted the 2006 International Building Code.

**Unit and Staffing Requirements for Serving Persons with Dementia** Alzheimer's Special Care Unit (ASCU) means any adult residential care provider that segregates or provides a special program or special unit for residents with a diagnosis of probable Alzheimer's disease or other dementia so as to prevent or limit access by a resident to areas outside the designated or separated area, or that

advertises, markets, or otherwise promotes the facility as providing specialized Alzheimer's/dementia care services.

If an ARCP accepts residents with dementia or residents at risk of wandering, an enclosed area shall be provided adjacent to the facility so that the residents may go outside safely. Door locking arrangements to create secured areas may be permitted where the clinical needs of the residents require specialized protective measures for their safety, provided that such locking arrangements are approved by and satisfy requirements of the state.

Staff of adult residential care providers that operate Alzheimer's units or market a facility as providing Alzheimer's/dementia care must have specified training. Staff who provide direct face-to-face care to residents shall be required to obtain at least eight hours of dementia-specific training within 90 days of employment and eight hours of dementia-specific training annually. Employees who have regular contact with residents, but who do not provide direct face-to-face care, shall be required to obtain at least four hours of dementia-specific training within 90 days of employment and two hours of dementia training annually.

## **Staffing Requirements**

ARCPs shall be staffed to properly safeguard the health, safety, and welfare of the residents and to meet the scheduled and unscheduled needs of residents. There are no staffing ratios. At a minimum, facilities shall have a director, a designated recreational/activity staff person, and a direct care staff person; however, one person may occupy more than one position, though not on the same shift at a level 2 through level 4 facility.

In ARCPs that offer staff medication administration and level 4 facilities, the ARCP shall provide a sufficient number of RNs and LPNs to provide services to all residents in accordance with each resident's plan. Level 4 ARCPs must employ or contract with at least one RN to serve as the nursing director and manage the nursing services. The nursing director need not be physically present at all times; however, the nursing director or his or her designee shall be on call and readily accessible 24 hours a day. For employees who do not provide care in a special dementia care program, but who provide direct face-to-face care to

residents are required to obtain at least two hours of dementia-specific training annually.

**Administrator  
Education/Training**

Directors shall be at least 21 years of age. For levels 1 and 2, the director must meet at least one of the following criteria upon date of hire:

- (1) At least an Associate's degree from an accredited college plus one year of experience in the fields of health, social services, geriatrics, management or administration;
- (2) Three years of experience in health, social services, geriatrics, management, administration; or
- (3) A Bachelor's degree in geriatrics, social services, nursing, health care administration or related field.

For levels 3 and 4, the director must meet at least one of the following criteria upon date of hire:

- (1) A Bachelor's degree plus two years of administrative experience in the fields of health, social services, geriatrics, management or administration;
- (2) Six years of administrative experience in health, social services, geriatrics, management or administration;
- (3) A master's degree in geriatrics, health care, human service related field, management or administration; or
- (4) Be a licensed nursing facility administrator.

For level 4 ARCPs, the director shall have successfully completed an adult residential care/assisted living director certification/training program consisting of, at a minimum, 12 hours of training that has been approved by any one of the following organizations: Louisiana Board of Examiners of Nursing Facility Administrators; Louisiana Assisted Living Association; LeadingAge Gulf States; Louisiana Nursing Home Association; or any of the national assisted living associations, (e.g., National Center for Assisted Living, Argentum; LeadingAge; or National Association of Long Term Care Administrators Board).

**Staff Education/Training**

Orientation for all staff must be completed within seven days; orientation and annual training thereafter must cover specified topics. All direct care staff shall receive certification in CPR and adult first aid within the first 90 days of employment. Direct-care workers shall complete 12 hours of in-service training each year in areas relating to the facility's policies and procedures; emergency and evacuation procedures; residents' rights; first aid; procedures and legal requirements concerning the reporting of abuse and critical incidents; resident care

services; infection control; and any specialized training to meet residents' needs.

**Entity Approving CE Program**

None specified.

**Medicaid Policy and Reimbursement**

Medicaid does not cover home and community-based services in adult residential care facilities.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

Louisiana Administrative Code, Title 48, Chapter 68: Adult Residential Care Providers. [October 2021]  
[https://ldh.la.gov/assets/medicaid/hss/docs/ARCP/ARCP\\_LAC481\\_Chapter68updated04.26.22.pdf](https://ldh.la.gov/assets/medicaid/hss/docs/ARCP/ARCP_LAC481_Chapter68updated04.26.22.pdf)

Louisiana Legislature 2018 Regular Session. House Bill No. 539  
<http://www.legis.la.gov/legis/ViewDocument.aspx?d=1100445>

## Maine

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**Licensure Term** Assisted Housing Programs, which include Assisted Living Programs, Level I, II, III, and IV Residential Care Facilities, and Private Non-Medical Institutions

**Opening Statement** Maine’s Department of Health and Human Services, CDC, Division of Licensing and Certification, licenses several types of facilities that provide assisted living services under the umbrella licensing term of assisted housing programs. This includes assisted living programs, residential care facilities, and private non-medical institutions (PNMIs). The latter two have the same requirements and are licensed separately from assisted living programs because they receive Medicaid funding for the provision of personal care services and therefore must comply with additional requirements as specified in the licensing rules. The following applies to all assisted living housing programs unless otherwise specified.

**Legislative and Regulatory Update** In June 2021 rulemaking was passed to include infection prevention requirements similar to that of nursing homes for assisted housing providers. These requirements include the hire/contracting of an infection preventionist, implementation of an infection control plan and emergency staffing plan in the event of staffing shortages related to infectious outbreaks. This rule was finalized based on temporary rulemaking enforced during the COVID-19 pandemic.

**Definition** Assisted Living Program: May provide assisted living services to residents in private apartments in buildings that include a common dining area. Services are provided either directly by the assisted living program or indirectly through contracts with persons, entities, or agencies. Assisted living programs are categorized as Type I or Type II, which have different requirements for medication administration.

Residential Care Facility: A house or other place that is wholly or partly maintained for the purpose of providing residents with assisted living services. Residential care facilities provide housing and services to residents in private

or semi-private bedrooms in buildings with common living areas and dining areas. There are four levels based on the licensed capacity: Level I for one to two residents, Level II for three to six residents, Level III for three to six residents, or Level IV for more than six residents.

Private Non-medical Institution: A type of residential care facility that receives Medicaid funding for services.

**Disclosure Items**

Facilities are required to have a standardized contract for all new admissions and/or modification of an existing contract. The contract outlines the services that are provided and related costs. The facility's grievance procedure, tenancy obligations (if applicable), admissions policy, and resident rights must be appended to the contract. Facilities must also provide a packet to residents at the time of admission that includes advance directives information, information on the type of assisted living program and licensing status; Maine's Long Term Care Ombudsman Program brochure; advocacy and state agency contact information; process and criteria for transfer or discharge; and the assisted living program's staff qualifications.

Designated Alzheimer's/Dementia Care Units have additional disclosure requirements.

**Facility Scope of Care**

Assisted living services include but are not limited to personal supervision; protection from environmental hazards; assistance with activities of daily living (ADL) and instrumental activities of daily living (IADL); activities; dietary services; care management services; administration of medications; and nursing services.

**Third Party Scope of Care**

Assisted living services may be provided indirectly through written contracts with persons, entities, or agencies.

**Admission and Retention Policy**

Residents may be discharged if the services required cannot be met by the facility; the resident's intentional behavior results in substantial physical damage to the property; for non-payment; or if the resident becomes a direct threat to the health or safety of others.

For Level IV residential care facilities, the facility must determine whether each resident meets the approved admission criteria and may not refuse admission if the criteria are met except in specified circumstances, such as a person

whose tenancy would constitute a direct threat to the health or safety of other individuals.

**Resident Assessment** Residents residing in assisted living programs and residential care facilities Levels III and IV are required to be assessed within 30 calendar days of admission. For assisted living programs, reassessments must be completed at least every six months thereafter. For residential care facilities, reassessments must be completed annually or more frequently if there is a significant change in the resident's condition. The assessment must include a review of the consumer's need for assistance with ADLs, IADLs, medication administration and nursing service.

**Medication Management** Administration of medication is permitted and includes reading labels for residents; observing residents taking their medications; checking dosage; removing the prescribed dosage; and the maintenance of a medication record for each resident. Certain injections may be administered by trained medication aides.

**Square Feet Requirements** Assisted Living Program: None specified.  
Residential Care Facility: Must be designed to meet the special needs of the population served. For facilities initially licensed on or after May 29, 1998, private resident bedrooms must be a minimum of 100 square feet and shared resident bedrooms must provide a minimum of 80 square feet per resident.

**Residents Allowed Per Room** Assisted Living Program: None specified.  
Residential Care Facility: A maximum of two residents is allowed per resident unit.

**Bathroom Requirements** Assisted Living Program: None specified.  
Residential Care Facility: Shared bathrooms are permitted at a ratio of at least one toilet per six users. For Level IV facilities, shared bathing facilities are also permitted at a ratio of one bathing facility for every 15 users.

**Life Safety** Life safety is governed by the state fire marshal's office. The National Fire Protection Association code is used. Life safety standards are applied depending on the type of facility and how/when it was built or bought.

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

A building or unit may be designated as an Alzheimer's/Dementia Care Unit if specified requirements are met and the assisted living program has received written designation from the Department of Health and Human Services. All facilities with Alzheimer's/dementia care units must offer special weekly activities such as gross motor skills, self-care, and social, outdoor, spiritual, and sensory enhancement activities. The regulations also require specific physical plant design for Alzheimer's units. Facilities with an Alzheimer's unit are required to disclose certain information. Designated Alzheimer's/Dementia Care Units have additional disclosure requirements.

In addition to the required assisted living program training, preservice training is required for staff who work in Alzheimer's or dementia units, which includes a minimum of eight hours of orientation and eight hours of clinical orientation to all new employees assigned to the unit. Following the initial preservice training staff are required to complete annual competency education and the provide is required to show evidence of annual competency based assessments for each staff person working on these units.

**Staffing Requirements**

An on-site administrator must be employed by the facility. There are no staffing ratios, except as described below for Level IV residential care facilities.

Residential Care Facility: Minimum staffing shall be adequate to implement service plans, as well as to provide a safe setting. Level IV residential care facilities with 10 or fewer beds are required to have, at a minimum, one responsible adult present at all times to perform resident care and provide supervision. Facilities with more than 10 beds are required to have at least two responsible adults at all times. Level IV facilities with more than ten beds are required to have at least two responsible awake adults on duty and readily available at all times. In addition, the following ratios of minimum resident care staff-to-residents must be maintained at all times: 1:12 from 7:00 a.m. to 3:00 p.m., 1:18 from 3:00 p.m. to 11:00 p.m., and 1:30 from 11:00 p.m. to 7:00 a.m. There must also be a Certified Residential Medication Aide on duty at all times. These facilities are also required to have other specialists, including a dietary coordinator and retaining the services of a pharmacist

consultant no less than quarterly for facilities with more than 10 beds.

For Level IV residential care facilities, the state specifies requirements for the number of hours for administrators, which depend on the number of licensed beds.

**Administrator Education/Training**

Administrators must be at least 21 years of age, and hold a professional license related to residential care, assisted living programs or health care, or have a combination of five years of education or experience in the health care field, including financial management and staff supervision. Administrators must attend any training that the Department determines to be mandatory.

Residential Care Facility: Administrators in Level I, II, and III facilities must have sufficient education, experience, and training to meet residents' needs. Level IV administrators must either complete an approved training program or have a multi-level administrator's or residential facility administrator license. Level IV administrators must also complete 12 hours of continuing education per year in areas related to the care of the population served by the facility.

**Staff Education/Training**

Staff education and training are not specified for assisted living programs.

For Level IV residential care facilities, Maine requires that direct care staff complete a 50-hour standardized training course called Personal Support Specialist. If staff administer medications, they must complete a 40-hour standardized medication course and a complete refresher course biennially.

**Entity Approving CE Program**

Licensing staff determine the adequacy of continuing education at the time of survey.

**Medicaid Policy and Reimbursement**

The MaineCare state plan covers assisted living services. A Minimum Data Set-based case-mix, adjusted pricing system is used for residential care facility residents based on functional abilities and other data collected on residents.

**COVID-19 Public Health Emergency**

10-144 CMR Chapter 113: Regulations Governing the Licensing and Functioning of Assisted Housing Programs: Infection Prevention and Control, Major Substantive Rule

Purpose: This rule establishes minimum standards for infection prevention and control which apply to all types of assisted living programs, residential care facilities and private non-medical institutions, which are governed by 10-144 CMR Chapter 113 (Regulations Governing the Licensing and Functioning of Assisted Housing Program). Facilities governed under this regulation may be required to register as generators of biomedical waste under the provisions of the Department of Environmental Protection rule 06-096 CMR Ch. 900, Biomedical Waste Management Rules.

## Citations

Department of Health and Human Services, Division of Licensing and Regulatory Services. Code of Maine Regulations, Title 10-144, Chapter 113: Regulations Governing the Licensing and Functioning of Assisted Housing Programs. [August 20, 2008]  
<http://www.maine.gov/sos/cec/rules/10/ch113.htm>

Department of Health and Human Services, Division of Licensing and Certification. Regulations Governing the Licensing and Functioning of Assisted Housing Programs: Infection Prevention and Control. 10th Part of 10-144 C.M.R. Chapter 113.  
<https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/Chapter%20113%20Infection%20and%20Control.pdf>

Maine Department of Health and Human Services, Office of MaineCare Services. <https://www.maine.gov/dhhs/oms>

Maine Department of Health and Human Services, MaineCare Member Handbook. [December 2021]  
<https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/mainecare-member-handbook.pdf>

## Maryland

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**Licensure Term** Assisted Living Programs

**Opening Statement** The Maryland Department of Health (MDH), Office of Health Care Quality (OHCQ) licenses assisted living programs based on level of care provided. There are three levels of care of which three is the highest. The regulations do not specify a minimum number of residents for licensure. However, assisted living facilities are considered a related institution in Maryland. Related institutions are defined as having two or more residents. An assisted living facility which is contemplating adding an Alzheimer's special care unit is required to notify OHCQ.

**Legislative and Regulatory Update** In late 2021, MDH OHCQ sought informal public comments on proposed revisions to the assisted living regulations in COMAR 10.07.14.

HB 1034 and SB 720 (2022) renames the State Board of Examiners of Nursing Home Administrators to be the State Board of Long-Term Care Administrators and establishes a licensing and regulatory system for assisted living managers.

Per HB 636 and SB 531 (2022), the Maryland Health Care Commission (MHCC) will conduct a study regarding the quality of care provided by assisted living programs with nine or fewer beds. By October 1, 2023, MHCC must report its findings and recommendations.

**Definition** An assisted living program is a residential- or facility-based program that provides housing and supportive services, supervision, personalized assistance, health-related services, or a combination that meets the needs of residents who are unable to perform, or who need assistance in performing activities of daily living (ADLs) or instrumental activities of daily living in a way that promotes optimum dignity and independence for the residents.

During the last regulatory update, two assisted living program definitions were removed from what is not considered an assisted living program:

(1) emergency, transitional, and permanent housing arrangements for the homeless, where no assistance with ADLs is provided; and

(2) emergency, transitional, and permanent housing arrangements for the victims of domestic violence.

The following definition for what is not considered an assisted living program was added: a Certified Adult Residential Environment Program that is certified by the Department of Human Resources under Article 88A, §140, Annotated Code of Maryland.

## **Disclosure Items**

All assisted living providers are required to complete an Assisted Living Disclosure Form, which must be included in all marketing materials and made available to consumers upon request. The form is reviewed during facility surveys, and providers must notify and file an amendment with the OHCQ within 30 days of changes in services. Written disclosure also must be made to the MDH and consumers by assisted living programs offering Alzheimer's special care units or programs. (See Unit and Staffing Requirements for Serving Persons with Dementia section, below.)

## **Facility Scope of Care**

Facilities may provide one of three levels of care: low, moderate, or high. The levels of care are defined by varying service requirements pertaining to health and wellness; assistance with functioning; assistance with medication and treatment; management of behavioral issues; management of psychological or psychiatric conditions; and social and recreational concerns. Under low and moderate levels of care, staff must assist with two or more ADLs.

If a facility wishes to continue to serve a resident requiring a higher level of care than that for which the facility is licensed for more than 30 days, the facility must obtain a resident-specific waiver. A waiver requires a showing that the facility can meet the needs of the resident and not jeopardize other residents. The licensee shall submit a waiver application as soon as program staff determine that the increased level of care of the condition requiring the waiver is likely to exceed 30 days. Waivers to care for residents at the moderate and high levels are limited to 50

percent of licensed beds. Waivers to exceed the high level are limited to 20 percent of licensed beds or up to 20 beds, whichever is less. If, at any time, a licensee wants to provide a higher level of care than that for which it is licensed, the licensee shall request authority from the department to change its licensure authority.

**Third Party Scope of Care** Home health agencies may provide services under contract with residents.

**Admission and Retention Policy** Facilities may not admit individuals who require more than intermittent nursing care; treatment of stage III or IV skin ulcers; ventilator services; skilled monitoring, testing, and aggressive adjustment of medications and treatments where there is the presence of, or risk for, a fluctuating acute condition; monitoring of a chronic medical condition that is not controllable through readily available medications and treatment; treatment for an active, reportable communicable disease; or treatment for a disease or condition that requires more than contact isolation. In addition to these seven conditions, individuals may not be admitted if they are dangerous to self or others and are at high risk for health and safety complications that cannot be adequately managed. Facilities may request a resident-specific waiver for existing residents presenting with one of these conditions.

**Resident Assessment** A resident's service plan must be based on assessments of his/her health, function, and psychosocial status using the Resident Assessment Tool. Within 30 days before admission, the assisted living program must collect information about the potential resident's physical condition and medical status.

A full assessment must also be completed within 48 hours, but not later than required by the nurse practice act, after a significant change of condition and each non-routine hospitalization. "Significant change of condition" means: a resident has demonstrated major changes in status that are not self-limiting or which cannot be resolved within 30 days; a change in one or more areas of the resident's health condition that could demonstrate an improvement or decline in the resident's status; and the need for interdisciplinary review or revision to the service plan. A significant change of condition does not include any ordinary, day-to-day fluctuations in health status, function,

or behavior, or an acute short-term illness such as a cold, unless these fluctuations continue to recur.

When the delegating nurse determines in the nurse's clinical judgment that the resident does not require a full assessment within 48 hours, the delegating nurse shall:

- (1) document the determination and the reasons for the determination in the resident's record; and
- (2) ensure that a full assessment of the resident is conducted within seven calendar days.

A review of the assessment shall be conducted every six months for residents who do not have a change in condition. Further evaluation by a health care practitioner is required and changes shall be made to the resident's service plan, if there is a score change in any of the following areas:

- (1) cognitive and behavioral status;
- (2) ability to self-administer medications; and
- (3) behaviors and communication.

If the resident's previous assessment did not indicate the need for awake overnight staff, each full assessment or review of the full assessment shall include documentation as to whether awake overnight staff is required due to a change in the resident's condition.

### **Medication Management**

The assisted living manager and all staff who administer medications must have completed the medication administration course taught by a registered nurse who is approved by the Board of Nursing.

An assisted living manager must arrange for a licensed pharmacist to conduct an on-site review of physician prescriptions, orders, and resident records at least every six months for any resident receiving nine or more medications, including over-the-counter and PRN medications. The regulation specifies what must be examined during the review and that the review must be part of the quality assurance review. There is also a requirement that all schedule II and III narcotics must be maintained under a double-lock system and staff must count controlled drugs before the close of every shift.

### **Square Feet Requirements**

Private rooms must provide a minimum of 80 square feet of functional space and double occupancy rooms must provide a minimum of 120 square feet per resident. Functional space does not include toilet rooms and bathing

facilities, closets, entrance vestibules, or the arc of any door that opens into the room.

**Residents Allowed Per Room**

A maximum of two residents is allowed per resident unit; however, this limit may be waived by the state agency for existing facilities that have previously had this waived.

**Bathroom Requirements**

Toilets with latching hardware must be provided to residents for privacy. Facilities must have a minimum ratio of one toilet to every four residents. Buildings with nine or more residents must have a minimum ratio of one toilet to four occupants on each floor where a resident is located. There must be a minimum of one bathtub or shower for every eight residents.

**Life Safety**

Facilities must abide by the National Fire Protection Association Life Safety Code 101 and must have hand extinguishers and an emergency plan known to all staff. Smoke detectors must be installed in all sleeping rooms, on each level of the dwelling including basements, and outside of each sleeping area, in the immediate vicinity of the sleeping rooms. The plan for fire evacuation must be posted on all floors. Fire drills must be conducted. The plan for fire evacuation must be posted on all floors. Fire drills must be conducted quarterly on every shift and documented. A disaster drill must be conducted and written up annually. Table-top drills are acceptable if it can be shown that actually performing the drill would unduly risk the health and safety of participants.

The regulations require emergency preparedness plans to address the evacuation, transportation, or shelter in place of residents; notification to families, staff, and the OHCQ regarding the action that will be taken concerning the safety and well-being of the residents; staff coverage, organization, and assignment of responsibilities; and the continuity of operation, including procuring essential goods, equipment, and services, and relocation to alternative facilities (methods of transportation must be identified but need not be guaranteed).

Assisted living programs providing services to 50 or more individuals must have on premises an emergency back-up generator in working condition and capable of running for 48 hours. Exemptions are allowed for facilities that can

demonstrate financial hardship and waivers for facilities connected by a corridor to a facility with a generator.

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

An assisted living program with an Alzheimer's special care unit or program is required to send MDH a written description of the special care unit or program at the time of initial licensure, and upon license renewal, the program must submit a written description of any changes that have been made. Facilities are currently required to submit an Alzheimer's Disclosure Statement if they have a specific unit or the entire facility cares for only Alzheimer's residents. Specific information must be disclosed to the family or party responsible for any resident prior to admission or to any person on request. The description of the Alzheimer's special care unit or program shall include a statement of philosophy or mission; staff training and staff job titles; any services, training, or other procedures that are over and above those that are provided in the existing assisted living program; and any other information that the department may require. MDH, in consultation with the Alzheimer's Association, the Health Facilities Association of Maryland, and Lifespan, may adopt regulations governing the submission of disclosure materials to the department and to consumers. DHMH is also allowed to restrict admission or close the operation of a special care unit if it determines that the health or safety of residents is at risk.

A minimum of five hours of training on cognitive impairment and mental illness is required within the first 90 days of employment. Training shall be designed to meet the specific needs of the program's population as determined by the assisted living manager.

At least two hours of ongoing training must be provided annually for those involved with the provision of personal care. For those not involved with the provision of personal care, at least one hour of training per year is required.

Training can be provided through classroom instruction, in-service training, internet courses, correspondence courses, pre-recorded training, or other training methods. If there is no direct interaction between the faculty and the participant, the assisted living program must make a trained individual available to trainees.

## **Staffing Requirements**

A staffing plan must be submitted to OHCQ which demonstrates that there will be on-site staff sufficient in number and qualifications to meet the 24-hour scheduled and unscheduled needs of the residents. When a resident is in the facility, a staff member shall be present. There are no staffing ratios. An alternate assisted living manager shall be present on site or available on call when the assisted living manager is unavailable.

An assisted living program shall provide awake overnight staff when a resident's assessment using the Resident Assessment Tool indicates that awake overnight staff is required. If a physician or assessing nurse, in his/her clinical judgment, does not believe that a resident requires awake overnight staff, the physician or assessing nurse shall document the reasons in the area provided in the Resident Assessment Tool which shall be retained in the resident's record.

Upon the written recommendation of the resident's physician or assessing nurse, the assisted living program may apply to the department for a waiver to use an electronic monitoring system instead of awake overnight staff.

An assisted living program shall have a signed agreement with a registered nurse for services of a delegating nurse and delegation of nursing tasks. If the delegating nurse is an employee of the assisted living program, the employee's job description may satisfy this requirement. The delegating nurse's duties are described in the regulations.

An assisted living program shall provide on-site nursing when a delegating nurse or physician, based upon the needs of a resident, issues a nursing or clinical order for that service. If an assisted living manager determines that a nursing or clinical order should not or cannot be implemented, the manager, delegating nurse, and resident's physician shall discuss any alternatives that could safely address the resident's needs. The assisted living manager shall document in the resident's record this discussion and all individuals who participated in the discussion.

## **Administrator Education/Training**

The assisted living manager must be at least 21 years of age and possess a high school diploma or equivalent and

have sufficient skills, training, and experience to serve the residents in a manner that is consistent with the philosophy of assisted living (delineated in regulation). For a high level of care program, an assisted living manager must have a four-year, college-level degree; two years of experience in a health care related field and one year of experience as an assisted living program manager or alternate assisted living manager; or two years of experience in a health care related field and successful completion of an 80-hour assisted living manager training program. The 80-hour training program must be approved by the OHCQ and cover required content on aging, cognitive impairment, and dementias.

**Staff Education/Training**

Staff other than the manager and alternate manager must be at least 18 years of age unless licensed as a nurse or the age requirement is waived by MDH. Staff whose duties include personal care must complete a state-approved, five hours of training on cognitive impairment and mental illness within the first 90 days of employment. Staff whose job duties do not involve the provision of personal care services shall receive a minimum of two hours of training on cognitive impairment and mental illness within the first 90 days of employment. Staff must participate in an orientation program and ongoing training to ensure that residents receive services consistent with their needs.

Staff shall demonstrate competence to the delegating nurse before performing personal care services and may work for seven days before demonstrating such competency to provide personal care services if the employee is performing tasks accompanied by a certified nursing assistant, a geriatric nursing assistant, or an individual who has been approved by the delegating nurse.

**Entity Approving CE Program**

None specified.

**Medicaid Policy and Reimbursement**

Maryland has a Section 1915(c) home and community-based services waiver, Home and Community-Based Options, that covers services in applicable assisted living programs. Participants must be assessed to need a nursing facility level of care based on a uniform medical assessment, meet financial eligibility requirements, and be aged 18 years old or older. They must be provided with 24-

hour supervision, and facilities must employ a delegating nurse (a registered nurse) to visit every 45 days.

**COVID-19 Public Health  
Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

Code of Maryland Regulations (Last Updated: April 6, 2021), Title 10. Maryland Department of Health, Part 1, Subtitle 07. Hospitals. Chapter 10.07.14. Assisted Living Programs. <http://mdrules.elaws.us/comar/10.07.14>

Department of Health. Home and Community-Based Services.

<https://mmcp.health.maryland.gov/waiverprograms/pages/home.aspx>

HB 1034 (2022)

<https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb1034?ys=2022RS>

HB720 (2022)

<https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/SB0720?ys=2022RS>

HB636 (2022)

<https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/HB0636?ys=2022RS>

SB531 (2022)

<https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/SB0531?ys=2022RS>

## Massachusetts

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**Licensure Term** Assisted Living Residences

**Opening Statement** Assisted living residences offer a combination of housing, meals and personal care services to adults on a rental basis. Assisted living do not provide medical or nursing services and are not designed for people who need serious medical care. Assisted living is intended for adults who may need some help with activities such as housecleaning, meals, bathing, dressing and/or medication reminders and who would like the security of having assistance available on a 24-hour basis in a residential and noninstitutional environment.

Special care residences can be certified for provide an enhanced level of supports and services to address personalized needs due to cognitive or other impairments.

**Legislative and Regulatory Update** Regulations affecting assisted living residences in Massachusetts were most recently revised in 2021.

Assisted living residences must meet regulatory standards to be certified by the Executive Office of Elder Affairs (EOEA).

There is no recent legislation affecting assisted living residences. Due to the COVID-19 pandemic ALRs are allowed to perform simple nursing tasks – simple dressings, injections, administered oxygen. There is current proposed legislation to allow this permanently.

**Definition** An assisted living residence is any entity, however organized, whether conducted for profit or not for profit, which meets all of the following criteria:

- (1) provides room and board; and
- (2) provides, directly by its employees or through arrangements with another organization which the entity may or may not control or own, personal care services for three or more adults who are not related by consanguinity or affinity to their care provider; and (c) collects payments

or third-party reimbursements from or on behalf of residents to pay for the provision of assistance with the activities of daily living (ADLs) or arranges for the same.

## Disclosure Items

Before execution of a residency agreement or transfer of any money, sponsors shall deliver a disclosure statement to prospective residents and their legal representatives.

The statement shall include:

(1) The number and type of units the residence is certified to operate;

(2) The number of staff currently employed by the residence, by shift, an explanation of how the residence determines staffing, and the availability of overnight staff, awake and asleep, and shall provide this information separately for any special care residence within the residence;

(3) A copy of the list of residents' rights set forth in 651 CMR 12.08(1);

(4) An explanation of the eligibility requirements for any subsidy programs including a statement of any additional costs associated with services beyond the scope of the subsidy program for which the resident or his or her legal representative would be responsible. This explanation should also state the number of available units, and whether those units are shared;

(5) A copy of the residence's medication management policy, its Self-Administered Medication Management policy, including its policy on assistance with as-necessary or *pro re nata* medication, and, if applicable, Limited Medication Administration;

(6) An explanation of any limitations on the services the residence will provide, including, but not limited to, any limitations on specific services to address ADLs and any limitations on behavioral management;

(7) An explanation of the role of the nurse(s) employed by the residence;

(8) An explanation of entry criteria and the process used for resident assessment;

(9) Statement of the numbers of staff who are qualified to administer cardio-pulmonary resuscitation (CPR); and the residence's policy on the circumstances in which CPR will be used;

(10) An explanation of the conditions under which the residency agreement may be terminated by either party, including criteria the residence may use to determine to that any of those conditions have been met, and the length

of the required notice period for termination of the residency agreement;

- (11) An explanation of the physical design features of the residence including that of any special care residence;
- (12) An illustrative sample of the residence's service plan, an explanation of its use, the frequency of review and revisions, and the signatures required;
- (13) An explanation of the different or special types of diets available;
- (14) A list of enrichment activities, including the minimum number of hours provided each day;
- (15) An explanation of the security policy of the residence, including the procedure for admitting guests;
- (16) A copy of the instructions to residents in the residence's Disaster and Emergency Preparedness plan; and
- (17) A statement of the residence's policy and procedures, if any, on the circumstances under which it will, with the member's permission, include family members in meetings and planning.

Each special care residence shall also provide a written statement describing its special care philosophy and mission and explaining how it implements this philosophy and achieves the stated mission.

If a residence allows non-residents to use any of its facilities, such as a swimming pool, gymnasium or other meeting or function room, it shall disclose the fact of such usage to its residents with specified information.

EOEA may create and require the inclusion of an informational cover sheet for each Residency Agreement. Each Resident or Legal Representative executing the Residency Agreement must also sign the cover sheet in the presence of a witness.

### **Facility Scope of Care**

The facility must provide for the supervision of and assistance with ADLs and instrumental activities of daily living; self-administered medication management for all residents whose service plans so specify; timely assistance to residents and response to urgent/emergency needs; and up to three regularly scheduled meals daily (at a minimum, one meal).

**Third Party Scope of Care** The facility may arrange for the provision of ancillary health services by a certified provider of ancillary health services or licensed hospice.

**Admission and Retention Policy** An assisted living residence shall not provide, admit, or retain any resident in need of skilled nursing care unless: (1) the care will be provided by a certified provider of ancillary health services or by a licensed hospice; and (2) the certified provider of ancillary health services does not train the assisted living residence staff to provide the skilled nursing care.

**Resident Assessment** Prior to a resident moving in, a nurse must conduct an initial screening. The initial screening must include an assessment to determine: the prospective resident's service needs and preferences and the ability of the resident to meet those needs; the resident's functional abilities; the resident's cognitive status and its impact on functional abilities; an observation assessment to determine if self-administered medication management is appropriate for the resident; whether the resident is at risk for elopement; and whether the resident is suitable for a special care residence. The pre-admission assessment shall note the name of any legal representative, health care proxy, or any other person who has been documented as having decision-making authority for the resident and the scope of his or her authority. The initial screening findings shall be documented and disclosed to the resident, his or her legal representative and resident representative, if any, before the resident moves into the residence. The resident record must include a resident assessment, including the resident's diagnoses, current medications (including dosage, route, and frequency), allergies, dietary needs, need for assistance in emergency situations, history of psychosocial issues including the presence of manifestations of distress or behaviors which may present a risk to the health and safety of the resident or others, level of personal care needs (including the ability to perform ADLs and IADLs), and ability to manage medication. EOEA does not require a standardized form to be utilized for the assessment.

**Medication Management** Self-administered medication management is permitted. Limited medication administration may only be provided by a family member, an individual designated in writing by the resident or resident's legal representative, a practitioner as

defined in state law, or a nurse registered or licensed under the provisions of state law. Nurses employed by the assisted living residence may administer non-injectable medications prescribed or ordered by an authorized prescriber to residents by oral or other routes (e.g., topical, inhalers, eye and ear drops, medicated patches, as-necessary oxygen, or suppositories).

**Square Feet Requirements** Regulations do not specify a minimum square foot requirement for rooms. Facilities must provide either single or double occupancy units with lockable doors on the entry door of each unit and either a kitchenette or access to a refrigerator, sink, and heating element. Special care units commencing initial certification process after October 1, 2015 must provide a secure outdoor space.

**Residents Allowed Per Room** A maximum of two residents is allowed per resident unit.

**Bathroom Requirements** For facilities constructed after 1995, each living unit must provide a private bathroom equipped with one lavatory, one toilet, and one bathtub or shower stall. All other residences must provide a private half-bathroom for each living unit equipped with one lavatory and one toilet, and at least one bathing facility for every three residents.

**Life Safety** Massachusetts does not have any specific life safety code requirements for Assisted Living Residences. Rather, the regulations state that they must “meet the requirements of all applicable federal and state laws and regulations including, but not limited to, the state sanitary codes, state building and fire safety codes, and laws and regulations governing use and access by persons with disabilities.” Additionally, facilities must implement communicable disease control plans.

Each residence shall have a comprehensive emergency management plan to meet potential disasters and emergencies, including: fire; flood; severe weather; loss of heat, electricity, or water services; and resident-specific crises, such as a missing resident. The plan shall be designed to reasonable ensure the continuity of operations of the residence.

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

A residence may designate a distinct part or the entire facility as a special care residence to address the specialized needs of individuals, including those who may need assistance in directing their own care due to cognitive or other impairments. There are additional requirements, including policies and procedures and staff training, necessary for certification as a special care residence.

In addition to completing requirements for general orientation as set forth under the Staff/Education Training section below, all new employees who work within a special care residence and have direct contact with residents must receive seven hours of additional training on topics related to the specialized care needs of the resident population (e.g., communication skills, creating a therapeutic environment, interpreting manifestations of distress, decisional capacity, sexuality, family issues, and caregiver support). In addition, as part of the ongoing in-service training, all staff must receive at least two hours per year of training on dementia/cognitive impairment topics. Employees working in a special care residence must receive an additional four hours of training per year related to the residents' specialized needs. Such training shall include the development of communications skills for residents with dementia.

## **Staffing Requirements**

The facility must have a manager and service plan coordinator on staff. The manager has general administrative charge of the facility. A staff person must be on the premises 24 hours per day. Each facility must have sufficient staffing at all times to meet the scheduled and reasonably foreseeable unscheduled resident needs as required by the residents' assessments and service plans on a 24-hour per day basis. Staffing shall be sufficient to respond promptly and effectively to individual resident emergencies and the facility shall have a plan to secure staffing necessary to respond to emergency, life safety, and disaster situations affecting residents. A special care residence shall have sufficient staff qualified by training and experience awake and on duty at all times to meet the 24-hour per day scheduled and reasonably foreseeable unscheduled needs of all residents based upon the residents' assessments and service plans. A special care residence's staffing shall be sufficient to respond promptly and effectively to individual resident emergencies. It shall never be sufficient to have fewer than two staff members in

a special care residence, with the exception that the Secretary may grant an exemption to allow one staff member and one floater to be on duty during an overnight shift if requirements set forth in regulations are met.

There are no staffing ratios.

No person working in a residence shall have been determined by an administrative board or court to have violated any local, state or federal statute, regulation, ordinance, or other law reasonably related to the safety and well-being of a resident at an assisted living residence or patient at a health care facility nor shall he or she have been convicted of a felony related to the theft or illegal sale of a controlled substance.

**Administrator  
Education/Training**

The Manager of a Special Care Residence must be at least 21 years of age and must have a minimum of two years' experience working with elders or disabled individuals, knowledge of aging and disability issues, demonstrated experience in administration, and demonstrated supervisory and management skills. The manager must also have a Bachelor's degree or equivalent experience in human services management, housing management, or nursing home management. Additionally, the manager must be of good moral character and must never have been convicted of a felony.

The Service Coordinator of an Assisted Living Residence must have a minimum of two years' experience working with elders or persons with disabilities. The Service Coordinator shall be qualified by experience and training to develop, maintain and implement or arrange for the implementation of individualized service plans. The Service Coordinator must also have a Bachelor's degree or equivalent experience, and knowledge of aging and disability issues.

As part of general orientation, both the Residence Manager and Service Coordinator shall receive an additional two-hour training devoted to dementia care topics.

**Staff Education/Training**

All staff and contracted providers who will have direct contact with residents and all food service personnel must receive a seven-hour orientation on specified topics prior to active employment. A minimum of 10 hours per year of

ongoing education and training is required for all employees. Additional hours are required for certain staff positions and also for employees in a special care residence. No more than 50 percent of the ongoing training requirement can be satisfied by un-facilitated media presentations by such means as video or audio.

Assisted living residence staff and contracted providers of personal care services must complete a minimum of 54 hours of training prior to providing personal care services to a resident, 20 hours of which must be specific to the provision of personal care services. The 20 hours of personal care training must be conducted by a qualified RN with a valid state license. The 54 hours of training must include the certain topics included in regulation. The following personal care staff are exempt from the 54-hour training requirement, but must still complete general orientation and ongoing in-service education and training: RNs and LPNs with a valid state license; nurse's aides with documentation of successful completion of nurse's aide training; home health aides with documentation of having successfully completed the certified health aide training program; and personal care homemakers with documentation of having successfully completed a personal care homemaker training program (60 hours).

**Entity Approving CE Program**

None specified.

**Medicaid Policy and Reimbursement**

The MassHealth state plan covers personal care services and case management oversight in an assisted living residence.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

Commonwealth of Massachusetts, Executive Office of Elder Affairs. 651 CMR 12.00: Certification procedures and standards for assisted living residences. [December 10, 2021]. <https://www.mass.gov/regulations/651-CMR-1200-certification-procedures-and-standards-for-assisted-living-residences>

## Michigan

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**Licensure Term** Home for the Aged  
Adult Foster Care

**Opening Statement** The Department of Licensing and Regulatory Affairs provides licensing and regulation of homes for the aged (HFA) and adult foster care (AFC). In general, an HFA provides care to persons who are age 55 or older, while an AFC home can provide care to any adult in need of AFC service. All licensed settings must comply with minimum standards (statutes and administrative rules) that establish an acceptable level of care. The term assisted living is used, but it is not recognized in the rules or statute.

**Legislative and Regulatory Update** There are no recent finalized legislative or regulatory updates affecting assisted living in Michigan.

**Definition** HFA: A supervised personal care facility, other than a hotel, adult foster care facility, hospital, nursing home, or county medical care facility, that provides room, board, and supervised personal care to 21 or more unrelated, non-transient individuals who are 55 years of age or older. Home for the aged includes a supervised personal care facility for 20 or fewer individuals 55 years of age or older if the facility is operated in conjunction with and as a distinct part of a licensed nursing home.

AFC: Residential settings that provide personal care, supervision, and protection, in addition to room and board to 20 or fewer unrelated persons who are aged, mentally ill, developmentally disabled, or physically disabled for 24 hours a day, five or more days a week and for two or more consecutive weeks for compensation.

**Disclosure Items** None specified. See "Unit and Staffing Requirements for Serving Persons with Dementia" section below.

**Facility Scope of Care**

HFA: Required to provide room, board, and supervised personal care consistent with the resident's service plan.

AFC: Required to provide room, board, supervision, protection, and personal care in accordance with the individual's written assessment plan and include, but are not limited to, medication administration, social activities, and assistance with activities of daily living.

**Third Party Scope of Care**

If a hospice or other outside agency cares for a resident in either a HFA or AFC, it must be available to assess, plan, monitor, direct, and evaluate the resident's care in conjunction with the resident's physician and in cooperation with the facility. Adequate and appropriate care must be provided.

**Admission and Retention Policy**

HFA: A home may not admit an individual whose needs cannot be adequately and appropriately met within the scope of the home's program statement or who is in need of continuous nursing care of the kind normally provided in a nursing home. At admission, a written resident admission contract and a resident service plan is required. A service plan is completed by the home in cooperation with the individual or the individual's authorized representative identifying the individual's specific needs for care, maintenance, services, and activities. Evidence of tuberculosis screening within the 12 months before admission and, if the individual is under a physician's care, a written health care statement are required.

A resident must be discharged if the resident has harmed self or others, or whose behaviors pose a risk of serious harm to self or others unless the home can effectively manage those behaviors. A resident who needs continuous nursing care may not remain in the home unless the resident's family, physician, and the facility consent to the resident's continued stay and agree to cooperate in providing the needed level of care and the necessary additional services or the resident is receiving services from a licensed hospice program or home health agency. An HFA resident may be transferred or discharged only for:

- (1) medical reasons;
- (2) for his or her welfare or that of other residents;
- (3) for non-payment of his or her stay; or

(4) if transfer or discharge is sought by the resident or resident's authorized representative.

A home must provide a resident and his or her authorized representative with a written notice stating the reasons and specifics of the discharge 30 days before discharge. A home may discharge a resident before the 30-day notice if the home has determined and documented that either or both of the following exists:

- (1) Substantial risk to the resident due to the inability of the home to assure the safety and well-being of the resident, other residents, visitors, or staff of the home.
- (2) A substantial risk or occurrence of the destruction of property

AFC: A licensee shall not accept, retain, or care for a resident who requires continuous nursing care. This does not preclude the accommodation of a resident who becomes temporarily ill while in the home but who does not require continuous nursing care, or accommodation of a person who is a hospice patient. Prior to move in, the licensee must complete a written assessment of the resident and determine that:

- (1) the amount of personal care, supervision, and protection that is required by the resident is available in the home;
- (2) the kinds of services, skills, and physical accommodations that the resident requires are available in the home; and
- (3) the resident appears to be compatible with other residents and members of the household.

A licensee must provide a resident and his or her designated representative with a 30-day written notice, stating the reasons for discharge, before discharge from the home. A licensee may discharge a resident before the 30-day notice when the licensee has determined and documented that substantial risk or an occurrence of any of the following: self-destructive behavior, serious physical assault, or the destruction of property.

## **Resident Assessment**

HFAs and AFCs are both required to complete an assessment and a service plan at the time of admission; however, a particular form is not required to be used. An optional AFC form found on the department's website is available for use in developing a service plan for AFCs. There is no equivalent form available for optional use in

HFAs. Service plans are to be updated at least annually or whenever there is a significant change in the resident's care needs.

**Medication Management** A licensee, with a resident's cooperation, shall follow the instructions and recommendations of a resident's physician or other health care professional with regard to medication. The HFA and AFC rules contain additional requirements governing administration of medications.

**Square Feet Requirements** HFA: A single resident room must be a minimum of 80 square feet of usable space and 100 square feet for new construction. Multiple-bed resident rooms must provide a minimum of 70 square feet per bed of usable floor space and 80 square feet for new construction. The HFA administrative rules include additional physical plant requirements. New construction requirements apply to buildings built after November 14, 1969.

AFC: A bedroom must have at least 65 square feet of usable floor space per bed.

**Residents Allowed Per Room** HFA: For new construction, a maximum of four beds are allowed per bedroom.

AFC: A maximum of four beds are allowed per bedroom unless the facility has been continuously licensed since April 1994.

**Bathroom Requirements** HFA: A minimum of one lavatory and water closet is required for every eight resident beds per floor. A bathing facility shall be provided for every 15 residents. Employees shall have adequate toilet facilities separate from resident living quarters.

AFC: There shall be a minimum of one toilet, one lavatory, and one bathing facility for every eight occupants of the home. At least one toilet, one lavatory, and one bathing facility available for resident use shall be provided on each floor that has resident bedrooms.

**Life Safety** HFA: Design and construction of such facilities shall be in compliance with state fire safety rules for health care facilities. The fire safety rules are administered and enforced by the Michigan Department of Licensing and Regulatory Affairs, Bureau of Fire Services. Facilities that

were in operation prior to February 11, 2018 and continuously in operation up to application for licensure, may apply for a license and choose to be reviewed and inspected to comply with the provisions of chapter 18 and 19 or chapter 32 or 33 of the National Fire Protection Association standard number 101.

AFC: Fire safety for homes licensed for seven or more residents is regulated by the Michigan Department of Licensing and Regulatory Affairs, Bureau of Fire Services. For new construction, the homes must have sprinklers and a fire alarm system that includes a hardwired, interconnected smoke detection system. Fire safety for homes of six or fewer residents are regulated by the Michigan Department of Licensing and Regulatory Affairs. For new construction, homes must have a hard-wired, interconnected smoke detection system.

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

If facilities advertise or market themselves as providing specialized Alzheimer's or dementia care, prospective residents, residents, or surrogate decision makers must be provided with a written description of the care and services provided. (See, for HFAs: MCL 333.20178 and for AFCs: MCL 400.726(b).) The written description shall include, but not be limited to, all of the following:

- (1) The overall philosophy and mission reflecting the needs of patients or residents with Alzheimer's disease or a related condition.
- (2) The process and criteria for placement in or transfer or discharge from a program for patients or residents with Alzheimer's disease or a related condition.
- (3) The process used for assessment and establishment of a plan of care and its implementation.
- (4) Staff training and continuing education practices.
- (5) The physical environment and design features appropriate to support the function of patients or residents with Alzheimer's disease or a related condition.
- (6) The frequency and types of activities for patients or residents with Alzheimer's disease or a related condition.
- (7) Identification of supplemental fees for services provided to patients or residents with Alzheimer's disease or a related condition.

Although there are no specific training requirements related to dementia, direct care staff must be trained and competent to meet the needs of all residents in care. (See

MCL 325.1931 (1-7) for HFAs and MCL 400.14204 (1-3) for AFCs.).

## **Staffing Requirements**

HFA: While there are no specific staffing ratio requirements in administrative rule, homes must have an adequate and sufficient number of staff who are awake, fully dressed, and capable of providing for resident needs on duty at all times, and to meet the needs of the residents based on the resident service plans. The home shall also designate one person on each shift to be supervisor of resident care. The supervisor of resident care shall be on the premises and is to supervise resident care, assure that residents are treated with kindness and respect, protect residents from accidents and injuries, and be responsible for the safety of residents in case of emergency.

AFC: Must have direct care staff on duty at all times and staffing shall be adequate to provide the supervision, personal care, and protection of residents and to provide the services specified in the resident's care agreement and assessment plan. Regulations specify ratios depending on the size of the AFC home. For large group homes, the ratio of direct care staff to residents shall be adequate as determined by the department, to carry out the responsibilities defined in the act and in these rules and shall not be less than 1 direct care staff to 15 residents during waking hours or less than 1 direct care staff member to 20 residents during normal sleeping hours.

AFC and HFA employees are required to have background checks completed including fingerprinting for criminal record clearance.

## **Administrator Education/Training**

HFA: Administrators must be capable of assuring program planning, development, and implementation of services to residents consistent with the home's program statement and in accordance with resident service plans and agreements; be at least 18 years of age; and have education, training, and/or experience related to the population served by the home.

AFC: Administrators must have a high school diploma or general education diploma or equivalent, and at least one year of experience working with the population identified in the home's program statement and admission policy. The administrator must also be competent in the areas of

nutrition, first aid, CPR, the adult foster care act, safety and fire prevention, financial and administrative management, knowledge of the needs of the population to be served, resident rights, and prevention and containment of communicable disease.

### **Staff Education/Training**

HFA: Management must establish and implement a staff training program based on the home's program statement, the residents' service plans, and the needs of employees, such as reporting requirements and documentation, first aid and/or medication, personal care, resident rights and responsibilities, safety and fire prevention, containment of infectious disease and standard precautions, and medication administration (if applicable).

AFC: Direct care staff must be at least 18 years of age and able to complete required reports and follow written and oral instructions related to the care and supervision of residents. All staff must be suitable to meet the physical, emotional, intellectual, and social needs of each resident and be capable of appropriately handling emergency situations. Direct care staff must be competent in the following areas before performing assigned tasks: reporting requirements, first aid, CPR, personal care, supervision, protection, resident rights, safety and fire prevention, and prevention and containment of communicable diseases. Staff must be trained in the administration of medication before performing that duty.

Regulations specify additional training that is required for facilities that are certified to provide a specialized program for persons with developmental disabilities or mental illness.

AFC: Both the licensee and the administrator must annually complete either 16 hours of training approved by the Department of Licensing and Regulatory Affairs that is relevant to the licensee's admission policy and program statement or six credit hours at an accredited college or university in an area that is relevant to the licensee's admission policy and program statement as approved by the Department.

### **Entity Approving CE Program**

HFA: None specified.

AFC: The Department of Licensing and Regulatory Affairs approves training for Certification of Specialized Services and the 16 hours of required annual training for adult foster care licensees and administrators.

## **Medicaid Policy and Reimbursement**

In licensed facilities, the Medicaid state plan may cover personal care services provided in HFAs and AFCs in some circumstances.

The MI Choice Medicaid Section 1915(c) Waiver program is available to prospective and current HFA and AFC residents. This program supports individuals at risk of nursing home placement or transitioning from a nursing home. In a licensed setting, this program can provide supports and services to an eligible individual that are in addition to the usual and customary care required of a licensed home but does not provide continuous nursing care.

## **COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

## **Citations**

Adult Foster Care and Homes for the Aged Licensing Division, Department of Licensing and Regulatory Affairs. [https://www.michigan.gov/lara/0,4601,7-154-89334\\_63294\\_27717---,00.html](https://www.michigan.gov/lara/0,4601,7-154-89334_63294_27717---,00.html)

Adult Foster Care Facility Licensing Act, Act 218 of 1979 [2019] <http://legislature.mi.gov/doc.aspx?mcl-act-218-of-1979>

Michigan Public Health Code (Home for the Aged: Parts 201 and 213) [2018] <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-368-1978-17-201.pdf>

Michigan Department of Health & Human Services. Michigan Medicaid Program. [https://www.michigan.gov/mdhhs/0,5885,7-339-71547\\_4860---,00.html](https://www.michigan.gov/mdhhs/0,5885,7-339-71547_4860---,00.html)

## Minnesota

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**Licensure Term** Assisted Living Facility

**Opening Statement** The 2019 state legislature enacted the Assisted Living Licensure law under Minnesota Statutes, chapter 144G; the law was updated as part of the Legislature's 2020 7th Special Session. The law established regulatory standards for assisted living facilities and assisted living facilities with dementia care and authorized the Department of Health Commissioner to adopt rules for all assisted living facilities that advance person-centered care and that ensure the protection of resident rights.

**Legislative and Regulatory Update** In 2022, the Minnesota legislature passed a bill, HF4065, that outlines a number of technical changes made to licensed assisted living statutes.

In 2019, the Minnesota legislature passed a bill, HF90, that licenses two levels of assisted living – assisted living facilities, and assisted living facilities with dementia care – effective August 1, 2021. The law establishes regulatory standards governing the provision of housing and services in assisted living facilities and assisted living facilities with dementia care to help ensure the health, safety, well-being, and appropriate treatment of residents. It also authorizes the Department of Health Commissioner to adopt rules for all assisted living facilities that promote person-centered planning and service delivery and optimal quality of life, and that ensure resident rights are protected, resident choice is allowed, and public health and safety is ensured.

While the majority of HF90 did not go into effect until August 1, 2021, providers were required to comply with retaliation prohibitions effective August 1, 2019 and new

electronic monitoring provisions effective January 1, 2020.

## Definition

"Assisted living facility" means a facility that provides sleeping accommodations and assisted living services to one or more adults. Assisted living facility includes assisted living facility with dementia care, and does not include:

- (1) emergency shelter, transitional housing, or any other residential units serving exclusively or primarily homeless individuals, as defined under section 116L.361;
- (2) a nursing home licensed under chapter 144A;
- (3) a hospital, certified boarding care, or supervised living facility licensed under sections 144.50 to 144.56;
- (4) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts 9520.0500 to 9520.0670, or under chapter 245D, 245G, or 245I;
- (5) services and residential settings licensed under chapter 245A, including adult foster care and services and settings governed under the standards in chapter 245D;
- (6) a private home in which the residents are related by kinship, law, or affinity with the provider of services;
- (7) a duly organized condominium, cooperative, and common interest community, or owners' association of the condominium, cooperative, and common interest community where at least 80 percent of the units that comprise the condominium, cooperative, or common interest community are occupied by individuals who are the owners, members, or shareholders of the units;
- (8) a temporary family health care dwelling as defined in sections 394.307 and 462.3593;
- (9) a setting offering services conducted by and for the adherents of any recognized church or religious denomination for its members exclusively through spiritual means or by prayer for healing;
- (10) housing financed pursuant to sections 462A.37 and 462A.375, units financed with low-income housing tax credits pursuant to United States Code, title 26, section 42, and units financed by the Minnesota Housing Finance Agency that are intended to serve individuals with disabilities or individuals who are homeless, except for those developments that market or hold themselves out as assisted living facilities and provide assisted living services;
- (11) rental housing developed under United States Code, title 42, section 1437, or United States Code, title 12, section 1701q;

- (12) rental housing designated for occupancy by only elderly or elderly and disabled residents under United States Code, title 42, section 1437e, or rental housing for qualifying families under Code of Federal Regulations, title 24, section 983.56;
- (13) rental housing funded under United States Code, title 42, chapter 89, or United States Code, title 42, section 8011;
- (14) a covered setting as defined in section 325F.721, subdivision 1, paragraph (b); or
- (15) any establishment that exclusively or primarily serves as a shelter or temporary shelter for victims of domestic or any other form of violence.

## **Disclosure Items**

All assisted living facilities must provide to prospective residents:

- (1) a disclosure of the categories of assisted living licenses available and the category of license held by the facility;
- (2) a written checklist listing all services permitted under the facility's license, identifying all services the facility offers to provide under the assisted living facility contract, and identifying all services allowed under the license that the facility does not provide; and
- (3) an oral explanation of the services offered under the contract.

Assisted living facilities must provide the uniform checklist disclosure of services to prospective residents before a contract is executed.

## **Facility Scope of Care**

Assisted living services in 144G Subd.9 includes one or more of the following:

- (1) assisting with dressing, self-feeding, oral hygiene, hair care, grooming, toileting, and bathing;
- (2) providing standby assistance;
- (3) providing verbal or visual reminders to the resident to take regularly scheduled medication, which includes bringing the resident previously set up medication, medication in original containers, or liquid or food to accompany the medication;
- (4) providing verbal or visual reminders to the resident to perform regularly scheduled treatments and exercises;
- (5) preparing specialized diets ordered by a licensed health professional;
- (6) services of an advanced practice registered nurse, registered nurse, licensed practical nurse, physical

therapist, respiratory therapist, occupational therapist, speech-language pathologist, dietitian or nutritionist, or social worker;

(7) tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed health professional within the person's scope of practice;

(8) medication management services;

(9) hands-on assistance with transfers and mobility;

(10) treatment and therapies;

(11) assisting residents with eating when the residents have complicated eating problems as identified in the resident record or through an assessment such as difficulty swallowing, recurrent lung aspirations, or requiring the use of a tube or parenteral or intravenous instruments to be fed;

(12) providing other complex or specialty health care services; and

(13) supportive services in addition to the provision of at least one of the services listed in clauses (1) to (12).

**Third Party Scope of Care** Effective August 1, 2021, an assisted living facility must allow for outside services as a resident right.

**Admission and Retention Policy** A person or entity offering assisted living may determine which services it will provide and may offer assisted living to all or only some of the residents.

Termination means: (1) a facility-initiated termination of housing provided to the resident under the contract; or (2) a facility-initiated termination or nonrenewal of all assisted living services the resident receives from the facility under the contract.

**Resident Assessment** An assisted living facility shall conduct a nursing assessment by an RN of the physical and cognitive needs of the prospective resident and propose a temporary service plan prior to the date on which a prospective resident executes a contract with a facility or the date on which a prospective resident moves in, whichever is earlier. Under certain circumstances, the assessment may be conducted via telecommunication methods that align with practice standards that meet the resident's needs and reflect person-centered planning and care delivery. Resident reassessment and monitoring must be conducted no more than 14 calendar days after initiation of services. Ongoing resident reassessment and monitoring must be conducted as needed based on changes in the needs of

the resident and cannot exceed 90 calendar days from the last date of the assessment.

**Medication Management**

Medication administration" means performing a set of tasks that includes the following:

- (1) checking the resident's medication record;
- (2) preparing the medication as necessary;
- (3) administering the medication to the resident;
- (4) documenting the administration or reason for not administering the medication; and
- (5) reporting to a registered nurse or appropriate licensed health professional any concerns about the medication, the resident, or the resident's refusal to take the medication.

Medication management includes: performing medication setup; administering medications; storing and securing medications; documenting medication activities; verifying and monitoring the effectiveness of systems to ensure safe handling and administration; coordinating refills; handling and implementing changes to prescriptions; communicating with the pharmacy about the resident's medications; and coordinating and communicating with the prescriber.

**Square Feet Requirements**

Establishments must comply with state and local building codes. The state does not specify minimum square foot requirements for private rooms.

**Residents Allowed Per Room**

Residents have the right to choose a roommate, if sharing a unit. The state does not specify the maximum number of residents allowed per unit.

**Bathroom Requirements**

The state does not specify whether establishments must provide private bathrooms to each resident or provide bathrooms for specific resident ratios.

**Life Safety**

Assisted living facilities must comply with the Minnesota State Building code and the Minnesota State Fire Code and applicable local building and zoning codes and requirements for the type of structure utilized for the housing component of assisted living. The Minnesota State Fire Code is comprised of the International Fire Code plus Minnesota amendments. All assisted living facilities having six or more residents must also comply with the National Fire Protection Association.

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

Additional training requirements for assisted living facilities with dementia care include:

- (a) An assisted living facility with dementia care must provide residents with dementia-trained staff who have been instructed in the person-centered care approach. All direct care staff assigned to care for residents with dementia must be specially trained to work with residents with Alzheimer's disease and other dementias.
- (b) Only staff trained as specified in 144G.83 subdivisions 2 and 3 shall be assigned to care for dementia residents.

(c) Staffing levels must be sufficient to meet the scheduled and unscheduled needs of residents. Staffing levels during nighttime hours shall be based on the sleep patterns and needs of residents.

(d) In an emergency situation when trained staff are not available to provide services, the facility may assign staff who have not completed the required training. The particular emergency situation must be documented and must address:

- (1) the nature of the emergency;
- (2) how long the emergency lasted; and
- (3) the names and positions of staff that provided coverage.

Staffing requirements include:

- (a) The licensee must ensure that staff who provide support to residents with dementia can demonstrate a basic understanding and ability to apply dementia training to the residents' emotional and unique health care needs using person-centered planning delivery. Direct care dementia-trained staff and other staff must be trained on the topics identified during the expedited rulemaking process. These requirements are in addition to the licensing requirements for training.
- (b) Failure to comply with paragraph (a) or subdivision 1 shall result in a fine under section 144G.31.

Persons providing or overseeing staff training must have experience and knowledge in the care of individuals with dementia, including:

- (1) two years of work experience related to Alzheimer's disease or other dementias, or in health care, gerontology, or another related field; and

(2) completion of training equivalent to the requirements in this section and successfully passing a skills competency or knowledge test required by the commissioner.

Preservice and in-service training may include various methods of instruction, such as classroom style, web-based training, video, or one-to-one training. The licensee must have a method for determining and documenting each staff person's knowledge and understanding of the training provided. All training must be documented.

## **Staffing Requirements**

Assisted living facilities are required to have a person available 24 hours a day, seven days a week, who is responsible for responding to the requests of assisted living clients for assistance with health or safety needs. Secure dementia units must have an awake person who is physically present in the secure dementia care unit 24 hours per day, seven days per week. There are no mandated staffing ratios.

## **Administrator Education/Training**

An Assisted Living Director (ALD) is the person who administers, manages, supervises, or is in general administrative charge of an assisted living facility. There must be one designated Licensed Assisted Living Director (LALD) as the Director of Record of each licensed facility. (MN State Rules 6400.7000)

LALD's must meet the minimum requirements:

1. Minimum education of a GED/ High school degree or higher
2. Has read and understands parts 6400.7000 to 6400.7095 and the Department of Health 144G rules relating to the licensure of assisted living facilities
3. Completed a MN approved ALD program
4. Pass the MN State ALD exam
5. Pass the NAB CORE & NAB RCAL Exam
6. Complete the required field experience hours ranging from 400-1000 hours

If an individual holds a Health Services Executive (HSE) no additional ALD license is required.

Assisted Living Director-in-Residence (ALDIR) is designed to allow individuals who are currently serving as Director and do not qualify an opportunity to apply for licensure and complete their education and experience while working in

an assisted living setting as a Director under supervision/mentorship of a LALD for up to a year as they complete their licensure requirements.

Licensed Assisted Living Directors (LALD) require 30 clock hours per every two-year period.

Additionally, an Assisted Living Director of an assisted living facility with dementia care must complete and document that at least ten hours of the required annual continuing educational requirements relate to the care of individuals with dementia. The training must include medical management of dementia, creating and maintaining supportive and therapeutic environments for residents with dementia, and transitioning and coordinating services for residents with dementia.

### **Staff Education/Training**

All staff providing and supervising direct services must complete an orientation to assisted living facility licensing requirements and regulations before providing assisted living services to residents. The orientation may be incorporated into the training required under subdivision 5. The orientation need only be completed once for each staff person and is not transferable to another facility.

The orientation must contain the following topics:

- (1) an overview of this chapter;
- (2) an introduction and review of the facility's policies and procedures related to the provision of assisted living services by the individual staff person;
- (3) handling of emergencies and use of emergency services;
- (4) compliance with and reporting of the maltreatment of vulnerable adults under section 626.557 to the Minnesota Adult Abuse Reporting Center (MAARC);
- (5) the assisted living bill of rights and staff responsibilities related to ensuring the exercise and protection of those rights;
- (6) the principles of person-centered planning and service delivery and how they apply to direct support services provided by the staff person;
- (7) handling of residents' complaints, reporting of complaints, and where to report complaints, including information on the Office of Health Facility Complaints;
- (8) consumer advocacy services of the Office of Ombudsman for Long-Term Care, Office of Ombudsman

for Mental Health and Developmental Disabilities, Managed Care Ombudsman at the Department of Human Services, county-managed care advocates, or other relevant advocacy services; and  
(9) a review of the types of assisted living services the employee will be providing and the facility's category of licensure.

All staff that perform direct services must complete at least eight hours of annual training for each 12 months of employment. The training may be obtained from the facility or another source and must include topics relevant to the provision of assisted living services.

**Entity Approving CE Program**

Licensed Assisted Living Directors must obtain approved continuing education clock hours from either the Board of Executives for Long Term Services and Supports (BELTSS) or the National Association of Long Term Care Administrator Boards (NAB).

**Medicaid Policy and Reimbursement**

For new assisted living facilities that did not operate as registered housing with services establishments prior to August 1, 2021, home and community-based services under section 256B.49 are not available when the new facility setting is adjoined to, or on the same property as, an institution as defined in Code of Federal Regulations, title 42, section 441.301(c).

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

2021 Minnesota Statutes. Chapter 144D: Housing with Services Establishment.

<https://www.revisor.mn.gov/statutes/?id=144D>

2021 Minnesota Statutes. Chapter 144G: Assisted Living.

<https://www.revisor.mn.gov/statutes/?id=144G>

2021 Minnesota Statutes. Chapter 325F.72: Disclosure of Special Care Status.

<https://www.revisor.mn.gov/statutes/?id=325F.72>

Minnesota Session Laws - 2019, Regular Session. Chapter 60--H.F. No. 90.

<https://www.revisor.mn.gov/laws/2019/0/Session+Law/Chapter/60/>

Minnesota Department of Human Services, Community-Based Services Manual (CBSM).

[https://www.dhs.state.mn.us/main/idcplg?IdcService=GET\\_DYNAMIC\\_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=id\\_000402](https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=id_000402).

## Mississippi

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<b>Agency</b>	Department of Health, Division of Health Facilities Licensure and Certification
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**Licensure Term** Personal Care Homes - Residential Living and Personal Care Homes - Assisted Living

**Opening Statement** The Mississippi Department of Health, Division of Health Facilities Licensure and Certification, licenses two types of personal care homes: assisted living and residential living. The primary difference between these two settings is that residential living communities may not admit or retain individuals who cannot ambulate independently. Requirements described below apply to both types of homes unless otherwise noted.

A licensed personal care home may establish a separate Alzheimer's disease-dementia care unit. The rules and regulations for such units are in addition to the licensure requirements for the facility. Any licensed facility that establishes an Alzheimer's disease-dementia care unit and meets the additional requirements will have the designation printed upon the certificate of licensure issued by the licensing agency.

**Legislative and Regulatory Update** There are no recent regulatory updates that affect personal care homes in Mississippi.

**Definition** Personal care homes are licensed facilities that provide assistance to residents in performing one or more of the activities of daily living (ADLs), including, but not limited to, bathing, walking, excretory functions, feeding, personal grooming, and dressing.

Personal Care Homes - Residential Living: Any place or facility operating 24 hours a day, seven days a week, accepting individuals who require personal care services or individuals, who, due to functional impairments, may require mental health services.

Personal Care Homes - Assisted Living: Any place or facility operating 24 hours a day, seven days a week,

accepting individuals who require assisted living services. Facilities must provide personal care and the addition of supplemental services to include the provision of medical services (i.e., medication procedures and medication administration), and emergency response services.

**Disclosure Items**

There is no required form but admission agreements must be given to the resident or his/her responsible party, and must contain specific information. For example, the agreement must include at a minimum, among other items: basic charges agreed upon; period to be covered in the charges; services for which special charges are to be made; agreement regarding refunds for payments made in advance; and a statement that the operator will notify the resident's responsible party in a timely manner of any changes in the resident's status.

**Facility Scope of Care**

Facilities may provide assistance with ADLs that may extend beyond providing shelter, food, and laundry. Assistance may include, but is not limited to, bathing, walking, toileting, feeding, personal grooming, dressing, and financial management.

**Third Party Scope of Care Admission and Retention Policy**

Limited home health services may be provided in facilities. For both Personal Care - Residential Living and Personal Care - Assisted Living, a person may neither move in nor continue to reside in a licensed facility if the person:

- (1) Is not ambulatory;
- (2) Requires physical restraints;
- (3) Poses a serious threat to self or others;
- (4) Requires nasopharyngeal and/or tracheotomy suctioning;
- (5) Requires gastric feedings;
- (6) Requires intravenous fluids, medications, or feedings;
- (7) Requires an indwelling urinary catheter;
- (8) Requires sterile wound care; or
- (9) Requires treatment of decubitus ulcer or exfoliative dermatitis.

A resident may continue to live in a personal care home when a resident or the resident's responsible party (if applicable) consents in writing for the resident to continue to reside in the home and approved in writing by a licensed physician, unless the licensing agency determines that skilled nursing services would be appropriate. No home may allow more than two residents or 10 percent of the

total number of residents, whichever is greater, to remain under these circumstances.

**Personal Care Homes - Assisted Living Facilities:** May only admit residents whose needs can be met by the facility. An appropriate resident is primarily an aged ambulatory person who requires domiciliary care and who may require non-medical services, medical services such as medication assistance, emergency response services, and home health services as prescribed by a physician's order and as allowed by law.

<b>Resident Assessment</b>	A medical evaluation is required annually for each resident but there is no required form. Each person applying for admission must be given a thorough examination by a licensed physician or certified nurse practitioner/physician assistant within 30 days prior to admission. The examination shall indicate the appropriateness of admission.
<b>Medication Management</b>	Facilities may monitor the self-administration of medication. Only licensed personnel are allowed to administer medication.
<b>Square Feet Requirements</b>	Private and shared resident units must provide a minimum of 80 square feet per resident.
<b>Residents Allowed Per Room</b>	A maximum of four residents is allowed per resident unit.
<b>Bathroom Requirements</b>	Separate toilet and bathing facilities must be provided on each floor for each sex in the following ratios, at a minimum: one bathtub-shower for every 12 or fewer residents for each sex; and one lavatory and one toilet for every six or fewer residents.
<b>Life Safety</b>	<b>Automatic Fire Sprinklers:</b> All new personal care homes must be protected with automatic fire sprinklers. If the facility has a capacity of 16 or fewer beds, a 13D-styled automatic sprinkler system compliant with the National Fire Protection Association (NFPA) Standard 13D, "Standard for the Protection of One- and Two-Family Dwellings and Manufactured Homes," is sufficient. For facilities with capacity greater than 16 beds, a sprinkler consistent with NFPA 13 is required.

Smoke Detectors: Smoke detectors must be installed in each hallway no more than 30 feet apart, in all bedrooms, and in all storage rooms. Smoke detectors must be electrically powered by the building's electrical system and have battery back-up.

Building Construction: Facilities licensed after Aug. 14, 2005 must be constructed to have a one-hour fire resistance rating as prescribed by the current edition of the NFPA Standard 220, "Types of Building Construction."

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

Regulations for Alzheimer's disease-dementia care units were adopted in 2001 and apply to licensed nursing homes or licensed personal care homes and are in addition to other rules and regulations applicable to these licensed facilities.

There are specific physical design standards for Alzheimer's dementia units including security controls on all entrances and exits, and a secure, exterior exercise pathway.

A registered nurse or licensed practical nurse must be present on all shifts and a minimum of two staff members must be on the unit at all times. Minimum requirements for nursing staff are based on the ratio of three hours of nursing care per resident per 24 hours. Licensed nursing staff and nurse aides can be included in the ratio. If the Alzheimer's-dementia care unit is not freestanding, licensed nursing staff may be shared with the rest of the facility. Facilities are only permitted to house persons with up to stage II Alzheimer's disease. A licensed social worker, licensed professional counselor, or licensed marriage and family therapist must provide social services to residents and support to family members. The social service consultation must be on site and be a minimum of eight hours per month.

An orientation program including specific topics must be provided to all new employees assigned to the Alzheimer's-dementia unit. Ongoing in-service training must be provided to all staff who are in direct contact with residents on a quarterly basis and must include training on at least three of eight specific topics.

<b>Staffing Requirements</b>	<p>A full-time operator must be designated to manage the facility. When on duty, staff must be awake and fully dressed to provide personal care to the residents. The following staffing ratio applies:</p> <p>(1) One direct care staff person per 15 or fewer residents between 7:00 a.m. and 7:00 p.m.; and</p> <p>(2) One direct care staff person per 25 or fewer residents between the hours of 7:00 p.m. and 7:00 a.m. Personal care homes-assisted living facilities must also post in writing on-call personnel in the event of an emergency during this shift.</p> <p>Personal Care - Assisted Living: Must also have a licensed nurse on the premises for eight hours a day. The nurses may not be included in the direct care staffing ratio. If a resident is unable to self-administer prescription medication, a licensed nurse must be present to administer the medication.</p>
<b>Administrator Education/Training</b>	<p>Administrators, known as "operators," must be a high school graduate or have passed the GED, and not be a resident of the licensed facility. The administrator must verify that he or she is not listed on the Mississippi Nurses Aide Abuse Registry. Administrators must spend two concurrent days with the licensing agency for training and mentoring. This training and monitoring provision is required only one time for each administrator and an administrator who was previously employed by the licensing agency in a surveyor capacity is exempt.</p>
<b>Staff Education/Training</b>	<p>Direct care staff must be at least 18 years of age and must verify that they are not listed on the Mississippi Nurse Aide Abuse Registry. Personnel must receive training on a quarterly basis on topics and issues related to the population being served by the facility. All direct care staff must successfully complete a criminal history record check.</p>
<b>Entity Approving CE Program</b>	<p>None specified.</p>
<b>Medicaid Policy and Reimbursement</b>	<p>The Section 1915(c) Assisted Living Waiver provides services to beneficiaries who, but for the provision of such services, would require a nursing facility level of care. Qualified beneficiaries may reside in a licensed Personal Care Home - Assisted Living facility approved as a</p>

Medicaid provider for assisted living services. The Assisted Living Waiver has a limited number of slots, and facilities are reimbursed on a flat rate, per diem basis.

**COVID-19 Public Health  
Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

Mississippi State Department of Health, Title 15:  
Mississippi State Department of Health, Part 16: Health  
Facilities Subpart 1: Health Facilities Licensure and  
Certification: Minimum Standards for Personal Care Homes  
Assisted Living, Chapter 47 [November 10, 2019]  
<http://msdh.ms.gov/msdhsite/ static/resources/341.pdf>

Mississippi State Department of Health, Title 15:  
Mississippi State Department of Health, Part 16: Health  
Facilities, Subpart 1: Health Facilities Licensure and  
Certification: Minimum Standards for Personal Care Homes  
Residential Living, Chapter 48 [November 10, 2019]  
<http://msdh.ms.gov/msdhsite/ static/resources/342.pdf>

Mississippi State Department of Health, Title 15:  
Mississippi State Department of Health, Part 3: Office of  
Health Protection, Subpart 1: Health Facilities Licensure  
and Certification: Minimum Standards of Operation for  
Alzheimer's Disease/Dementia Care Unit: General  
Alzheimer's Disease/Dementia Care Unit, Chapter 50  
[October 2012]  
<http://msdh.ms.gov/msdhsite/ static/resources/118.pdf>

Mississippi State Department of Health, Health Facilities  
Regulations.  
<https://msdh.ms.gov/msdhsite/ static/30,0,83,60.html>

Mississippi Division of Medicaid, Assisted Living Waiver.  
<https://medicaid.ms.gov/programs/assisted-living-waiver/>

MSHD COVID-19 Resources for Nursing Homes and Long  
Term Facilities  
<https://msdh.ms.gov/msdhsite/ static/resources/10151.pdf>

MSHD COVID-19 System of Care Plan  
<https://msdh.ms.gov/msdhsite/ static/resources/8575.pdf>

## Missouri

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<b>Agency</b>	Department of Health and Senior Services, Division of Regulation and Licensure, Section for Long-Term Care Regulation
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**Licensure Term** Assisted Living Facilities and Residential Care Facilities

**Opening Statement** The Missouri Department of Health and Senior Services, Division of Regulation and Licensure, Section for Long-Term Care Regulation, licenses assisted living and residential care facilities (RCFs). One set of rules govern both settings; however, some provisions differ for the two facility types. The primary difference between assisted living and RCFs is that assisted living facilities (ALFs) may admit and retain individuals who require a higher level of assistance to evacuate the building than can RCFs, whose residents must be able to evacuate without assistance. In addition, ALFs must adhere to social model of care principles and have a physician available to supervise care.

**Legislative and Regulatory Update** There are no recent regulatory updates to 19 CSR 30-86 affecting assisted living or residential care facilities in Missouri.

Legislation was passed in August 2021 regarding authorized electronic monitoring in all long-term care facilities: The new rule sets forth requirements for the use of electronic monitoring devices in LTC facilities. These regulations can be found at:  
<https://www.sos.mo.gov/CMSImages/AdRules/csr/current/19csr/19c30-91.pdf>

**Definition** ALF: Any premises, other than an RCF, intermediate care facility, or skilled nursing facility, that is utilized by its owner, operator, or manager to provide 24-hour care and services and protective oversight to three or more residents who are provided with shelter, board, and who may need and are provided with the following:  
(1) Assistance with any activities of daily living and any instrumental activities of daily living;  
(2) Storage, distribution, or administration of medications;  
and

(3) Supervision of health care under the direction of a licensed physician provided that such services are consistent with a social model of care.

ALFs do not include facilities where all of the residents are related within the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility.

RCF: Any premises, other than an ALF, intermediate care facility, or skilled nursing facility, which is utilized by its owner, operator, or manager to provide 24-hour care to three or more residents, who are not related within the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility and who need or are provided with shelter, board, and protective oversight. Services may include storage and distribution or administration of medications and care during short-term illness or recuperation. Residents are required to be physically and mentally capable of negotiating a normal path to safety unassisted or with the use of assistive devices.

## **Disclosure Items**

For both ALFs and RCFs, at the time of admission the facility is required to disclose information regarding the services the facility is able to provide or coordinate and the cost of services. Also, the facility is required to provide statements of resident rights, a copy of any facility policies that relate to resident conduct and responsibilities, and information concerning community-based services available in the state. Facilities that provide care to residents with Alzheimer's disease or other dementias by means of an Alzheimer's special care unit or program are required to disclose the form of care or treatment.

ALFs and RCFs are also required to disclose grounds for transfer/discharge.

## **Facility Scope of Care**

ALF: Must provide 24-hour care and protective oversight including but not limited to: assistance with ADLs and IADLs, medication management, dietary services, activities, and food sanitation. The regulations specify additional requirements for ALFs that admit or retain individuals needing more than minimal assistance due to having a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility.

RCF: Must provide 24-hour care, shelter, board, and protective oversight including but not limited to: assistance with storage, distribution, and/or administration of medications; dietary services; and food sanitation. The facility can provide care to residents during a short-term illness or recuperation period.

**Third Party Scope of Care** Facilities may obtain services from third party providers that are necessary to meet residents' needs. Each resident shall be allowed the option of purchasing or renting goods or services not included in the per diem or monthly rate from a supplier of his or her own choice, provided the quality of goods or services meets the reasonable standards of the facility.

**Admission and Retention Policy**

ALF: The following conditions would prevent admission and retention into a facility:

- (1) Exhibiting behaviors that present a reasonable likelihood of serious harm to self and/or others;
- (2) Requiring a restraint (physical or chemical);
- (3) Requiring skilled nursing care as defined in section 198.073.4, Revised Statute of Missouri for which the facility is not licensed or able to provide;
- (4) Requiring more than one person to simultaneously physically assist the resident with any activity of daily living, with the exception of bathing and transferring
- (5) Being bed-bound or similarly immobilized; and
- (6) Being under 16 years of age (though facilities can apply for an exception to the age requirement).

The facility shall not admit residents whose needs cannot be met.

Residents receiving hospice who require skilled nursing care, require more than one person to simultaneously physically assist the resident with any activity of daily living, with the exception of bathing and transferring, or are bed-bound may continue to reside in the facility provided the resident, his or her legally authorized representative or designee, or both, and the facility, physician, and licensed hospice provider all agree that such program of care is appropriate for the resident. Residents experiencing short periods of incapacity due to illness or injury or recuperation from surgery may be allowed to remain or be readmitted from a hospital if the period of incapacity does not exceed 45 days and written approval of a physician is obtained.

The following conditions would permit a transfer/discharge from an ALF:

- (1) The resident's needs cannot be met in the facility;
- (2) The resident no longer needs the services provided by the facility;
- (3) The health and/or safety of other residents in the facility is endangered;
- (4) After appropriate notice and reasonable efforts by the facility, the resident has not paid for his/her stay; or
- (5) The facility ceases to operate.

Before an ALF can transfer/discharge a resident, it is required to give the resident a 30-day notice. If the health and/or safety of the resident and other residents in the facility are endangered, the resident may qualify for an emergency transfer/discharge. Facilities are required to record and document in detail the reason for a 30-day and/or emergency transfer /discharge.

RCF: The facility shall not admit residents whose needs cannot be met. Residents must be mentally and physically able to negotiate a normal path to safety unassisted or with the use of assistive devices within five minutes of being alerted of the need to evacuate. Residents suffering from short periods of incapacity due to illness, injury, or recuperation from surgery may be allowed to remain or be readmitted from a hospital if the period of incapacity does not exceed 45 days and written approval of a physician is obtained.

The following conditions would permit a transfer/discharge from an RCF:

- (1) The resident's needs cannot be met in the facility;
- (2) The resident no longer needs the services provided by the facility;
- (3) The health and/or safety of other residents in the facility is endangered;
- (4) After appropriate notice and reasonable efforts, the resident has not paid for his/her stay; or
- (5) The facility ceases to operate.

Before RCFs can transfer/discharge a resident, they are required to give the resident a 30-day notice. If the health and/or safety of the resident and other residents in the facility are endangered, the resident may qualify for an emergency transfer/discharge. Facilities are required to

record and document in detail the reason for a 30- day and/or emergency transfer/discharge.

## **Resident Assessment**

ALF: Prior to admission, the facility must complete a pre-move-in screening. Within five calendar days after admission, an appropriately trained and qualified individual will conduct a community-based assessment. Also, “no later than” ten days after admission, the resident must have an admission physical examination. The examination must be performed by a licensed physician with documentation of the resident’s current medical status and any special orders or procedures that should be followed. The community-based assessment shall be reviewed whenever there is a significant change in the resident’s condition and at least semiannually. Facilities must use the community-based assessment form provided by the department or another assessment form if approved in advance by the department.

ALFs must also complete a monthly review or more frequently, if indicated. See 19 CSR 30-86.047 (58)(B).

RCF: Residents admitted to the facility shall have an admission physical examination no later than ten days after admission. The examination must be performed by a licensed physician with documentation of the resident’s current medical status and any special orders or procedures that should be followed. The facility must perform a monthly resident review or more frequently, if indicated, of the following:

- (1) The resident’s general medical condition and needs;
- (2) Review of medication consumption of any resident controlling his/her own medication;
- (3) Daily record of medication administration;
- (4) Logging of medication regimen review process;
- (5) Monthly weight;
- (6) Record of each referral for services from an outside service provider;
- (7) Record of any resident incidents including behaviors that present a reasonable likelihood of serious harm to himself or herself or others; and
- (8) Record of accidents that potentially could result in injury or did result in injuries involving the resident.

## **Medication Management**

ALF: A pharmacist or registered nurse must review the medication regimen of each resident every other month. At

a minimum, staff who administer medications must be a Level I Medication Aide (LIMA). Facilities are required to have a safe and effective system of medication control and use. A licensed nurse must be employed at least 8 hours a week and part of the nurses' duties include review of resident medications. Facilities are required to have a safe and effective system of medication control and use.

RCF: In an RCF I, a pharmacist or registered nurse (RN) must review the medication regimen of each resident every three months. In an RCF II, a pharmacist or RN must review the medication regimen of each resident every other month. At a minimum, staff who administer medications must be a LIMA. Facilities are required to have a safe and effective system of medication control and use. RCF I requires a licensed nurse 8 hours per week to monitor resident condition and medication as part of the licensed nurses' duties. RCF II requires a licensed nurse 8 hours per week to monitor resident condition and medication as part of licensed nurses' duties.

**Square Feet Requirements** For both ALFs and RCFs, resident units must provide a minimum of 70 square feet per resident.

**Residents Allowed Per Room** For both ALFs and RCFs, the maximum number of beds/residents allowed is four per unit.

**Bathroom Requirements** For both ALFs and RCFs, at least one tub or shower must be provided for every 20 residents or major fraction of 20, and separate bathing facilities must be provided if there are more than 20 residents. ALFs and RCFs must provide one toilet and lavatory for every six residents or major fraction of six.

**Life Safety** Where applicable, the National Fire Protection Association (NFPA) codes and standards are cited in rule with regard to the minimum fire safety standards for ALFs and RCFs. The fire safety regulations for ALFs and RCFs include but are not limited to: notifying and submitting a report if there is a fire in the facility or premises; right of inspection of any portion of a building that is not two-hour separated; ensuring no part of a building presents a fire hazard; maintaining exterior premises to provide for fire safety; visual or tactile alarm systems for hearing impaired; no storage of combustibles under stairways; fire extinguishers; range hood extinguishing systems; fire drills; fire safety

training; emergency preparedness plans, exits, stairways, and fire escapes; exit signs; complete fire alarm system installed in accordance with NFPA 101, Section 18.3.4, 2000 Edition; protection from hazards; sprinkler systems; emergency lighting; interior finish and furnishing; smoking standards; oxygen storage, trash and rubbish disposal; and standards for designated separated areas.

ALFs and RCFs licensed on or after August 28, 2007 or any section of a facility in which a major renovation has been completed on or after August 28, 2007, shall install and maintain a complete sprinkler system in accordance with NFPA 13, 1999 edition. Facilities that have an approved sprinkler system installed prior to August 28, 2007 shall continue to meet all laws, rules, and regulations for testing, inspection, and maintenance of the sprinkler system.

The Department of Health and Senior Services, Division of Regulation and Licensure-Section for Long Term Care Regulation or the Missouri State Fire Marshal's office will conduct the annual fire safety inspection of any ALF or RCF that is licensed.

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

Any facility with an Alzheimer's special care unit is required to provide a document with information on selecting an Alzheimer's special care unit to any person seeking information about or placement in such a unit.

For both ALFs and RCFs, during the admission disclosure, a facility must explain how care in the Alzheimer's special care unit or program is different from the rest of the facility and if the services are appropriate. The disclosure must include the following:

- (1) A written statement of its overall philosophy and mission reflecting the needs of residents afflicted with dementia;
- (2) The process and criteria for placement in, and transfer or discharge from, the unit or program;
- (3) The process used for assessment and establishment of the plan of care and its implementation, including the method by which the plan of care evolves and is responsive to changes in condition;
- (4) Staff training and continuing education practices;
- (5) The physical environment and design features appropriate to support the functioning of cognitively impaired adult residents;

- (6) The types and frequency of resident activities;
- (7) The involvement of families and the availability of family support programs;
- (8) The costs of care and any additional fees; and
- (9) Safety and security measures.

RCFs can only admit or retain only those persons who are capable mentally and physically of negotiating a normal path to safety using assistive devices or aids when necessary. If the individual can no longer evacuate themselves to outside the building, they must be discharged from the RCF.

For both ALFs and RCF Is, any facility with residents that have Alzheimer's disease or related dementia shall provide orientation training as follows:

- (1) For employees providing direct care to such persons, the orientation training shall include at least three hours of training including at a minimum an overview of mentally confused residents such as those having Alzheimer's disease and related dementias, communicating with persons with dementia, behavior management, promoting independence in ADLs, techniques for creating a safe, secure and socially oriented environment, provision of structure, stability and a sense of routine for residents based on their needs, and understanding and dealing with family issues;
- (2) For other employees who do not provide direct care for, but may have daily contact with, such persons, the orientation training shall include at least one hour of training including at a minimum an overview of mentally confused residents such as those having dementias as well as communicating with persons with dementia; and
- (3) For all employees involved in the care of persons with dementia, dementia-specific training shall be incorporated into ongoing in-service curricula.

For RCF IIs, there is required training for employees involved in the delivery of care to persons with Alzheimer's disease or related dementias who are employed by the RCFII providing direct care to persons with Alzheimer's disease or related dementias. Such training shall be incorporated into new employee orientation and ongoing in-service curricula for all employees involved in the care of persons with dementia as follows:

- (1) For employees providing direct care to persons with Alzheimer's disease or related dementias, the training shall

include an overview of Alzheimer's disease and related dementias, communicating with persons with dementia, behavior management, promoting independence in activities of daily living, and understanding and dealing with family issues; and

(2) For other employees who do not provide direct care for, but may have daily contact with, persons with Alzheimer's disease or related dementias, the training shall include an overview of dementias and communicating with persons with dementia.

RCFIs can only admit or retain only those persons who are capable mentally and physically of negotiating a normal path to safety using assistive devices or aids when necessary. If the individual can no longer evacuate themselves to outside the building, they must be discharged from the RCFI.

## **Staffing Requirements**

ALF: Must designate an administrator licensed by the MO Board of Nursing Home Administrators to be in charge of the facility. ALFs must have an adequate number and type of personnel for the proper care of residents, the residents' social well-being, protective oversight of residents, and upkeep of the facility. At a minimum, the staffing pattern for fire safety and care of residents shall be one staff person for every 15 residents or major fraction of 15 during the day shift, one person for every 20 residents or major fraction of 20 during the evening shift, and one person for every 25 residents or major fraction of 25 during the night shift. If the ALF admits/retains residents that require more than minimal assistance at a minimum, the staffing pattern for fire safety and care of residents shall be one staff person for every 15 residents or major fraction of 15 during the day shift, one person for every 15 residents or major fraction of 15 during the evening shift, and one person for every 20 residents or major fraction of 20 during the night shift. Meeting the minimal staffing requirements may not meet the needs of residents as outlined in the residents' assessment and individualized service plan or individual evacuation plan.

Additionally, facilities must have a licensed nurse employed by the ALF to work at least eight hours per week for every 30 residents or additional major fraction of 30.

RCF: An RCF I must designate an administrator/manager to be in charge of the facility. An RCF II must designate an administrator licensed by the MO Board of Nursing Home Administrators. RCFs must provide an adequate number and type of personnel on duty at all times for the proper care of residents and upkeep of the facility. In an RCF I, at a minimum, one employee shall be on duty for every 40 residents to provide protective oversight to residents and for fire safety. In an RCF II, at a minimum, the staffing pattern for fire safety and care of residents shall be one staff person for every 15 residents or major fraction of 15 during the day shift, one person for every 20 residents or major fraction of 20 during the evening shift, and one person for every 25 residents or major fraction of 25 during the night shift. Additional staffing requirements for an RCF II that is operated in conjunction with and is immediately adjacent to and contiguous to another licensed long-term care facility and if the resident bedrooms of the facility are on the same floor as at least a portion of an intermediate care or skilled nursing facility shall comply with 19 CSR 30-86.043 (24)(D). Additionally, an RCF I must have a licensed nurse employed by the facility to work at least eight hours per week for every 30 residents. An RCF II's must have a licensed nurse employed by the facility to work at least eight hours per week for every 30 residents or additional major fraction of 30.

### **Administrator Education/Training**

ALFs and RCF IIs must have an administrator licensed by the Missouri Board of Nursing Home Administrators. The administrator may hold either a nursing home administrator license or residential care and assisted living (RCAL) license. An RCAL administrator cannot serve as an administrator for an intermediate care facility or skilled nursing facility. ALF and RCF II administrators are required to have 40 hours of approved training every two years.

An RCF I can have a manager who is fully authorized and empowered to make decisions regarding the operation of the facility. A manager must either be currently licensed as a nursing home administrator or have successfully completed the state-approved LIMA course, be at least 21 years of age, have no convictions of an offense involving the operation of a long term care facility, and attend at least one continuing education workshop within each calendar year. In an RCF I, the manager must attend at least one

continuing education workshop within each calendar year given by or approved by the department.

## **Staff Education/Training**

ALF: Prior to or on the first day that a new employee works in a facility, he/she shall receive orientation of at least two hours appropriate to job function and responsibilities. The orientation shall include but not be limited to: job responsibilities, emergency response procedures, infection control, confidentiality of resident information, preservation of resident dignity, information regarding what constitutes abuse/neglect and how to report abuse/neglect, information regarding the Employee Disqualification List, instruction regarding the rights of residents and protection of property, instruction regarding working with residents with mental illness, instruction regarding person-centered care and the concept of a social model of care, and techniques that are effective in enhancing resident choice and control over his/her own environment. Also, staff are required to have a minimum of two hours of initial training on the appropriate ways to transfer a resident care within the facility (e.g., wheelchair to bed, bed to dining room chair).

RCF: Prior to or on the first day that a new employee works in a facility, he/she shall receive orientation of at least one hour appropriate to job function. The orientation shall include but not be limited to: job responsibilities, emergency response procedures, infection control, confidentiality of resident information, preservation of resident dignity, information regarding what constitutes abuse/neglect and how to report abuse/neglect, information regarding the Employee Disqualification List, instruction regarding the rights of residents and protection of property, and instruction regarding working with residents with mental illness.

RCF IIs: Prior to or on the first day that a new employee works in a facility, they shall receive orientation of at least one hour appropriate to job function. This shall include, at a minimum, job responsibilities, how to handle emergency situations, the importance of infection control and handwashing, confidentiality of resident information, preservation of resident dignity, how to report abuse/neglect to the department (1-800-392-0210), information regarding the Employee Disqualification List and instruction regarding the rights of residents and protection of property.

For more information on training related to serving persons with dementia, see section above “Unit and Staffing Requirements for Serving Persons with Dementia.” ALFs and RCFs are required to ensure that specified fire safety training is provided to all employees.

**Entity Approving CE Program**

Continuing education credits for ALF and RCF II administrators are approved by the Missouri Board of Nursing Home Administrators. An RCFI administrator/manager is required to attend at least one (1) continuing education workshop within each calendar year given by or approved by the department.

**Medicaid Policy and Reimbursement**

The state pays for the provision of personal care services in assisted living and RCFs under the Medicaid State Plan Personal Care authority. The program provides support to residents whose personal care needs exceed those that the facility is typically able to provide. The state does not cover services in either facility type under a Medicaid waiver program, except for attendant care services provided in RCFs under the Section 1915(c) home and community-based services AIDS waiver.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

Rules of the Department of Health and Senior Services, Division 30—Division of Regulation and Licensure, Chapter 82— General Licensure Requirements.  
<https://www.sos.mo.gov/CMSImages/AdRules/csr/current/19csr/19c30-82.pdf>

Rules of Department of Health and Senior Services, Division 30—Division of Regulation and Licensure, Chapter 83—Definition of Terms. Definition of Terms.  
<https://www.sos.mo.gov/cmsimages/adrules/csr/current/19csr/19c30-83.pdf>

Rules of Department of Health and Senior Services, Division 30—Division of Regulation and Licensure, Chapter 84—Training Program for Nursing Assistants.  
<https://www.sos.mo.gov/cmsimages/adrules/csr/current/19csr/19c30-84.pdf>

Rules of the Department of Health and Senior Services, Division 30—Division of Regulation and Licensure, Chapter 86—Residential Care Facilities and Assisted Living Facilities.

<https://www.sos.mo.gov/cmsimages/adrules/csr/current/19csr/19c30-86.pdf>

Rules of Department of Health and Senior Services, Division 30—Division of Regulation and Licensure, Chapter 87—Sanitation Requirements for Long-Term Care Facilities.

<https://www.sos.mo.gov/cmsimages/adrules/csr/current/19csr/19c30-87.pdf>

Rules of Department of Health and Senior Services, Division 30—Division of Regulation and Licensure, Chapter 88—Residents' Rights and Handling Resident Funds and Property in Long-Term Care Facilities.

<https://www.sos.mo.gov/cmsimages/adrules/csr/current/19csr/19c30-88.pdf>

Rules of Department of Health and Senior Services, Division 30—Division of Regulation and Licensure, Chapter 91— Authorized Electronic Monitoring in Long-Term Care Facilities.

<https://www.sos.mo.gov/CMSImages/AdRules/csr/current/19csr/19c30-91.pdf>

Missouri Revised Statutes, Chapter 198: Nursing Homes and Facilities.

<https://health.mo.gov/seniors/nursinghomes/pdf/chapter-198.pdf>

Missouri Revised Statutes, Title XII Public Health and Welfare, Chapter 192.2000: Division of aging created – duties – inspectors of nursing homes, training and continuing education requirements – promulgation of rules, procedure – dementia-specific training requirements established.

<https://revisor.mo.gov/main/OneSection.aspx?section=192.2000&bid%20=9844&hl=>

Missouri Revised Statutes, Title XII Public Health and Welfare, Chapter 192.2490: Employee disqualification list, notification of placement, contents – challenge of allegation, procedure – hearing, procedure – appeal –

removal of name from list — list provided to whom —  
prohibition of employment.

<https://revisor.mo.gov/main/OneSection.aspx?section=192.2490>

Missouri Revised Statutes, Title XII Public Health and Welfare, Chapter 192.2495: Criminal background checks of employees, required when — persons with criminal history not to be hired, when, penalty — failure to disclose, penalty — improper hirings, penalty — definitions — rules to waive hiring restrictions.

<https://revisor.mo.gov/main/OneSection.aspx?section=192.2495>

Missouri Department of Social Services, MO HealthNet Division. <http://dss.mo.gov/mhd/>

## Montana

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**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** There are no recent regulatory updates affecting assisted living in Montana.

**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 Category B facility residents that are capable of, and who wish to self-administer medications, shall be encouraged by facility staff 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, as defined in ARM 37.106.2805. All medications administered to a Category B resident shall be administered by a licensed health care professional or by an individual delegated the task under the Nurse Practice Act and ARM Title 8, chapter 32, subchapter 17.

### **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.

<b>Residents Allowed Per Room</b>	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.
<b>Bathroom Requirements</b>	<p>There must be:</p> <ul style="list-style-type: none"> <li>(1) At least one toilet for every four residents;</li> <li>(2) One bathing facility for every 12 residents; and</li> <li>(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.</li> </ul>
<b>Life Safety</b>	<p>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.</p>
<b>Unit and Staffing Requirements for Serving Persons with Dementia</b>	<p>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:</p> <ul style="list-style-type: none"> <li>(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;</li> <li>(2) The process and criteria for move-in, transfer, and discharge;</li> <li>(3) The process used for resident assessment;</li> <li>(4) The process used to establish and implement a health care plan, including how the health care plan will be</li> </ul>

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.

<b>Staff Education/Training</b>	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.
<b>Entity Approving CE Program</b>	None specified.
<b>Medicaid Policy and Reimbursement</b>	A Medicaid Section 1915(c) home and community-based services waiver, Big Sky Waiver for the Elderly and Adults with Physical Disabilities, covers services in assisted living facilities.
<b>COVID-19 Public Health Emergency</b>	There are no permanent regulatory changes related to the COVID-19 public health emergency.
<b>Citations</b>	<p>Montana Secretary of State. Administrative Rules of Montana, 37: Public Health and Human Services, 37.106: Health Care Facilities, 37.106.28: Assisted Living Facilities. <a href="https://rules.mt.gov/gateway/Subchapterhome.asp?scn=37%2E106.28">https://rules.mt.gov/gateway/Subchapterhome.asp?scn=37%2E106.28</a></p> <p>Montana Code Annotated 2021, Title 50. Health and Safety, Chapter 5. Hospitals and Related Facilities, Part 2. Licensing. <a href="https://leg.mt.gov/bills/mca/title_0500/chapter_0050/part_0020/section_0270/0500-0050-0020-0270.html">https://leg.mt.gov/bills/mca/title_0500/chapter_0050/part_0020/section_0270/0500-0050-0020-0270.html</a></p> <p>Department of Public Health and Human Services, Home and Community Based Services. <a href="http://dphhs.mt.gov/hcbs">http://dphhs.mt.gov/hcbs</a></p> <p>Department of Public Health and Human Services, Home and Community Based Services. Community Services for Seniors and People with Disabilities. <a href="https://dphhs.mt.gov/sltc/csb/">https://dphhs.mt.gov/sltc/csb/</a></p>

## 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, Licensure Unit.

**Legislative and Regulatory Update** There are no recent legislative or regulatory updates changes affecting assisted living facilities in Nebraska.

**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 Section 1915(c) waiver programs, Aged and Disabled (AD) Waiver and Traumatic Brain Injury (TBI) Waiver. The AD Waiver serves persons over age 65 and persons of all ages with physical disabilities. To qualify for the AD Waiver, a person must have physical and health needs that require nursing facility level of care. Traumatic Brain Injury Waiver beneficiaries are between ages 18 and 64, have an acquired brain injury, and require a nursing facility level of care. Currently there is only one Nebraska provider enrolled with the TBI waiver.

**COVID-19 Public Health Emergency** There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations** Nebraska Department of Health and Human Services Regulation and Licensure. Title 175 Health Care Facilities and Services Licensure, Chapter 4 Assisted-Living Facilities. [April 3, 2007]. [https://www.nebraska.gov/rules-and-regs/regsearch/Rules/Health\\_and\\_Human\\_Services\\_System/Title-175/Chapter-04.pdf](https://www.nebraska.gov/rules-and-regs/regsearch/Rules/Health_and_Human_Services_System/Title-175/Chapter-04.pdf)

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

Nebraska Department of Health and Human Services.  
Home and Community-Based Services.  
<https://dhhs.ne.gov/Pages/Medicaid-Home-and-Community-Based-Programs.aspx>.

Nebraska Legislature. LB 439: Change Licensure and Regulation Provisions for Assisted-Living Facilities. [April 18, 2018]  
[https://nebraskalegislature.gov/bills/view\\_bill.php?DocumentID=31546](https://nebraskalegislature.gov/bills/view_bill.php?DocumentID=31546)

Department of Health and Human Services. Medicaid HCBS Waivers for Eligible Nebraskans. [September 2021].  
<https://dhhs.ne.gov/DD%20Documents/Info%20Sheet%20for%20HCBS%20Waivers.pdf>

## Nevada

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<b>Agency</b>	Department of Health and Human Services, Division of Public and Behavioral Health, Bureau of Health Care Quality and Compliance
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**Licensure Term** Residential Facilities for Groups

**Opening Statement** The Division of Public and Behavioral Health, Bureau of Health Care Quality and Compliance, licenses residential facilities for groups, which generally care for elderly persons or persons with physical disabilities. To provide care for special populations—such as persons with Alzheimer’s disease or other dementia, mental illness, or intellectual disability; or persons with chronic illnesses—facilities must apply for special endorsements to their license.

**Legislative and Regulatory Update** Nevada Revised Statutes Ch. 449.017 - Medical Facilities and Other Related Entities Revised was revised in November 2021.

**Definition** A residential facility for groups furnishes food, shelter, assistance, and limited supervision to an aged, infirm, mentally retarded, or disabled person on a 24-hour basis. The term includes an assisted living facility.

**Disclosure Items** Upon request, the following information must be made available in writing:

- (1) The basic rate for the services provided by the facility;
- (2) The schedule for payment;
- (3) The services included in the basic rate;
- (4) The charges for optional services that are not included in the basic rate; and
- (5) The residential facility's policy on refunds of amounts paid but not used.

**Facility Scope of Care** Facilities must provide residents with assistance with activities of daily living (ADLs) and protective supervision as needed. Facilities must also provide nutritious meals and snacks, laundry and housekeeping, and meet the

needs of the residents. Facilities must provide 24-hour supervision.

**Third Party Scope of Care** Home health and hospice agencies may provide services under contract with residents and medical treatment must be provided by medical professionals who are trained to provide that service.

**Admission and Retention Policy** A resident must be at least 18 years of age. Facilities may not admit or retain persons who:

- (1) Are bedfast;
- (2) Require chemical or physical restraints;
- (3) Require confinement in locked quarters; (
- 4) Require skilled nursing or other medical supervision on a 24- hour basis;
- (5) Require gastrostomy care;
- (6) Suffer from a staphylococcus infection or other serious infection; or
- (7) Suffer from any other serious medical condition.

There are other medical conditions specified in the regulations that, unless a resident is able to self-manage the condition, require the resident move out of the facility. A facility may request a medical exemption request that would permit these types of residents to remain in the facility. Approval of this request is granted by the state after review of confirmation that a medical provider such as home health or hospice is providing medical oversight for the resident. Consideration for approval also includes the facility's survey history, training and staffing patterns.

A resident may be discharged without his/her approval if:

- (1) He/she fails to pay his bill within five days after it is due;
- (2) He/she fails to comply with the rules or policies of the facility; or
- (3) The administrator of the facility or the Bureau determines that the facility is unable to provide the necessary care for the resident.

**Resident Assessment** The administrator must ensure that annually for every resident: (1) a physical examination is conducted; and (2) an assessment is conducted of the resident's history, to include the resident's condition and daily activities during the immediately preceding year. Additionally, the administrator must ensure an assessment is conducted to identify whether and to what extent each resident has

dementia; this assessment must be conducted at specified times: (1) upon admission; or (2) if a physical examination, assessment of the resident's history, or the observations of the facility staff, the resident's family, or other person who has a relationship with the resident indicate that either the resident may meet those criteria or if the resident's condition significantly changes.

**Medication Management** Residents who are capable may self-administer medications. If a caregiver assists in the administration of medication, the caregiver must complete an initial 16-hour medication course from an approved medication training provider. The caregiver also must complete eight hours of additional training every year and pass an approved examination. Administrators must take the same initial and refresher training as caregivers and are ultimately responsible for the medication plan and all medication errors. Facilities must have a detailed, comprehensive medication plan to help eliminate medication errors.

**Square Foot Requirements** Private resident units must be a minimum of 80 square feet and shared resident units must provide a minimum of 60 square feet of floor space per resident.

**Residents Allowed Per Room** A maximum of three residents is allowed per resident unit.

**Bathroom Requirements** A toilet and lavatory must be provided for every four residents and a tub or shower must be provided for every six residents.

**Life Safety** Under Nevada law, the state fire marshal, on behalf of the Health Division, is responsible for approval and inspection of assisted living facilities with regard to fire safety standards. The state fire marshal uses Uniform Fire Codes.

Fire safety requirements include an evacuation plan, fire drills, portable fire extinguishers, smoke detectors, and maintenance of proper exits. All new facilities must be equipped with an automatic sprinkler system. Some older facilities may not be equipped with a sprinkler system because sprinkler systems were not required when they were originally licensed. If anyone purchases one of these older facilities, they must install an automatic sprinkler system.

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

If, as a result of an assessment, the provider determines that the resident suffers from dementia to an extent that the resident may be a danger to himself or herself or others if the resident is not placed in a secure unit or a facility that assigns not less than one staff member for every six residents, any residential facility for groups in which the resident is placed must meet the requirements prescribed by the Board for the licensing and operation of residential facilities for groups which provide care to persons with Alzheimer's disease or other severe dementia.

Locked quarters are allowed in Alzheimer's units. In addition, alarms, buzzers, horns, or other audible devices activated when a door is opened are to be installed on all exit doors. There will be not more than six residents for each caregiver during those hours when the residents are awake. At least one member of the staff must be awake and on duty at all times.

Each employee of the facility that provides care to individuals with any form of dementia must successfully complete, within the first 40 hours of beginning employment, at least two hours of training in providing care, including emergency care, to a resident with any form of dementia. In addition, within three months of initial employment, he/she must receive at least eight hours of training in providing care to a resident with any form of dementia. If an employee is licensed or certified by an occupational licensing board, at least three hours of required continuing education must be in providing care to a resident with dementia and must be completed on or before the first anniversary of employment. If an employee is a direct caregiver, the individual must complete at least three hours of training in providing care to a resident with dementia on or before the first anniversary of employment.

## **Staffing Requirements**

An administrator and a sufficient number of caregivers must be employed by the facility. The administrator is responsible for the care of residents and the daily operation of the facility. There are no staffing ratios. Facilities with more than 20 residents shall ensure that at least one employee is awake and on duty at all times. The administrator of a residential facility with at least 20 residents must appoint a member of the staff of the facility who will be responsible for the organization and conduct an

evaluation of activities for the residents. For facilities with 50 or more residents, the administrator must also appoint additional staff as necessary to assist with activities.

**Administrator  
Education/Training**

Administrators must be licensed by the Nevada State Board of Examiners for Administrators of Facilities for Long Term Care. Within 30 days of beginning employment, an administrator must be trained in first aid and CPR. An administrator for an Alzheimer's facility must have three years of experience in caring for residents with Alzheimer's disease or related dementias. All new administrators must take the same initial medication administration training as their caregivers regardless of whether the administrator is a licensed medical professional.

**Staff Education/Training**

Caregivers must: be at least 18 years of age; have personal qualities enabling them to understand the problems of the aged and disabled; be able to read, write, speak, and understand English; and possess knowledge, skills, and abilities to meet residents' needs. Within 30 days of beginning employment, a caregiver must be trained in first aid and CPR. Within 60 days of beginning employment, a caregiver must receive no less than four hours of training related to the care of residents. State regulations have additional training requirements for serving specified populations, such as persons with mental illness or chronic illnesses.

All staff must complete eight hours of continuing education per year. Training must be related to the care of the elderly and, depending upon the facility's population, related to specific populations (e.g., dementia-related training for those who supervise persons with Alzheimer's disease).

**Entity Approving CE  
Program**

The Bureau of Health Care Quality and Compliance approves medication management courses.

**Medicaid Policy and  
Reimbursement**

Two Medicaid Section 1915(c) home and community-based services waivers, Waiver for Persons with Physical Disabilities and Home and Community Based Services (HCBS) Waiver for the Frail Elderly, cover personal care or augmented personal care services in group residential settings.

## COVID-19 Public Health Emergency

There are no permanent regulatory changes related to the COVID-19 public health emergency.

## Citations

Nevada Senate Bill No. 362, approved June 5, 2019.

<https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6660/Overview>

Department of Health and Human Services, Division of Public and Behavioral Health. Health Facilities – Statutes and Regulations.

[https://dpbh.nv.gov/Reg/HealthFacilities/dta/Statutes/Health\\_Facilities\\_-\\_Statutes/](https://dpbh.nv.gov/Reg/HealthFacilities/dta/Statutes/Health_Facilities_-_Statutes/)

Nevada Administrative Code, Chapter 449 - Medical Facilities and Other Related Entities General Provision.

<http://leg.state.nv.us/nac/NAC-449.html#NAC449Sec156>

Department of Health and Human Services, Aging and Disability Services Division Home and Community Based Services (HCBS) Waiver for the Frail Elderly (FE).

[https://adsd.nv.gov/Programs/Seniors/HCBS\\_\(FE\)/HCBS\\_\(FE\)/](https://adsd.nv.gov/Programs/Seniors/HCBS_(FE)/HCBS_(FE)/)

Department of Health and Human Services, Aging and Disability Services Division. Waiver for Persons with Physical Disabilities (PD).

[https://adsd.nv.gov/Programs/Seniors/PD\\_Waiver/Waiver\\_for\\_Person%E2%80%99s\\_with\\_Physical\\_Disabilities\\_\(PD\)/](https://adsd.nv.gov/Programs/Seniors/PD_Waiver/Waiver_for_Person%E2%80%99s_with_Physical_Disabilities_(PD)/)

Nevada Department of Health and Human Services, Division of Public and Behavioral Health. Residential facility for groups (adult group care/assisted living).

[https://dpbh.nv.gov/Reg/HealthFacilities/HF\\_-\\_Non-Medical/Residential\\_facility\\_for\\_groups\\_\(adult\\_group\\_care/assisted\\_living\)/](https://dpbh.nv.gov/Reg/HealthFacilities/HF_-_Non-Medical/Residential_facility_for_groups_(adult_group_care/assisted_living)/)

Nevada Revised Statutes Ch. 449.017 (November 2021)

<https://www.leg.state.nv.us/nrs/NRS-449.html#NRS449Sec017>

## New Hampshire

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<b>Agency</b>	Department of Health and Human Services, Office of Legal and Regulatory Services, Bureau of Licensing and Certification
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**Licensure Term** Assisted Living Residence-Residential Care and Supported Residential Health Care Facility

**Opening Statement** The New Hampshire Department of Health and Human Services, Health Facilities Administration, licenses two categories of assisted living residences: (1) Supported Residential Health Care Facilities and (2) Assisted Living Residence-Residential Care Facilities. Regulations for supported residential health care facilities, which were adopted in October 2006 and most recently revised effective April 2015, certain sections were revised in January 2022, allow nursing home-eligible residents to remain in assisted living residences if appropriate care and services are provided. Regulations for assisted living residential care facilities, the lower level of care, were adopted in April 2008 and most recently revised effective November 2017, with certain sections revised in January 2022. This level is more of a social model, where medical or nursing care can be provided up to a maximum of 21 visits per incident that requires medical, nursing, or rehabilitative care or services unless the Department authorizes additional visits.

Requirements for the two categories of assisted living residences are the same unless otherwise noted.

**Legislative and Regulatory Update** RSA 151:47 et seq., Dementia Training for Direct Care Staff in Residential Facilities, effective February 2020, had its enforcement deferred initially during the COVID-19 pandemic but is in full effect now.

Under Senate Bill 281, which was signed into law on July 8, 2022, facilities must, by September 6, 2022, have policies in place where charges can take place no later than 10 days following a resident's death, or following removal of personal effects that impair new occupancy, whichever is later. If the room is occupied by a new resident before the

expiration of the 10-day period, rent and fees for the 10-day period shall be prorated from the date of such occupancy and returned to the family, estate, or other responsible party.

## **Definition**

**Supported Residential Health Care Facilities:** A long-term care residence providing personal assistance at the supported residential care level pursuant to state law. State law defines supported residential health care as reflecting the availability of social or health services, as needed, from appropriately trained or licensed individuals, who need not be employees of the facility, but shall not require nursing services complex enough to require 24-hour nursing supervision. Such facilities may also include short-term medical care for residents of the facility who may be convalescing from an illness and these residents shall be capable of self-evacuation.

**Assisted Living Residence-Residential Care:** A long term care residence providing personal care at the residential care level pursuant to state law. State law defines residential care as requiring a minimum of regulations and reflecting the availability of assistance in personal and social activities with a minimum of supervision or health care, which can be provided in a home or home-like setting.

## **Disclosure Items**

There is a required disclosure summary form that must be made available to residents prior to admission. The information provided includes, among other things: the base rate charged by the facility and the services provided in that rate; staff coverage; transportation; and other services offered. In addition, at the time of admission the licensee must provide the resident a copy of the resident service agreement. This agreement describes the services to be provided, cost, and relevant policies and procedures detailed in regulations.

## **Facility Scope of Care**

**Supported Residential Health Care Facilities:** Must provide the following core services including, but not limited to: the presence of staff whenever a resident is in the facility; health and safety services to minimize the likelihood of accident or injury, protective care and oversight provided 24 hours a day; emergency response and crisis intervention; assistance with taking and ordering medications; food service; housekeeping, laundry, and

maintenance; availability of on-site activities; assistance in arranging medical and dental appointments; and supervision of residents when required. The facility must provide access, as necessary, to nursing services, rehabilitation services, and behavioral health care.

Assisted Living Residence-Residential Care: Must provide the following core services including, but not limited to: health and safety services to minimize the likelihood of accident or injury, with 24-hour protective care and oversight; emergency response and crisis intervention; assistance with taking and ordering medication; food service; housekeeping, laundry, and maintenance; availability of activities; assistance in arranging medical and dental appointments; and supervision of residents when required.

**Third Party Scope of Care** Supported Residential Health Care Facilities: If residents require ongoing medical or nursing care, they may remain, provided their needs are met by facility staff or a licensed home health care agency and the residence meets the health care chapter of the state fire code.

Assisted Living Residence-Residential Care: If a resident's health status changes so that the resident requires ongoing medical or nursing care, or the resident can no longer self-evacuate on his/her own, the resident must be transferred to a facility that is licensed to provide these services.

**Admission and Retention Policy** Supported Residential Health Care Facilities: May only admit persons whose needs are compatible with the facility and the services and programs offered, and whose needs can be met by the Supported Residential Health Care Facility.

Assisted Living Residence-Residential Care: May only admit or retain a person who: has needs that can be met by the facility; is and remains mobile; can self-evacuate or equivalency to safely evacuate; has needs that can be met by the facility personnel and which do not prevent the resident from being able to safely evacuate; and does not require special equipment for transfers to or from a bed or chair. Residents must be capable of self-evacuation without assistance and only require assistance with personal care (as defined by National Fire Protection Association (NFPA) 101).

## **Resident Assessment**

All facilities must assess each resident's needs using a needs determination assessment called the CARES tool that can be obtained by calling (603) 271-9039 or going to the state of New Hampshire website at <https://www.dhhs.nh.gov/doing-business-dhhs/licensing-certification/health-facilities-administration>.

The assessment must be completed no more than 30 days prior to admission or within 24 hours following admission, and every six months thereafter or after any significant change.

## **Medication Management**

Supported Residential Health Care Facilities: Residents can receive medication by any one of the following methods: self-administered without assistance with specific requirements in regulations; self-directed administration of medication with specific requirements in regulations; self-administered with assistance with specific requirements in regulations; or administered by individuals authorized by law.

Assisted Living Residence-Residential Care: Residents can receive medication by any one of the following methods: self administration of medication without assistance as defined in regulations; self-directed medication administration as defined in regulations; self administration of medication with assistance as defined in regulations; or administered by individuals authorized by law, including via delegation pursuant to regulations.

## **Square Feet Requirements**

Supported Residential Health Care Facilities: The square foot requirements vary depending on the size of the facility. For an Supported Residential Health Care Facility licensed for 16 or fewer residents, there shall be at least 80 square feet per room with a single bed and 160 square feet per room with two beds, exclusive of space required for closets, wardrobe, and toilet facilities.

In an Supported Residential Health Care Facility licensed for 17 or more residents, there shall be at least 100 square feet for each resident in each private-bedroom and at least 80 square feet for each resident in a semi-private bedroom, exclusive of space required for closets, wardrobes, and toilet facilities.

Bedrooms in an Supported Residential Health Care Facility licensed prior to the effective date of the applicable rule (October 25, 2006) must provide at least 80 square feet per resident in a private room and at least 70 square feet per resident in a semi-private room. The space requirements are exclusive of space required for closets, wardrobes, and bathroom.

Any Supported Residential Health Care Facilities newly constructed or renovated after the April 2015 revision of He-P 805 shall follow the Facility Guidelines Institutes (FGI) "Guidelines for Design and Construction of Health Care Facilities," Residential Healthcare chapter, 2010 edition.

Assisted Living Residence-Residential Care: Bedrooms shall have at least 100 square feet for each resident in each private bedroom and at least 80 square feet of space in each semi-private room. Assisted Living Residence-Residential Care facilities licensed prior to April 2008 shall provide at least 80 square feet per resident in a private room and at least 70 square feet in each semi-private room. The space requirements are exclusive of space required for closets, wardrobes, and bathroom.

**Residents Allowed Per Room**

A maximum of two residents is allowed per resident unit.

**Bathroom Requirements**

The number of sinks, toilets, and tubs/showers are in a ratio of one to every six residents.

**Life Safety**

Supported Residential Health Care Facilities: The rule is in process of revision to clarify this language consistent with other regulations and codes regarding life safety, construction and fire. Homes will be required to achieve equivalency with the state fire code. Smoke detectors that are hardwired and interconnected are required in every bedroom and on every level. A carbon monoxide monitor and ABC-type fire extinguisher are required on every floor.

Assisted Living Residence-Residential Care: All residents must be able to self-evacuate as defined by NFPA 101 . Homes at this level must comply at a minimum with the NFPA 101, the Residential Board and Care Occupancy chapter. This includes a sprinkler system as required by the state fire and building codes and smoke detectors that are

hardwired and interconnected in every bedroom and on every level. New construction and rehabilitation of existing facilities must the Facility Guidelines Institutes “Guidelines for Design and Construction of Residential Health, Care, and Support Facilities,” Residential Healthcare chapter.

New Hampshire's Department of Health and Human Services enforces the State Fire Code, pursuant to RSA 153:5as adopted by reference, by the State Fire Marshal including, but not limited to, the NFPA 101 Life Safety Code, NFPA 1 Fire Code, and International Building Code.

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

For both levels of licensure, facilities must meet the needs of residents. Locked or secure buildings are prohibited for Assisted Living Residence-Residential Care facilities.

Licensees must provide staff with training that meets the needs of residents.

**Staffing Requirements**

Facilities must employ a full-time administrator who is responsible for day-to-day operations. Full time means at least 35 hours per week, which can include evening and weekend hours. There are no staffing ratio requirements. Personnel levels are determined by the administrator and based on the services required by residents and the size of the facility.

Both Supported Residential Health Care Facilities and Assisted Living Residence-Residential Care licensees shall obtain and review a criminal record check for all applicants for employment and household members 17 years of age or older, and verify their qualifications prior to employment. Unless a waiver is granted, licensees shall not offer employment for any position or allow a household member to continue to reside in the residence if the individual or household member has been convicted of a felony in any state; has been convicted of sexual assault or other violent crime, assault, fraud, abuse, neglect or exploitation or otherwise poses a threat to the health, safety or well-being of a resident.

**Administrator Education/Training**

Administrators in assisted living residences shall be at least 21 years of age.

Supported Residential Health Care Facilities:

Administrators of facilities licensed for 17 or more residents, shall have:

- (1) A Bachelor's degree from an accredited institution and two years of relevant experience working in a health care setting;
- (2) A state license as a registered nurse (RN) with at least two years of relevant experience working in a health care setting;
- (3) An Associate's degree from an accredited institution plus four years of relevant experience in a health care setting; or
- (4) A state license as a Licensed Practical Nurse (LPN) with at least four years of relevant experience working in a health care setting.

Administrators of facilities with 4 to 16 residents are required to meet one of the same combinations, but with only one year of experience is required for those with a Bachelor's degree or licensed as an RN, or two years of experience for those with an Associate's degree or licensed as an LPN. Additionally, an administrator can be a high school graduate or have a GED with six years of relevant experience working a health care setting, with at least two of those years as direct care personnel in a long-term care setting within the last five years.

Assisted Living Residence-Residential Care: All administrators appointed after the November 2017 effective date of the rules shall be at least 21 years old and have one of the following combinations of education and experience:

- (1) A Bachelor's degree from an accredited institution and one year of experience working in a health care facility;
- (2) A New Hampshire license as an RN and at least 6 months of experience working in a health care facility;
- (3) An Associate's degree from an accredited institution and at least 2 years of experience working in a health care facility; or
- (4) A New Hampshire license as an LPN and at least one year of experience working in a health care facility.

Administrators must complete a minimum of 12 hours of continuing education relating to the operation and services of the Assisted Living Residence-Residential Care each annual licensing period.

**Staff Education/Training** All personnel must have orientation and training in the performance of their duties and responsibilities. Prior to having contact with residents or food, all personnel must receive orientation to include specified topics, such as the residents' rights, complaint procedures, position duties and responsibilities, medical emergency procedures, emergency and evacuation procedures, process for food safety, and mandatory reporting requirements. Facilities must provide all personnel with an annual continuing education or in-service education training on specified topics.

Under RSA 151:47 et seq., facilities are required to provide at least 6 hours of initial continuing dementia care education for covered administrative staff members and covered direct service staff members, within 90 days of employment, and at least 4 hours of ongoing training each calendar year. The facility or staff providing the trainings shall issue a completion certificate which is portable between settings.

**Entity Approving CE Program** None specified.

**Medicaid Policy and Reimbursement** A Medicaid Section 1915(c) home and community-based services waiver, Choices for Independence Waiver, covers services in assisted living. The 7-year-old statutory requirement that all of Medicaid long-term care transition into managed care was rescinded by the 2018 passage of House Bill 1816.

**COVID-19 Public Health Emergency** There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations** New Hampshire Code of Administrative Rules, Chapter He-P 800, PART He-P 804: Assisted Living Residence-Residential Care Licensing. [November 3, 2017]  
<https://www.dhhs.nh.gov/administrative-rules-health-facilities>

New Hampshire Code of Administrative Rules, Chapter He-P 800, PART He-P 805: Supported Residential Health Care Licensing. [April 21, 2015]  
<https://www.dhhs.nh.gov/administrative-rules-health-facilities>

New Hampshire Code of Administrative Rules, Chapter He-P 800, Part He-P 813: Adult Family Care Residence.  
[March 29, 2011] <https://www.dhhs.nh.gov/administrative-rules-health-facilities>

Revised Statutes Annotated, Title XI, Chapter 151:  
Residential Care and Health Facility Licensing.  
<http://www.gencourt.state.nh.us/rsa/html/xi/151/151-mrg.htm>

Department of Health and Human Services, Division of  
Community-Based Care Services. Home and Community  
Based Services Waivers.  
<https://www.dhhs.nh.gov/programs-services/disability-care/developmental-services/home-and-community-based-services-waivers>

## New Jersey

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**Licensure Term** Assisted Living Residences, Comprehensive Personal Care Homes and Assisted Living Programs

**Opening Statement** New Jersey's Department of Health (DOH), Division of Health Facilities Evaluation and Licensing, licenses three types of assisted living services:  
(1) assisted living residences, which are new construction;  
(2) comprehensive personal care homes, which are converted residential boarding homes that may not meet all building code requirements; and  
(3) assisted living programs, which are services agencies providing services to tenants of publicly subsidized housing and cannot become licensed as an assisted living residence. Assisted living residences and comprehensive personal care homes may collectively be referred to as assisted living facilities. Facilities providing assisted living services require a certificate of need to be licensed.

In 2012, DOH collaborated with The Health Care Association of New Jersey Foundation to create a voluntary program titled Advanced Standing. To receive the department's distinction of Advanced Standing, a facility must comply with all applicable local, state, and federal regulations as well as submit quality data that reaches benchmarks established by a peer review panel. Once these requirements are satisfactorily met, DOH will make the final determination on Advanced Standing. A facility that participates in the Advanced Standing program does not receive a routine survey by DOH. However, any time a facility falls below DOH standards, such as poor performance on a complaint investigation, that facility can be removed for cause from the program by DOH. In addition, DOH provides follow-up surveys based on a random sample of facilities that participate in the program. The program is open to all licensed assisted living residences and comprehensive personal care homes.

## **Legislative and Regulatory Update**

The Assisted Living Residences regulations – Title 8, Chapter 36 – were readopted with no changes on November 18, 2021.

Under N.J. Stat. § 26:2H-12.87 (current through 2022), Assisted Living Residences are required to:

- 1) develop an outbreak response plan which is customized to the facility, based upon national standards and developed in consultation with the facility's infection prevention and control committee;
- 2) publish the facility's outbreak response plan on its Internet website if the facility maintains an Internet website, distribute copies of the plan to residents and their families upon admission to the facility, and provide notice to residents and their families any time the facility makes material changes to its plan;
- 3) annually perform preparedness drills to evaluate the effectiveness of its outbreak response plan; and
- 4) designate employees who receive special training in infection control and who shall be representative of the facility's staff, including certified nurse aides, licensed practical nurses, and registered nurses. These employees distribute infection control information, assist with infection control implementation and policy development, and participate in quarterly infection control training exercises to maintain competency in using personal protection equipment.

## **Definition**

**Assisted Living:** A coordinated array of supportive personal and health services, available 24 hours per day, to residents who have been assessed to need these services including persons who require nursing home level of care. Assisted living promotes resident self-direction and participation in decisions that emphasize independence, individuality, privacy, dignity, and homelike surroundings.

**Assisted Living Residences:** A facility which is licensed by DOH to provide apartment-style housing and congregate dining and to ensure that assisted living services are available when needed, for four or more adult persons unrelated to the proprietor. Apartment units offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette, and a lockable door on the unit entrance.

Comprehensive Personal Care Home: Provide room and board to ensure that assisted living services are available when needed, to four or more adults unrelated to the proprietor. Residential units in comprehensive personal care homes house no more than two residents and have a lockable door on the unit entrance.

Assisted Living Program: The provision of or arrangement for meals and assisted living services, when needed, to the tenants (also known as residents) of publicly subsidized housing which—because of any Federal, State, or local housing laws, rules, regulations or requirements—cannot become licensed as an assisted living residence. An assisted living program may also provide staff resources and other services to a licensed assisted living residence and a licensed comprehensive personal care home.

**Disclosure Items**

Facilities must disclose their policies concerning Medicaid admissions to prospective and current residents. Providers must distribute a statement of residents' rights, which are specified in regulation.

**Facility Scope of Care**

Facilities provide a coordinated array of supportive personal and health services 24 hours per day, including assistance with personal care, nursing, pharmacy, dining, activities, recreational, and social work services to meet the individual needs of each resident. The assisted living residence, comprehensive personal care home, or assisted living program must be capable of providing nursing services to maintain residents, including residents who require nursing home level of care.

**Third Party Scope of Care**

Facilities may contract with licensed home health agencies.

**Admission and Retention Policy**

New Jersey has no entry requirements or restrictions. Mandatory discharge is required if a resident requires specialized long-term care, such as respirators, ventilators, or severe behavior management. Facilities may specify other discharge requirements, such as if the resident is:

- (1) bedridden for more than 14 consecutive days;
- (2) requires 24-hour nursing supervision;
- (3) is totally dependent on assistance with four or more activities of daily living;
- (4) has a cognitive decline severe enough to prevent the making of simple decisions;
- (5) has a stage III or IV pressure sore;

- (6) has multiple stage II pressure sores with exceptions;
- (7) requires more than assistance with transfer;
- (8) is a danger to self or others;
- (9) or has a medically unstable condition or special health problem that cannot be properly addressed in the assisted living environment.

**Resident Assessment**

Upon admission, each resident must receive an initial assessment to determine his or her needs. If the initial assessment indicates that the resident requires health care services, a health care assessment must be completed within 14 days of admission by a registered professional nurse using a form either from DOH or meeting specified criteria. Residents must be reassessed in a time frame that depends on the type of service plan they have in place.

**Medication Management**

Certified nurse aides, certified home health aides, or staff members who have other equivalent training approved by the DOH and who have completed a medication aide course and passed a certifying exam are permitted to administer medication to residents under the delegation of a registered nurse (RN). Allowable injections include epinephrine and pre-drawn insulin injections as well as disposable insulin delivering mechanical devices commonly known as "pens." Effective January 2013, an assisted living facility may request a waiver from the Department that will allow the RN to delegate to certified medical aides the administration of injectable medications (in addition to insulin) via disposable, integrated, mechanical medication delivery devices that are prefilled by the manufacturer.

**Square Feet Requirements**

For newly constructed assisted living residences or alterations or renovations to existing buildings to create a residence, private resident units must provide a minimum of 150 square feet of clear and usable floor area and semi-private resident units must provide a minimum of 80 additional square feet for an additional resident. This calculation excludes closets, bathroom, kitchenette, hallways, corridors, vestibules, alcoves and foyers unless there is written request from the applicant to consider an alcove, foyer or vestibule as usable floor area.

**Residents Allowed Per Room**

A maximum of two residents is allowed per resident unit.

**Bathroom Requirements** For newly constructed assisted living residences or alterations or renovations to existing buildings to create a residence, a bathroom with a toilet, bathtub/shower, and sink must be located in each resident unit. Additional toilet facilities located in areas other than the residential units must be provided to meet the needs of residents, staff, and visitors to the facility.

**Life Safety** Smoke detectors are required in all resident bedrooms, living rooms, studio apartment units, and public areas of the facility. A comprehensive automatic fire suppression system is required throughout the building (in accord with the Uniform Construction Code), unless an exemption has been applied for and granted. New Jersey uses National Fire Protection Association standards.

**Unit and Staffing Requirements for Serving Persons with Dementia** Facilities that advertise or hold themselves out as having an Alzheimer's unit are required to establish written policies and procedures for the unit, establish criteria for admission and discharge from the unit, have staff attend a mandatory training program, compile staffing information, and provide, upon request, a list of activities directed toward Alzheimer's residents and safety policies and procedures specific to residents diagnosed with Alzheimer's.

In a facility that advertises or holds itself out as having an Alzheimer's/dementia program, training in specialized care shall be provided to all licensed and unlicensed staff who provide direct care to residents with Alzheimer's or dementia.

**Staffing Requirements** An administrator must be appointed. An administrator or their designated alternate must be available at all times and on site on a full-time basis in facilities with 60 or more licensed beds and on a half-time basis in facilities with fewer than 60 licensed beds. Staffing must be sufficient to meet residents' needs. At least one awake personal care assistant and one additional employee must be on site 24 hours per day. An RN must be available 24 hours per day.

**Administrator Education/Training** Administrators must be at least 21 years of age and possess a high school diploma or equivalent. Administrators must also either hold a current New Jersey license as a nursing home administrator or be a New Jersey certified assisted living administrator.

Administrators must complete a minimum of 30 hours of continuing education every three years relating to assisted living concepts and related topics.

### **Staff Education/Training**

The facility or program shall develop and implement a staff orientation and a staff education plan, including plans for each service and designation of person(s) responsible for training. All personnel shall receive orientation at the time of employment and at least annual in-service education regarding topics such as, but not limited to: the provision of services and assistance in accordance with the concepts of assisted living and including care of residents with physical impairment; emergency plans and procedures; the infection prevention and control program; resident rights; abuse and neglect; pain management; and the care of residents with Alzheimer's and related dementia conditions.

Personal care assistants must either successfully complete an approved nurse aide training course, an approved homemaker/home health aide training program, or other equivalent approved training program. They must complete at least 20 hours of continuing education every two years in assisted living concepts and related topics, including cognitive and physical impairment and dementia.

Medication aides must complete an additional 10 hours of continuing education related to medication administration and elderly drug use every two years.

In addition, administrators and staff receive training within one year of hire and then biennially, concerning:

- (1) caring for LGBTQI seniors and seniors living with HIV; and
- (2) preventing discrimination based on sexual orientation, gender identity or expression, intersex status, and HIV status.

### **Entity Approving CE Program**

The New Jersey Nursing Home Administrators Licensing Board grants continuing education credit for continuing education programs approved by any one of the following entities: the National Association of Long Term Care Administrator Boards (NAB); a member state of the NAB; state or national associations or professional societies of licensed nursing home administrators; state or national associations of long-term healthcare facilities; state or national accredited institutions of higher learning; and state or national professional boards practicing in areas relevant

to nursing home administration and the care of nursing home residents.

### **Medicaid Policy and Reimbursement**

Assisted living facilities and the assisted living program are reimbursed under the NJ Medicaid Managed Long Term Services and Supports (MLTSS) waiver. New Jersey consolidated its home and community-based waiver programs into one Section 1115 waiver, which includes coverage of assisted living services. All Medicaid recipients residing in an assisted living residence, comprehensive personal care home, or receiving services in an assisted living program are required to choose a health care provider from within a managed care network.

### **COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

### **Citations**

New Jersey Administrative Code, Title 8, Chapter 36: Standards for Licensure of Assisted Living Residences, Comprehensive Personal Care Homes, and Assisted Living Programs. [December 23, 2013].

[https://www.nj.gov/health/healthfacilities/documents/rfpappendixes/appendix\\_a.pdf](https://www.nj.gov/health/healthfacilities/documents/rfpappendixes/appendix_a.pdf)

New Jersey Department of Human Services, Division of Medical Assistance & Health Services. Medicaid Managed Long Term Services and Supports (MLTSS).

<http://www.nj.gov/humanservices/dmahs/home/mltss.html>

N.J. Stat. § 26:2H-12.87 (current through 2022)

<https://casetext.com/statute/new-jersey-statutes/title-26-health-and-vital-statistics/chapter-262h-declaration-of-public-policy/section-262h-1287-definitions-requirements-for-certain-facilities-relative-to-outbreak-response-plans>

## New Mexico

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**Licensure Term** Assisted Living Facilities

**Opening Statement** New Mexico's Department of Health, Division of Health Improvement, licenses and regulates assisted living facilities (ALFs), which were previously called adult residential care facilities. Health Facility Licensing & Certification (HFLC) is composed of two bureaus, the Program Operations Bureau and the District Operations Bureau. These two bureaus are responsible for the licensing and certifying of all health facilities in New Mexico. Facilities that provide memory care unit must meet additional requirements relating to care coordination, staffing, employee training, individualized service plans, assessments and reevaluations, documentation, security, and resident rights.

**Legislative and Regulatory Update** On October 27, 2020, the Assisted Living regulations were amended to reduce the minimum age of Direct Care Staff (DCS) from 18 to 16. This amendment was in response to a shortage of DCS due to the COVID-19 public health emergency.

The Long-Term Care Facility Dementia Training Act was passed during the 2021 Legislative session. This requires all direct care staff of long-term care facilities to have at least four hours of training to identify possible dementia in a resident and provide appropriate care.

**Definition** An ALF provides programmatic services, room, board, and/or assistance with one or more activities of daily living (ADLs) to two or more unrelated individuals.

**Disclosure Items** Prior to admission to a facility, a prospective resident or his or her representative must be given a copy of the facility rules pertaining to the resident's rights and a written description of the legal rights of the residents. The rules must include but are not limited to: resident use of tobacco,

alcohol, telephone, television, and radio; use and safekeeping of personal property; meal availability and times; use of common areas; accommodation of pets; and use of electric blanks and appliances.

**Facility Scope of Care** The facility may provide assistance with ADLs and periodic professional nursing care for adults with physical or mental disabilities.

**Third Party Scope of Care** As applicable, residents must be given a list of outside providers, such as hospice and home health, offering services in the facility. Residents have a right to choose their provider.

**Admission and Retention Policy** Facilities may not retain residents requiring 24-hour continuous nursing care; this limitation does not apply to hospice residents who have elected to receive the hospice benefit. Conditions usually requiring continuous nursing care may include, but are not limited to, the following: ventilator dependency; stage III or IV pressure sores; any condition requiring either chemical or physical restraints; nasogastric tubes; tracheostomy care; imminent threat to self or others; decline in psychological or physical condition such that placement in the facility is no longer appropriate as determined by their physician; diagnoses requiring isolation techniques; use of Hoyer lift; and ostomy care, unless resident can provide self-care. Regulations specify an exceptions process to the admission, readmission, and retention requirements.

**Resident Assessment** A resident evaluation must be completed within 15 days prior to admission to determine the level of assistance needed and if the level of services required can be met by the facility. The evaluation is used to establish a baseline in the resident's functional status. The form must include an assessment of cognitive abilities, communication/hearing, vision, physical functioning and skeletal problems, incontinence, psychosocial well-being, mood and behavior, activity interests, diagnoses, health conditions, nutritional status, oral/dental status, skin conditions, medication use and level of assistance needed, special treatment and procedures or special medical needs, and safety needs/high risk behaviors. The evaluation must be reviewed and if needed, updated by a Licensed Practical Nurse (LPN), Registered Nurse (RN) or a Physician

Extender (PE) a minimum of every six months or when there is a significant change in the resident's health status.

**Medication Management** Licensed health care professionals are responsible for the administration of medications. If a resident gives written consent, trained facility staff may assist a resident with the self-administration of medications.

**Square Feet Requirements** Private resident units must be a minimum of 100 square feet and semi-private resident units must provide a minimum of 80 square feet of floor space per resident, excluding the closet and locker area.

**Residents Allowed Per Room** A maximum of two residents is allowed per resident unit.

**Bathroom Requirements** A minimum of one toilet, sink, and bathing unit must be provided for every eight residents. Each facility shall provide at least one tub and shower or a combination unit to allow for residents' bathing preferences. Facilities with four or more residents shall provide a handicap accessible bathroom for every 30 residents that allows for a bathing preference.

**Life Safety** Although automatic sprinkler systems are not mandated for facilities with eight or fewer residents, manual fire alarm systems are required. Electric smoke detectors/alarms with battery backup are required on each floor to be audible in all sleeping areas. Smoke detectors are required in areas of assembly such as dining rooms and living rooms. Smoke detectors must also be installed in corridors with no more than thirty-foot spacing. Heat detectors, powered by the house electrical service, must be installed in all enclosed kitchens. New facilities and existing facilities that remodel are required to have smoke detectors in all sleeping rooms and common living areas.

**Unit and Staffing Requirements for Serving Persons with Dementia** A memory care unit means an ALF or part of or an ALF that provides added security, enhanced programming and staffing appropriate for residents with a diagnosis of dementia, Alzheimer's disease or other related disorders causing memory impairments and for residents whose functional needs require a specialized program. Facilities that provide a memory care unit to serve residents with dementia must meet additional requirements relating to care coordination, employee training, individual service

plans, assessments and reevaluations, documentation, security, resident rights, disclosure, and staffing.

Facilities must provide sufficient number of trained staff members to meet the additional needs of residents and there must be at least one staff member awake and in attendance in the secured environment at all times.

Facilities operating a secured environment for memory care must disclose specified information to the resident and resident's legal representative including information about the types of diagnoses or behaviors, and the care, services, and type of secured environment that facility and trained staff provide.

In addition to training requirements for all ALFs, all employees assisting in providing care for memory unit residents shall have a minimum of 12 hours of training per year related to dementia, Alzheimer's disease, or other pertinent information relating to the current residents.

### **Staffing Requirements**

An ALF must be supervised by a full-time administrator. The facility must have a sufficient number of staff to provide basic care, resident assistance, and supervision. The minimum staff-to-resident ratio is one staff person on duty and awake to 15 or fewer awake residents. When residents are sleeping, there must be one direct care worker on duty, awake and responsible for 15 or fewer residents; one direct care worker on duty and awake and one staff person available on the premises for 16 to 30 residents; two direct care workers on duty and awake and one staff person immediately available on the premises for 31 to 60 residents; and at least three direct care workers on duty and awake and one staff person immediately available on the premises for each additional 30 residents or fraction thereof if the facility has more than 61 residents. All employees must complete a criminal background check.

### **Administrator Education/Training**

Assisted living administrators must be at least 21 years of age, have a high school diploma or equivalent, complete a state-approved certification program, undergo criminal background checks, and meet other requirements.

### **Staff Education/Training**

Direct care staff must be at least 16 years of age and have adequate education, training, or experience to provide for the needs of residents. Direct care staff are required to complete 16 hours of supervised training prior to providing

unsupervised care. Twelve hours of training shall be required at orientation member and annually, covering fire safety and evacuation training; first aid; safe food handling practices; confidentiality of records and resident information; infection control; resident rights; reporting requirements for abuse, neglect, and exploitation; smoking policy for staff, residents and visitors;\_transportation safety for assisting residents and operating vehicles to transport residents; methods to provide quality resident care; emergency procedures; medication assistance, including the certificate of training for staff that assist with medication delivery; and the proper way to implement a resident individual service plan (ISP) for staff that assist with ISPs. For facilities offering hospice services, all staff must receive six hours of palliative/hospice care training plus one additional hour for each hospice resident's ISP annually. For facilities operating as a memory care unit, all staff must receive 12 hours of dementia specific training annually related to dementia, Alzheimer's disease, or other pertinent information in addition to the training requirements for all assisted living facilities.

**Entity Approving CE Program**

None specified.

**Medicaid Policy and Reimbursement**

New Mexico's Section 1115 Centennial Care 2.0 demonstration covers the Medicaid managed care population and provides a range of core services in assisted living. Core services include assistance to the member in meeting a broad range of ADLs; personal support services (e.g., homemaker, chore, attendant services, meal preparation); companion services; medication oversight (to the extent permitted under State law); 24-hour, on-site response capability to meet scheduled or unpredictable eligible member needs; supervision, safety, and security; and social and recreational programming. Excluded services are as follows: Personal Care, Respite, Environmental Modifications, Emergency Response or Adult Day Health; the Assisted Living Program is responsible for all of these services at the Assisted Living Facility. In December 2018, the Centers for Medicare and Medicaid Services approved an extension of the demonstration December 2023.

**COVID-19 Public Health  
Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

New Mexico Administrative Code, Title 7, Chapter 8, Part 2: Assisted Living Facilities for Adults. [January 15, 2010, amended effective 3/26/2020].

<https://www.srca.nm.gov/parts/title07/07.008.0002.html>

State of New Mexico Human Services Department, Centennial Care 2.0 Section 1115 Waiver Amendment #2 Request to The Centers for Medicare & Medicaid Services (CMS), U.S. Department of Health and Human Services. [March 1, 2021].

[https://www.hsd.state.nm.us/wp-content/uploads/To-CMS\\_Amendment-2-Application\\_FINAL\\_v3.pdf](https://www.hsd.state.nm.us/wp-content/uploads/To-CMS_Amendment-2-Application_FINAL_v3.pdf)

New Mexico Human Services Department, Medical Assistance Division.

[https://www.hsd.state.nm.us/about\\_the\\_department/medical\\_assistance\\_division/](https://www.hsd.state.nm.us/about_the_department/medical_assistance_division/)

## New York

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**Licensure Term** Adult-Care Facilities, Adult Homes, Enriched Housing Programs, and Assisted Living Residences

**Opening Statement** In New York, Adult Care Facilities (ACF) provide long-term, non-medical residential services to adults who are substantially unable to live independently due to physical, mental, or other limitations associated with age or other factors. Residents must not require the continual medical or nursing services provided in acute care hospitals, in-patient psychiatric facilities, skilled nursing homes, or other health related facilities, as Adult Care Facilities are not licensed to provide for such nursing or medical care.

The Department of Health (DOH) licenses three types of adult-care facilities that provide a continuum of long-term residential care for seniors: adult homes, enriched housing programs (lowest level of care), and assisted living residences for adults with additional certifications (highest level of care). In 2004, legislation passed that created a new structure of adult care in New York. The system can be viewed as a continuum across the three types of adult-care facilities, and it is the provider's option to determine the level within the continuum at which they would like to operate.

Licensed adult homes and enriched housing programs have similar provisions except that enriched housing programs require private resident units and do not have to offer more than one meal per day. Assisted living residences, based on the additional certification can offer a higher level of care. Any facility meeting the definition of assisted living residence must first have or obtain a base licensure as an adult home or enriched housing program.

Operators of an Assisted Living Residence (AL)R) may also be certified as special needs assisted living to provide services to individuals with special needs, including individuals with dementia or cognitive impairments in accordance with an Individualized Service Plan or as enhanced assisted living that provides services that may

enable a resident to age in place in accordance with an Individualized Service Plan.

The state has additional requirements for the provision of and payment for assisted living program services for Medicaid beneficiaries.

### **Legislative and Regulatory Update**

The DOH has promulgated new regulations to streamline tuberculosis testing for facility staff and to require that certain adult homes provide adequate space for private communication between residents and representatives of external entities regarding possible transitions to alternative community settings. Effective November 24, 2021, prior to employment or affiliation, all personnel, except for personnel with no clinical or patient contact responsibilities who are located in a building or site with no patient care services, must complete an initial individual tuberculosis (TB) risk assessment, symptom evaluation, and TB test, with annual assessments thereafter. As of December 15, 2020, facility operators must cooperate with the community transition coordinator, managed long-term care plans and other external individuals or entities to provide, without charge, space for residents to meet privately with such individuals or entities regarding possible transitions to alternative community settings.

Space provided for meetings with providers defined in this section shall be:

- (1) a minimum of 160 square feet;
- (2) above grade level;
- (3) adequately lighted and ventilated and meet the temperature requirements;
- (4) with a door that closes to ensure conversations held within the space are private and that outside disruptions are minimized;
- (5) space separate and distinct from an occupied or reserved resident room or space used primarily for storage; and
- (6) space that is not under surveillance by adult home staff.

### **Definition**

**Adult-care Facility:** A family-type home for adults, a shelter for adults, a residence for adults or an adult home, which provides temporary or long-term residential care and services to adults who—by reason of physical or other limitations associated with age, physical or mental disabilities or other factors—are unable or substantially

unable to live independently. These adults do not require continual medical or nursing care.

**Adult Home:** A type of adult-care facility that provides long-term residential care, room, board, housekeeping, personal care, and supervision to five or more adults unrelated to the operator.

**Enriched Housing Program:** A type of adult-care facility that provides long-term residential care to five or more adults (generally 65 years of age or older) in community-integrated settings resembling independent housing units and provides or arranges for room, board, housekeeping, personal care, and supervision. Dwelling units in this setting resemble apartments.

All operators are required to have either a base licensure as an adult home or an enriched housing program.

**Assisted Living and an Assisted Living Residence:** A type of adult care facility that has a base licensure as an adult home or enriched housing program and provides a higher level of care. These operators may also be certified as special needs assisted living to provide dementia care, or as enhanced assisted living to support aging in place. These homes provide or arrange for housing, on-site monitoring, and personal care and/or home care services, either directly or indirectly, in a homelike setting to five or more adults unrelated to the assisted living provider. An assisted living operator must provide each resident with considerate and respectful care and promote the resident's dignity, autonomy, independence, and privacy in the least restrictive and most homelike setting consistent with the resident's preferences and physical and mental status.

**Enhanced Assisted Living Residence:** A certification issued by the Department of Health and that may be obtained for either a portion of or an entire residence. The certification authorizes an assisted living residence to provide "aging in place" by retaining residents who desire to continue to live in that residence and who:

- (1) Are chronically chairfast and unable to transfer, or chronically require the physical assistance of another person to transfer;
- (2) Chronically require the physical assistance of another person in order to walk;

- (3) Chronically require the physical assistance of another person to climb or descend stairs;
- (4) Are dependent on medical equipment and require more than intermittent or occasional assistance from medical personnel; or
- (5) Have chronic unmanaged urinary or bowel incontinence.

Special Needs Assisted Living: A certification issued by the Department of Health that allows a facility to serve individuals with special needs, such as dementia or cognitive impairments. A facility must submit to the Department a special needs plan demonstrating how the special needs of the residents will be safely and appropriately met. The Department of Health has developed guidance specifically to ensure adequate staffing and training.

Assisted Living Program: Separate from the assisted living residence classification is the assisted living program, which serves individuals who are medically eligible for nursing home placement, but who are not in need of the highly structured, medical environment of a nursing facility and whose needs could be met in a less restrictive and lower cost residential setting. Assisted living programs are responsible for providing residents with long term residential care, room, board, housekeeping, personal care, supervision, and providing or arranging for home health services. The programs are required to hold dual licenses/certification as an adult home or enriched housing program and as a licensed home care services agency (LHCSA) (they do not have to hold a dual license, they can contract with a LHCSA if they are not certified as one), long term home health care program, or certified home health agency (CHHA). If the assisted living program is licensed as a LHCSA, it must contract with a CHHA for provision of skilled services to its residents. Assisted living programs may receive Medicaid reimbursement for the health care services provided, whereas an assisted living resident may not.

## Disclosure Items

When any marketing materials or a copy of the residency agreement is distributed, the operator must provide the following on a separate information sheet:

- (1) The consumer information guide developed by the Commissioner of the Department of Health. Residents and potential residents may be referred to the Department's

website, but a hard copy must be provided by the facility if requested.

(2) A statement listing the residence's licensure and if the residence has an enhanced assisted living and/or special needs enhanced assisted living certificate, and the availability of enhanced and/or special needs beds and the services provided under those certifications.

(3) Specific ownership information related to entities that provide care, material, equipment, or other services to the residents.

(4) A statement regarding the ability of residents to receive services from providers with whom the operator does not have an arrangement.

(5) A statement that residents have the right to choose their health care providers.

(6) A statement regarding the availability of public funds for payment for residential, supportive, or home health services, including the availability of Medicare for coverage of home health services.

(7) The toll-free number for the Department of Health for complaints regarding home care services and services provided by the assisted living operator.

(8) Information regarding the availability of ombudsman services and the telephone numbers of state and local ombudsmen.

### **Facility Scope of Care**

Adult Home and Enriched Housing Program: At a minimum, must provide room, board, supervision, personal care, housekeeping, case management, activities, food service, and assistance with self-administration of medication.

Assisted Living Residence: Provides daily food service, 24-hour onsite monitoring, case management services, and the development of an individualized service plan for each resident.

Certified Enhanced Assisted Living Residence: May allow residents to age in place when the provider, the resident's physician, and, if necessary, the resident's licensed or certified home care agency agree that the additional needs of the resident can be safely met.

### **Third Party Scope of Care**

Adult Home and Enriched Housing Program: Facilities must access and cooperate with external service providers on

behalf of residents who need services not provided by the home or program.

Assisted Living Residence: Unless the facility is certified to provide enhanced or special needs care, it must arrange for any needed health care services to be provided by a home care services agency. Residents may contract with a home health agency or a long-term home health care program of their choice.

## **Admission and Retention Policy**

Residents who have stable medical conditions and are capable of self-preservation with assistance may be admitted. Regulations specify when persons may not be admitted, including but not limited to people: who need continuous nursing care; are chronically bedfast; or are cognitively, physically, or mentally impaired to the point that the resident's safety or safety of others is compromised. No adult home with a capacity of 80 or greater may admit or retain more than 25 percent census of residents with serious mental illness.

Certified Enhanced Assisted Living Residence: A resident in need of 24-hour skilled nursing care or medical care may continue residency when all of the following conditions are met:

- (1) The resident in need of 24-hour skilled care hires appropriate nursing, medical, or hospice staff to meet his or her needs;
- (2) The resident's physician and home care services agency determine and document that the resident can be safely cared for in the residence;
- (3) The assisted living provider agrees to retain the resident and coordinate the care for all providers; and
- (4) The resident is otherwise eligible to reside at the residence.

## **Resident Assessment**

Adult Home: A medical evaluation and an interview between the administrator (or a designee) and the resident or the resident's representative must be conducted. In the event that a proposed resident has a known history of chronic mental disability, or the medical evaluation or resident interview suggests such disability, then a mental health evaluation must be conducted.

Enriched Housing Program: Prior to admission, a functional assessment must be completed on a form prescribed or approved by the Department. Each functional assessment

must address activities of daily living, instrumental activities of daily living, sensory impairments, behavioral characteristics, personality characteristics, and daily habits. The functional assessment, a medical assessment and a mental health evaluation if needed must be conducted when a change in a resident's condition warrants and no less than once every 12 months.

**Assisted Living Residence:** Each assisted living resident will have an individualized service plan (ISP) developed when they move into a residence. The ISP is developed jointly by the resident, the resident's representative if applicable, the assisted living operator, a home care agency (as determined by the resident's physician), and in consultation with the resident's physician. The ISP must address the medical, nutritional, rehabilitation, functional, cognitive, and other needs of the resident. The ISP must be reviewed and revised at least every six months or when required by the resident's changing care needs.

**Medication Management** Assistance with self-administration of medication is permitted in facilities. This includes prompting, identifying the medication for the resident, bringing the medication to the resident, opening containers, positioning the resident, disposing of used supplies, and storing the medication.

**Square Foot Requirements** **Adult Home:** May provide either single- or double-occupancy resident units. Single bedrooms shall have a minimum floor area of 100 square feet and double bedrooms shall have a minimum floor area of 160 square feet, exclusive of foyer, wardrobe, closets, lockers and toilet rooms.

**Enriched Housing Program:** Must provide single-occupancy units unless residents want to share. Single bedrooms must have a minimum floor area of 85 square feet and double bedroom must have a minimum floor area of 140 square feet, exclusive of foyer, wardrobe, closets, lockers and toilet rooms.

**Residents Allowed Per Room** A maximum of two residents is allowed per resident unit.

**Bathroom Requirements** **Adult Home:** Must provide at least one toilet and lavatory for every six residents and one tub/shower for every 10 residents.

Enriched Housing Program: Must provide one toilet, lavatory, shower, or tub for every three residents.

Assisted Living Residence: None specified (they must follow the regulations of their base licensure).

## **Life Safety**

Adult Home and Assisted Living Residence for Adults:  
(1) Regulations require an automatic sprinkler system throughout in buildings housing 25 or more residents;  
(2) The Building Code of New York State (modeled after the International Building Code) requires an automatic sprinkler system in accordance with the applicable occupancy group designated for the adult-care facility;  
(3) Regulations require a supervised smoke detection system installed throughout the building; and  
(4) Regulations require all fire protection systems required to be directly connected to the local fire department or to a 24/7- attended central station.

Enriched Housing Program: The state building code requires the installation of automatic sprinkler systems, detection systems, and fire alarm and early warning systems in accordance with the applicable occupancy group designated for the adult-care facility.

The state has additional requirements for assisted living programs.

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

Operators may be certified as special needs assisted living to provide dementia care. Dementia units must be designed as self-contained units. Fully locked facilities are prohibited, but units must have a delayed-egress system on all external doors as well as window stops and enclosed courtyards. Facilities must meet additional fire safety rules.

Any adult-care facility with approved dementia units is required to provide staff training in characteristics and needs of persons with dementia, including behavioral symptoms, and mental and emotional changes. The training should include methods for meeting the residents' needs on an individual basis. Further, in order to obtain approval for a special needs assisted living residence, an operator must submit a plan to the Department which must include not only proposed staffing levels, but also staff education, training, work experience, and professional affiliations or special characteristics relevant to the

population the residence is intending to serve (including Alzheimer's or other dementias).

## **Staffing Requirements**

**Adult Home:** An administrator must be employed to be directly accountable for operating and maintaining the facility in compliance with applicable requirements. Facilities must have a case manager and staffing sufficient to provide the care needed by residents. The regulations specify staffing ratios. For adult homes, a minimum of 3.75 hours of personal services staff time is required per week per resident.

**Enriched Housing Program:** The facility must have a program coordinator responsible for operating and maintaining the program in compliance with applicable requirements; a case manager to evaluate residents' needs and perform other case management duties, including investigating and reporting reportable incidents to the Department; and personal care staff to assist residents. Facilities must have staffing sufficient to provide the care needed by residents. The regulations specify staffing ratios. A minimum of 6 hours of personal services staff time is required per week per resident.

**Assisted Living Residence:** The facility must have an administrator who is responsible for daily operations and compliance with applicable rules; a case manager to assist residents with housing issues, information about local services and activities, and contacting appropriate responders in urgent and emergency situations; and resident aides to provide personal care assistance. Facilities certified to provide enhanced assisted living must, in addition, have licensed practical nurses, registered nurses, and home health aides. There are no minimum staffing ratios, though resident aides must be present in sufficient numbers 24 hours a day to meet resident's needs.

## **Administrator Education/Training**

**Adult Home and Assisted Living Residence:** Administrators generally must be at least 21 years of age, be of good moral character as evidenced by three letters of recommendations, and have varying levels of education and experience based in part on the number of residents in the facility. For example, in a facility with 24 beds or less, an administrator must:

- (1) have a high school diploma or equivalency certificate, plus three years of related work experience, one year of which includes supervisory experience;
- (2) an associate degree from an accredited college or university in an approved course of study, plus two years of related work experience; or
- (3) a Bachelor's degree from an accredited college or university in an approved course of study, plus one years of related supervisory work experience.

The experience requirements increase as the size of the facility increases and are detailed in regulations.

Administrators not holding a current New York license as a nursing home administrator must complete a minimum of 60 hours of continuing education every two years.

**Entity Approving CE**

Adult Home and Enriched Housing Program: Must provide an orientation and in-service training in the characteristics and needs of the population served, resident rights, program rules and regulations, duties and responsibilities of all staff, general and specific responsibilities of the individual being trained, and emergency procedures. There must be ongoing in-service training and opportunities for employees and volunteers to participate in work-related training.

Assisted Living Residence: Must provide orientation to facility policies and procedures; resident characteristics; and emergency evacuation and disaster plans.

**COVID-19 Public Health Emergency**

This is a Statutory Authority Public Health Law, Sections 201, 206, and 225.

**Entity Approving CE Program**

None specified. Regulations state that CE courses require the approval of the Department.

**Medicaid Policy and Reimbursement**

New York's state plan covers personal care services offered under the assisted living program. In addition to the program, services provided by adult-care facilities may be covered for eligible residents. Medicaid reimbursement is not available for people in assisted living residences.

**Citations**

New York Codes, Rules and Regulations.  
<https://regs.health.ny.gov/>

- Title 10, Chapter X, Part 1001: Assisted Living Residences, Section 1001.11 - Personnel. <https://regs.health.ny.gov/content/section-100110-resident-services>
- Title 10, Section 2.62: COVID-19 Testing Requirements. <https://regs.health.ny.gov/volume-title-10/content/section-26-investigations-and-response-activities>
- Title 18, Part 485: Adult-Care Facilities, General Provisions. <https://regs.health.ny.gov/volume-b-1-title-18/2004847564/part-485-general-provisions>
- Title 18, Part 486: Adult-Care Facilities, Inspection and Enforcement. <https://regs.health.ny.gov/content/part-486-inspection-and-enforcement>
- Title 18, Part 487: Adult-Care Facilities, Standards for Adult Homes. <https://regs.health.ny.gov/volume-b-1-title-18/content/part-487-standards-adult-homes>
- Title 18, Part 488: Adult-Care Facilities, Standards for Enriched Housing. <https://regs.health.ny.gov/volume-b-1-title-18/content/part-488-adult-care-facilities-standards-enriched-housing>
- Title 18, Part 490: Adult-Care Facilities, Standards for Residences for Adults. <https://regs.health.ny.gov/content/part-490-standards-residences-adults>
- Title 18, Part 494: Adult-Care Facilities, Standards for Assisted Living Programs. <https://regs.health.ny.gov/content/part-494-assisted-living-program>
- Title 18, Section 505.35: Assisted living programs. <https://regs.health.ny.gov/content/section-50535-assisted-living-programs>

Department of Health, NY Medicaid EHR Incentive Program Administration. Consumer Guide to Community-Based Long Term Care. [https://www.health.ny.gov/health\\_care/medicaid/program/longterm/](https://www.health.ny.gov/health_care/medicaid/program/longterm/)

Department of Health. Adult Care Facilities/Assisted Living. [https://www.health.ny.gov/facilities/adult\\_care/](https://www.health.ny.gov/facilities/adult_care/)

Department of Health. Adult Care Facility Services.  
[https://www.health.ny.gov/facilities/adult\\_care/intro.htm](https://www.health.ny.gov/facilities/adult_care/intro.htm)

## North Carolina

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**Licensure Term** Assisted Living Residences, Adult Care Homes, and Multi-unit Assisted Housing with Services Facilities

**Opening Statement** The term assisted living residences (ALR) includes adult care homes (ACH) and multi-unit assisted housing with services (MAHS) facilities. ACHs are licensed and MAHSs register with the state.

The North Carolina Department of Health and Human Services, Division of Health Service Regulation, licenses ACHs based on size. ACHs that serve two to six residents are commonly called family care homes (FCHs), and those that serve seven or more residents are referred to as ACHs.

MAHS facilities must register with the Division of Health Service Regulation, but are not licensed.

**Legislative and Regulatory Update** According to North Carolina General Statutes Chapter 150B. Administrative Procedure Act, all rules must be reviewed at least every 10 years, or they shall expire. As a result of the periodic review of Subchapters 10A NCAC 13F, Licensing of Adult Care Homes of Seven or More Beds, and 10A NCAC 13G, Licensing of Family Care Homes, four proposed readoption rules were determined as "Necessary with Substantive Public Interest," requiring readoption; one rule was proposed for amendment for the regulation of licensed Adult Care Homes and Family Care Homes. An intent of the proposed rules is to make the rules of these two types of assisted living residences comparable, if not the same, for regulatory efficiency since they both house the same type of residents.

In November 2021, the state passed its biennial budget (Session Law 2021-180), which contained new language regarding infection control requirements. Previous infection control requirements focused on blood borne pathogens but the revised language added new requirements related

to airborne infections and relevant measures to prevent them.

The budget also included language establishing an Adult Care Home Accreditation Pilot Program that will last two years. Funding of \$1.5 million was provided to the University of North Carolina at Chapel Hill Cecil G. Sheps Center to study the effect of accreditation provided by the Accreditation Commission for Health Care on quality measures compared to control or non-accredited homes. Up to 75 homes will undergo accreditation, which will be paid for by grants administered by the North Carolina Senior Living Association and the North Carolina Assisted Living Association, which together received \$1.5 million to pay for accreditation. In addition, up to 75 homes will function as controls and will not become accredited. Both accredited and control homes will be paid for collecting quality data on a quarterly basis to be used by the Sheps Center in their research. A report to the North Carolina Legislature is due in 2024.

In July 2022, the state passed its revised biennial budget (Session Law 2022-74), which maintains Medicaid personal care services rates of \$23.84/hour for home and community based services providers, including adult care homes, through the end of 2022. The budget also moves up by one year (previously January 2024 but now January 2023) language that will allow the state's public funded room and board program, State and County Special Assistance, to be increased every year based on the annual Social Security Cost of Living Adjustment or COLA.

## **Definition**

ALRs provides group housing with at least one meal per day and housekeeping services and provide personal care services directly or through a formal written agreement with a licensed home care or hospice agency. The department may allow nursing service exceptions on a case-by-case basis.

ACH: A type of ALR in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed ACHs provide supervision to persons with cognitive impairments whose decisions, if made independently, may

jeopardize the safety or wellbeing of themselves or others and therefore require supervision.

MAHS: A type of ALR in which hands-on personal care services and nursing services are arranged by housing management and provided by a licensed home care or hospice agency, through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement that makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident may choose any provider for personal care and nursing services, and the housing management may not combine charges for housing and personal care services.

## **Disclosure Items**

ACH: Must provide specific information to a resident or responsible person upon move-in, including such items as a written copy of all house rules and facility policies, a copy of the Declaration of Residents' Rights, and a copy of the home's grievance procedures. Regulations also require specific information to be included in the resident contract, for example rates for resident services and accommodations, and health needs or conditions that the facility has determined it cannot meet.

MAHS: Must provide a disclosure statement to prospective residents and the department that includes, but is not limited to:

- (1) Charges for services;
- (2) Policies regarding limitations of services;
- (3) Policies regarding limitations of tenancy;
- (4) Information regarding the nature of the relationship between the housing management and each home care or hospice agency with which the housing management has a financial or legal relationship;
- (5) Policies regarding tenant grievances and procedures for review and disposition of resident grievances; and
- (6) Specific contact information including licensed home care agencies in the county and various public services.

## **Facility Scope of Care**

ALRs provide group housing with at least one meal per day and housekeeping services and provide personal care services directly or through a formal written agreement with a licensed home care or hospice agency. The department may allow nursing service exceptions on a case-by-case basis.

ACH: Required to have 24-hour staff monitoring and supervision of residents. ACHs must also provide assistance with scheduled and unscheduled personal care needs, transportation, activities, and housekeeping. Housing, personal care, and some specified health care services are provided by staff, while licensed home care agencies may provide other health care services that unlicensed staff cannot perform. Nursing services may be provided by the ACH on a case-by-case exception basis approved by the Department of Health and Human Services or through licensed home care agencies.

MAHS: Housing and assistance with coordination of personal and health care services through licensed home care agencies is permitted.

**Third Party Scope of Care** In all ALRs, hospice care and home health care may be requested by the resident and provided with appropriate physician orders.

ACH: None specified. MAHS: Personal care and nursing services are provided through agencies licensed by the Department of Health and Human Services.

MAHS management must have an arrangement with at least one licensed agency to meet the scheduled needs of residents and residents may choose the agency.

**Admission and Retention Policy** ACH: May not admit an individual who meets the state's eligibility criteria for nursing home care, or individuals with the following conditions or requiring the following services:

- (1) Treatment of mental illness or alcohol or drug abuse;
- (2) Maternity care;
- (3) Professional nursing care under continuous medical supervision;
- (4) Lodging, when the personal assistance and supervision offered for the aged and disabled are not needed; or
- (5) Posing a direct threat to the health or safety of others.

Except when a physician certifies that appropriate care can be provided on a temporary basis to meet the resident's needs and prevent unnecessary relocation, ACHs must not care for individuals with any of the following conditions or care needs:

- (1) ventilator dependency;

- (2) a need for continuous licensed nursing care;
- (3) physician certifies that placement is no longer appropriate;
- (4) health needs that cannot be met in the specific ACH as determined by the residence; and
- (5) other medical and functional care that cannot be properly met in an ACH.

Residents may be discharged only for the following reasons:

- (1) the discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility as documented by the resident's physician, physician assistant or nurse practitioner;
- (2) the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility as documented by the resident's physician, physician assistant or nurse practitioner;
- (3) the safety of other individuals in the facility is endangered;
- (4) the health of other individuals in the facility is endangered as documented by a physician, physician assistant or nurse practitioner;
- (5) failure to pay the costs of services and accommodations by the payment due date according to the resident contract after receiving written notice of warning of discharge for failure to pay; or
- (6) the discharge is mandated under state law.

A 30-day discharge notice by the facility is required in adult care homes except for situations of threat to health and safety of residents.

MAHS: Providers are not permitted to care for residents who require, on a consistent basis, 24-hour supervision or are not able, through informed consent, to enter into a contract. Except when a physician certifies that appropriate care can be provided on a temporary basis to meet the resident's needs and prevent unnecessary relocation, a MAHS provider may not care for individuals with any of the following conditions or care needs:

- (1) Ventilator dependency;
- (2) Dermal ulcers III or IV, except when a physician has determined that stage III ulcers are healing;

- (3) Intravenous therapy or injections directly into the vein, except for intermittent intravenous therapy managed by a home care or hospice agency licensed by the state;
- (4) Airborne infectious disease in a communicable state that requires isolation or requires special precautions by the caretaker to prevent transmission of the disease;
- (5) Psychotropic medications without appropriate diagnosis and treatment plans;
- (6) Nasogastric tubes;
- (7) Gastric tubes except when the individual is capable of independently feeding himself and caring for the tube, or managed by a state licensed home care or hospice agency;
- (8) Individuals who require continuous licensed nursing care;
- (9) Individuals whose physician certifies that placement is no longer appropriate;
- (10) Residents requiring total dependence in four or more activities of daily living as documented on a uniform assessment instrument unless the resident's independent physician determines otherwise;
- (11) Individuals whose health needs cannot be met by the MAHS provider; and
- (12) Other medical and functional care needs that the Medical Care Commission determines cannot be properly met by a MAHS provider.

## **Resident Assessment**

ACH: An initial assessment is required within 72 hours after moving into the facility, and an assessment of each resident must be completed within 30 days following admission and at least annually thereafter on a form created or approved by the department. Reassessments must also be completed within 10 days following a significant change in a resident's condition. ACHs may use service plans that were completed as the result of a Medicaid personal care services assessment to fulfill the activities of daily living portion of the required service plans or care plans for adult care home residents.

MAHS: Providers must screen prospective residents to determine the facility's capacity and legal authority to meet the needs of the prospective residents and to determine the need for an in-depth assessment by a licensed home care agency.

**Medication Management** ACH: Adult care home staff who administer medications and their direct supervisors shall complete training, clinical skills validation, and pass the written examination. Persons authorized by state occupational licensure laws to administer medications are exempt from this requirement. These medication aides and their direct supervisors, with exceptions, must complete six hours of continuing education annually related to medication administration.

MAHS: Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency's established plan of care.

**Square Feet Requirements** ACH: Private resident units must be a minimum of 100 square feet and shared resident units must provide a minimum of 80 square feet per resident, excluding vestibule, closet or wardrobe space.

MAHS: None specified.

**Residents Allowed Per Room** ACH: Bedrooms may not be occupied by more than two residents in facilities licensed after July 1, 2004.

MAHS: None specified.

**Bathroom Requirements** ACH: Shared bathroom and toilet facilities are permitted as long as one toilet and hand lavatory is provided for every five residents and a tub or shower is provided for every 10 residents.

MAHS: None specified.

**Life Safety** ACH: Smoke detectors must be in all corridors, no more than 60 feet from each other and no more than 30 feet from any end wall. There must be heat or smoke detectors in all storage rooms, kitchens, living rooms, dining rooms, and laundries. All detection systems must be interconnected with the alarm system.

MAHS: None specified.

**Unit and Staffing Requirements for Serving Persons with Dementia** ACH: An ACH may serve adults with a primary diagnosis of Alzheimer's or other form of dementia if their license indicates that this is a population to be served. A facility that advertises, markets or otherwise promotes itself as

having a special care unit (SCU) for residents with Alzheimer's disease or related disorders and meets the regulatory requirements shall be licensed as an adult care home with a special care unit.

Private units are not required. A toilet and sink must be provided within the SCU for every five residents and a tub and shower for bathing must be in the unit. Facilities must provide direct access to a secured outside area and avoid or minimize the use of potentially distracting mechanical noises. Unit exit doors may be locked only if the locking devices meet the requirements outlined in the state building code for special locking devices. If exit doors are not locked, facilities must have a system of security monitoring. An ACH with a SCU for individuals with Alzheimer's disease or related dementia must disclose the unit's policies and procedures for caring for the residents and the special services that are provided.

At least one staff person is required for every eight residents on the first and second shift, plus one hour of staff time for each additional resident; and one staff person for every ten residents on the third shift, plus 0.8 hour of staff time for each additional resident. A care coordinator must be on-duty least eight hours a day, five days a week. The care coordinator may be counted in the minimal staffing requirements. In facilities with more than 16 units, the care coordinator is not counted in determining the minimal staffing requirement.

In ACHs, the staff in special care units must have the following training:

- (1) Six hours of orientation within the first week of employment;
- (2) 20 hours of dementia-specific training within six months of employment; and
- (3) 12 hours of continuing education annually.

MAHS: None specified.

## **Staffing Requirements**

ACH: At all times there must be one administrator or supervisor/administrator-in-charge who is directly responsible for ensuring that all required duties are carried out and that residents are never left alone. ACHs must also have a designated activity director. Regulations specify staffing requirements, qualifications for various positions,

and detailed staffing ratios for the type of staff (aide, supervisor, and administrator or administrator in charge), first, second or third shift, and the number of residents. Regulations also specify different management requirements for facilities based on size from 7-30 residents, 31-80 residents, and 81 or more residents.

In March 2022, in response to advances in technology and the changing needs of today's workforce, the Department approved a plan for some training hours to be taught using virtual classrooms and some self-study hours.

MAHS: None specified.

### **Administrator Education/Training**

The administrators of ALRs are responsible for the residents who require daily care to attend to their physical, mental, and emotional needs. An administrator of an ACH or family care home must: be at least 21 years old; provide a satisfactory state criminal background report ;successfully complete the equivalent of two years of coursework at an accredited college or university or have a combination of education and experience approved by the department or, for family care homes, have at least a high school diploma or GED; successfully complete a 120-hour administrator-in-training program; and successfully complete a written examination. Administrators-in-charge at ACHs and family care homes must earn 12 hours a year of continuing education credits. Following each biennial renewal of an administrator's certification or approval, the administrator must submit documentation of 30 hours of completed coursework on specified topics.

### **Staff Education/Training**

ACH: In ACH or family care homes, staff who perform or directly supervise staff who perform personal care tasks must complete an 80-hour training program within six months of hire. Regulations specify requirements for the content and instruction of the program.

In March 2022, in response to advances in technology and the changing needs of today's workforce, the Department approved a plan for some training hours to be taught using virtual classrooms and some self-study hours.

Non-licensed and licensed personnel not practicing in their licensed capacity complete a one-time competency evaluation for specific personal care tasks (specified in

regulation) before performing these tasks. The regulations have additional training requirements for various positions, and ACHs that serve residents with specific conditions, such as diabetes and the need for restraints. The facility must also assure completion of a medication administration course developed by the state for staff who administer medication and their supervisors, in addition to infection control training. Staff who administer medications and their supervisors must complete six hours of continuing education per year.

MAHS: None specified.

**Entity Approving CE Program**

Not applicable

**Medicaid Policy and Reimbursement**

North Carolina's Medicaid state plan covers personal care services in state-licensed residential facilities such as adult care homes.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

North Carolina Administrative Code, Chapter 10A, Subchapter 13F: Licensing of Adult Care Homes of Seven or More Beds.

<http://reports.oah.state.nc.us/ncac/title%2010a%20-%20health%20and%20human%20services/chapter%2013%20-%20nc%20medical%20care%20commission/subchapter%20f/subchapter%20f%20rules.html>

North Carolina Administrative Code, Chapter 10A, Subchapter 13G: Licensing of Family Care Homes.

<http://reports.oah.state.nc.us/ncac/title%2010a%20-%20health%20and%20human%20services/chapter%2013%20-%20nc%20medical%20care%20commission/subchapter%20g/subchapter%20g%20rules.html>

Department of Health and Human Services, Division of Health Service Regulation, Adult Care Licensure Section. Legal Requirements for Registration and Disclosure for Multi-unit Assisted Housing with Services.

<https://info.ncdhhs.gov/dhsr/acls/multiunitlegal.html>

Department of Health and Human Services, Division of Health Service Regulation, Adult Care Licensure Section. Rules and Statutes.

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Department of Health and Human Services, Division of Health Service Regulation. Rule Actions, Adult Care Home and Family Care Home Rules.

<https://info.ncdhhs.gov/dhsr/rules/2020/adult-family-carehomerules/proposed2/>

Department of Health and Human Services, Division of Health Service Regulation. An Overview of Adult Care Home Regulation in North Carolina.

<https://info.ncdhhs.gov/dhsr/acls/overview.html>

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## North Dakota

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**Licensure Term** Basic Care Facilities and Assisted Living Facilities

**Opening Statement** The Department of Health establishes rules for basic care facilities and the Department of Human Services oversees licensing and rules of assisted living facilities, which must also meet Department of Health Rules. The primary differences between these licensure categories are: (1) the extent to which they are regulated--the assisted living regulations are very brief; and (2) only basic care facilities are required to provide meals. Basic care facilities are not certified to participate in Medicare or Medicaid, but are eligible for state funding for basic care services.

“Basic care facility” means a facility licensed by the department under North Dakota Century Code chapter 23-09.3 whose focus is to provide room and board and health, social, and personal care to assist the residents to attain or maintain their highest level of functioning, consistent with the resident assessment and care plan, to five or more residents not related by blood or marriage to the owner or manager. These services shall be provided on a 24-hour basis within the facility, either directly or through contract, and shall include assistance with activities of daily living and instrumental activities of daily living; provision of leisure, recreational, and therapeutic activities; and supervision of nutritional needs and medication administration.

**Legislative and Regulatory Update** In 2021, the Legislature updated the North Dakota Century Code Chapter 23-09 (NDCC 23-09): Food and Lodging

Establishments and Assisted Living Facilities to refine the terms related to expired facility licenses. There are no recent updates to the state ND Food Code. Effective July 1, 2020, there are updates to end-of-life services requirements under Chapter 33-03-24.1: Basic Care Facilities. The definitions listed in Chapter 23-09.3 are effective through August 31, 2022.

North Dakota's 2021 legislature passed one law affecting the basic care facilities moratorium. Basic care beds may not be added to the state's licensed bed capacity during the period between August 1, 2021, and July 31, 2023, except if:

- a. A nursing facility converts nursing facility beds to basic care;
- b. An entity licenses bed capacity transferred as basic care bed capacity under section
- c. An entity demonstrates to the department that basic care services are not readily available within a designated area of the state or that existing basic care beds within a fifty-mile [80.47-kilometer] radius have been occupied at ninety percent or more for the previous twelve months. In determining whether basic care services will be readily available if an additional license is issued, preference may be given to an entity that agrees to any participation program established by the department for individuals eligible for services under the medical assistance program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]; or
- d. The department grant approval of new basic care beds to an entity. The approved entity shall license the beds within forty-eight months from the date of approval.

## Definition

Basic Care Facility: Basic care facility" means a facility licensed by the department under North Dakota Century Code chapter 23-09.3 whose focus is to provide room and board and health, social, and personal care to assist the residents to attain or maintain their highest level of functioning, consistent with the resident assessment and care plan, to five or more residents not related by blood or marriage to the owner or manager. These services shall be provided on a twenty-four-hour basis within the facility, either directly or through contract, and shall include

assistance with activities of daily living and instrumental activities of daily living; provision of leisure, recreational, and therapeutic activities; and supervision of nutritional needs and medication administration.

**Assisted Living Facility:** A building or structure containing a series of at least five living units operated as one entity to provide services for five or more individuals who are not related by blood, marriage, or guardianship to the owner or manager of the entity and which is kept, used, maintained, advertised, or held out to the public as a place that provides or coordinates individualized support services to accommodate the individual's needs and abilities to maintain as much independence as possible. An assisted living facility is licensed by the Department of Human Services under North Dakota Century Code 50-32. An assisted living facility does not include a facility that is a congregate housing facility, licensed as a basic care facility, or licensed under Chapters 23-16 or 25-16 or Section 50-11-01.4.

## **Disclosure Items**

**Basic Care Facility:** None specified.

**Assisted Living Facility:** Must maintain a written agreement with each tenant that includes the rates for rent and services provided, payment terms, refund policies, rate changes, tenancy criteria, and living unit inspections. Additionally, facilities must provide each tenant with written notice of how to report a complaint regarding the facility.

## **Facility Scope of Care**

**Basic Care Facility:** Must provide personal care services to assist residents to attain and maintain their highest level of functioning consistent with the resident assessments and care plans. It must provide assistance with: ADLs and IADLs; arrangements to seek health care when resident has symptoms for which treatment may be indicated; arrangements for appropriate transfer and transport as needed; functional aids or equipment, such as hearing aids; and clothing and other personal effects, as well as maintenance of living quarters.

**Assisted Living Facility:** An entity may provide health services to individuals residing in an assisted living facility owned or operated by that entity. For purposes of this subsection, health services means services provided to an individual for the purpose of preventing disease and

promoting, maintaining, or restoring health or minimizing the effects of illness or disability.

2. A tenant of an assisted living facility who is in need of hospice services and who exceeds tenancy criteria, as determined by the facility, may remain in the facility only if the tenant contracts with a third party, such as a hospice agency, or utilizes family support, or both, to meet those needs.

### **Third Party Scope of Care**

**Basic Care Facility:** A facility that retains residents who require end-of-life care continues to be responsible for the care and services of all residents, must comply with the requirements and apply on basic care application form and indicate a change in services provided.

**Assisted Living Facility:** Home health agencies may provide services under contract with the resident. Long term care insurance may pay in basic care and assisted living facilities.

### **Admission and Retention Policy**

Admission and discharge criteria are developed by each basic care or assisted living facility dependent upon their ability to meet the needs of the residents and the services available.

**Basic Care Facility:** May admit or retain only individuals whose condition and abilities are consistent with National Fire Protection Association (NFPA) 101 Life Safety Code requirements and who must be capable of self-preservation. Residents of facilities meeting a greater level of fire safety must meet the fire drill requirements of that occupancy classification. Basic care residents are admitted and retained in the facility in order to receive room and board and health, social, and personal care, and whose condition does not require continuous, 24-hour-a-day onsite availability of nursing or medical care. A basic care facility may retain an individual in need of end-of-life services if the facility wraps around the individual's family, or the individual's designee, volunteers, or staff services to support the individual through end of life.

**Assisted Living Facility:** Each assisted living facility must have clear, concise, and understandable tenancy criteria that is fully disclosed to all tenants, in writing, before the tenancy agreement is signed. Before a facility unit is

rented, the facility or landlord shall evaluate the tenant's ability to meet the facility's tenancy criteria.

Each assisted living facility shall require the administrator of the facility to complete twelve hours of continuing education per year. The assisted living facility shall require all direct care staff to receive annual education or training in the areas of:

- a. Resident rights;
- b. Fire and accident prevention and training;
- c. Mental and physical health needs of tenants;
- d. Behavior problems and prevention; and
- e. Control of infection, including universal precautions.

Each assisted living facility shall maintain a record for each tenant. The tenant record must include:

- a. An initial evaluation to meet tenancy criteria;
- b. The tenancy agreement signed by the tenant or the tenant's legal representative;
- c. If applicable, a medication administration record that documents medication administration consistent with applicable state laws, rules, and practices; and
- d. An itemized list of services provided for the tenant.

Before hiring, the assisted living facility shall conduct a reference and previous employment check and a check of applicable registries of each applicant being considered for employment at the facility.

At least once every twenty-four months, each assisted living facility shall conduct a consumer satisfaction survey. The assisted living facility shall provide each tenant with a copy of the results of the survey.

## **Resident Assessment**

In basic care and assisted living facilities, the facilities develop and utilize their own forms.

**Basic Care Facility:** An assessment is required for each resident within 14 days of admission and as determined by an appropriately licensed professional thereafter, but no less frequently than quarterly. The assessment must include: a review of health, psychosocial, functional, nutritional, and activity status; personal care and other

needs; health needs; capability of self-preservation; and specific social and activity interests.

Assisted living Facility: None specified

**Medication Management** In assisted living and in basic care facilities, unlicensed staff may administer medication except for 'as needed' controlled prescription drugs. Those personnel must have specific training and be monitored by a registered nurse.

**Square Feet Requirements** Basic Care Facility: Private resident units must be a minimum of 100 square feet and semi-private resident units must provide a minimum of 80 square feet per resident. Generally, basic care facilities have semi-private units.

Assisted Living Facility: Square feet requirements are not specified. Generally living units are efficiency or one- or two-bedroom apartments. A living unit must contain a sleeping area, an entry door that can be locked, and a private bathroom with a toilet, bathtub or shower, and a sink.

**Residents Allowed Per Room** Basic Care Facility: None specified.

Assisted Living Facility: No more than two people may occupy one bedroom of each living unit.

**Bathroom Requirements** Common toilets, lavatories, and bathing facilities are permitted.

Basic Care Facility: There must be at least one toilet for every four residents and a bathtub or shower for every 15 residents.

Central bathing rooms or areas shall be located on each floor with resident sleeping areas. One bathtub or shower shall be provided for each eight residents, plus each fraction of eight, not otherwise served by showers in resident rooms.

Assisted Living Facility: There must be a private bathroom with a toilet, bathtub or shower, and a sink.

**Life Safety** Basic Care Facility: The basic care facility shall comply with the national fire protection association Life Safety

Code, 2012 edition, chapters 32 and 33, residential board and care occupancy, slow evacuation capability, or a greater level of fire safety.

Fire drills must be held monthly with a minimum of twelve per year, alternating with all workshifts. Residents and staff, as a group, shall either evacuate the building or relocate to an assembly point identified in the fire evacuation plan. At least once a year, a fire drill must be conducted during which all staff and residents evacuate the building.

Fire evacuation plans must be posted in a conspicuous place in the facility.

Written records of fire drills must be maintained. These records must include dates, times, duration, names of staff and residents participating and those absent and why, and a brief description of the drill, including the escape path used and evidence of simulation of a call to the fire department.

Each resident shall receive an individual fire drill walk-through within five days of admission.

Any variation to compliance with the fire safety requirements must be approved in writing by the department.

Residents of facilities meeting a greater level of fire safety must meet the fire drill requirements of that occupancy classification.

Basic care facilities must comply with the NFPA safety code, 2012 edition, chapters 32 and 33, residential board and care occupancy, slow evacuation capability, or a greater level of fire safety.

Fire drills must be held monthly with a minimum of 12 per year, alternating with all work shifts. Residents and staff, as a group, shall either evacuate the building or relocate to an assembly point identified in the fire evacuation plan. At least once a year, a fire drill must be conducted during which all staff and residents evacuate the building.

Fire evacuation plans must be posted in a conspicuous place in the facility.

Written records of fire drills must be maintained. These records must include dates, times, duration, names of staff and residents participating and those absent and why, and a brief description of the drill including the escape path used and evidence of simulation of a call to the fire department.

Each resident shall receive an individual fire drill walk-through within five days of admission.

Any variation to compliance with the fire safety requirements must be approved in writing by the department. Residents of facilities meeting a greater level of fire safety must meet the fire drill requirements of that occupancy classification.

Basic care facilities that retain residents who require end-of-life care and are not capable of self-preservation must meet additional requirements.

Assisted Living Facility: Operators of assisted living facilities must certify that facilities are in compliance with all applicable federal, state, and local laws, and upon request make available to the department copies of current certifications, licenses, permits, and other similar documents providing evidence of compliance with such laws. Each assisted living facility must install smoke detection devices or other approved alarm systems of a type and number approved by the department, in cooperation with the state fire marshal. Assisted living facilities must meet exiting requirements. Access to fire escapes must be kept free and clear at all times of all obstructions of any nature. The proprietor of the assisted living facility must provide for adequate exit lighting and exit signs as defined in the state building code.

Each assisted living facility must be provided with fire extinguishers as defined by the NFPA standard number 10 in quantities defined by the state building code and the state fire code. Standpipe and sprinkler systems must be installed as required by the state building code and state fire code. Fire extinguishers, sprinkler systems, and standpipe systems must conform with rules adopted by the state fire marshal. A contract for sale or a sale of a fire extinguisher installation in a public building is not

enforceable, if the fire extinguisher or extinguishing system is of a type not approved by the state fire marshal for such installation. No fire extinguisher of a type not approved by the state fire marshal may be sold or offered for sale within the state.

Assisted living facilities must meet smoke detector regulations as stated in North Dakota Administrative Code 33-33-05. These regulations require every sleeping room, passageway, and hallway to be equipped with a smoke detection device. In addition, at least one sleeping room in an assisted living facility shall be equipped with a listed smoke detection device for the hearing impaired. At least 10 percent of battery-operated smoke detectors must be tested weekly and at least 10 percent of hard-wired detectors must be tested monthly on a systematic basis. Records of those tests need to be kept for two years.

Assisted living facilities are required to have written disaster plans and emergency lighting. Passenger or freight elevators must comply with state building code fire protection requirements.

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

Alzheimer's units are available in basic care facilities. They are not available in assisted living facilities.

Basic care facilities that wish to advertise or hold itself out to the public to provide specialized care to residents with Alzheimer's, dementia, memory loss, or care for residents with traumatic brain injury unless licensed consistent with section 33-03-24.1-24 of the regulations. A basic care facility licensed to provide specialized services to residents in this section may admit and retain residents who require twenty-four-hour per day dedicated personal care staff, but do not need more than intermittent nursing or medical care. Such facilities must develop a written policy related to resident rights and provide the policy to the resident or designee, verbally and in writing.

A basic care facility licensed to provide specialized services to residents with Alzheimer's, dementia, or special memory care needs must meet additional training requirements. For example, all nursing and personal care staff must complete: a minimum of eight education hours on specified topics within three months of hire, a minimum of four hours annually thereafter, and competency evaluation annually.

Regulations specify a number of other requirements.

## **Staffing Requirements**

**Basic Care Facility:** An administrator must be in charge of the general administration of the facility. While there are no staffing ratios, basic care facilities must provide 24-hour staffing.

**Assisted Living Facility:** An entity providing assisted living services to five or more individuals must be licensed as an assisted living facility by both the North Dakota Department of Health and the North Dakota Department of Human Services and meet staffing requirements as defined by Century Code and regulatory code.

## **Administrator Education/Training**

**Basic Care Facility:** Administrators must complete at least 12 hours of continuing education per year relating to care and services for residents.

**Assisted Living Facility:** Administrators must complete 12 hours of continuing education per year.

## **Staff Education/Training**

**Basic Care Facility:** All employees must have in-service training annually on: 1) fire and accident prevention and safety; 2) mental and physical health needs of the residents, including behavior problems; 3) prevention and control of infections, including universal precautions; and 4) resident rights. In basic care facilities, the staff responsible for food preparation are required to attend a minimum of two dietary educational programs per year and staff responsible for activity services are required to attend a minimum of two activity-related programs per year.

A Basic Care Facility licensed to provide specialized services to residents in this section shall ensure training and competency evaluation is completed for all nursing and personal care staff members specific to the care and services necessary to meet the needs of the residents. A minimum of eight educational hours on the following topics must be completed within three months from the date of hire. Nursing and personal care staff may not be assigned to work independently until they have successfully completed a competency evaluation. For example, all nursing and personal care staff must complete: a minimum of eight education hours on specified topics within three

months of hire, a minimum of four hours annually thereafter, and competency evaluation annually.

Assisted Living Facility: All employees must receive annual training on: 1) resident rights; 2) fire and accident prevention and training; 3) mental and physical health needs of tenants; 4) behavior problems and prevention; and 5) control of infection, including universal precautions.

**Entity Approving CE Program**

None specified for either basic care or assisted living facilities.

**Medicaid Policy and Reimbursement**

A Section 1915(c) waiver, the Home and Community-Based Services Waiver, covers services in basic care facilities that have experience providing services to individuals with a diagnosis of either dementia or brain injury. The Medicaid State Plan also covers personal care services for providers that are licensed and enrolled as a basic care facility.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

North Dakota Legislative Branch, Chapter 75-03-34: Licensing of Assisted Living Facilities. [July 1, 2006]  
<https://www.ndlegis.gov/information/acdata/pdf/75-03-34.pdf>

North Dakota Legislative Branch, Chapter 50-32: Assisted Living Facilities.  
<http://www.legis.nd.gov/cencode/t50c32.pdf>

North Dakota Legislative Branch, Chapter 33-03-24.1: Basic Care Facilities. [January 1, 2018]  
<https://www.ndlegis.gov/information/acdata/pdf/33-03-24.1.pdf>

North Dakota Legislative Branch, Chapter 33-03-24.2 General Standards for Construction and Equipment for Basic Care Facilities. [July 1, 2015]  
<http://www.legis.nd.gov/information/acdata/pdf/33-03-24.2.pdf>

North Dakota Legislative Branch, Chapter 23-09.3: Basic Care Facilities. <http://www.legis.nd.gov/cencode/t23c09-3.pdf?20150112163011>

North Dakota Department of Human Services. Medicaid Waiver for Home and Community Based Services (Medicaid Waiver).

<https://www.nd.gov/dhs/services/adultsaging/homecare3.html>

North Dakota Administrative Code, Title 33, Article 3, Chapter 24, Section 1-23. Basic Care Facilities, End-of-life services.

<https://www.legis.nd.gov/information/acdata/pdf/33-03-24.1.pdf>

Chapter 23-09.3 Basic Care Facilities (2021)

<https://www.ndlegis.gov/cencode/t23c09-3.pdf#nameddest=23-09p3-01p1>

## Ohio

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**Licensure Term** Residential Care Facilities

**Opening Statement** The Ohio Department of Health, Office of Health Assurance and Licensing, licenses residential care facilities. The term assisted living is used interchangeably with residential care.

The Department has specific requirements for special care units dedicated to providing care to residents with diagnoses including, but not limited to, late-stage cognitive impairments with significant ongoing daily living assistance needs, cognitive impairments with increased emotional needs or presenting behaviors that cause problems for the resident or other residents, or serious mental illness. When applying for a residential care license, applicants must indicate whether specialized care or services will be provided, including care for people with Alzheimer's or other cognitive impairments.

**Legislative and Regulatory Update** There are no recent legislative or regulatory updates affecting residential care facilities in Ohio.

**Definition** Residential care facilities means a home that provides either of the following: (1) accommodations for 17 or more unrelated individuals, with supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment; or (2) accommodations for three or more unrelated individuals, with supervision and personal care services for at least three of those individuals who are dependent on the services of others by reason of age or physical or mental impairment, and for at least one of those individuals any of the skilled nursing care authorized by section 3721.011 of the Revised Code.

**Disclosure Items**

A residential care facility must provide prospective residents or their representatives a copy of the written residential agreement, which includes specified information, such as: an explanation and statement of all charges, fines or penalties; an explanation of services are provided; a statement that the facility must discharge or transfer a resident when the resident needs skilled nursing care beyond what the facility can provide; and the residents' rights policy and procedures. In addition to the information in the resident agreement, prior to admission or upon the request of a prospective resident or prospective resident's sponsor, the residential care facility shall provide the resident or resident's sponsor with a copy and explanation of policies, including, but not limited to: smoking policy; advance directives; definition of skilled nursing care; special care unit policies and procedures; policy surrounding disabled and potentially disabled residents; and, any other policy the resident must follow.

**Facility Scope of Care**

Facilities may provide supervision and personal care services, administer or assist with self-administration of medication, supervise special diets, perform dressing changes, and accept individuals requiring part-time intermittent enteral feedings. Facilities may also provide up to 120 days of skilled nursing services on a part-time, intermittent basis. Ohio law exempts both hospice residents who also need skilled nursing care and residents whose skilled nursing care is determined to be routine by a physician from the 120-day limitation.

**Third Party Scope of Care**

Skilled nursing services may be provided by a licensed hospice agency or certified home health agency.

**Admission and Retention Policy**

Facilities may admit or retain individuals who require: skilled nursing care beyond the supervision of special diets; application of dressings; or administration of medication only if the care is on a part-time/intermittent basis for not more than a total of 120 days in any 12-month period, except for hospice residents and those whose skilled nursing care is determined to be routine by a physician. A residential care facility may admit or retain an individual requiring medication if:

- (1) the individual's personal physician has determined that the individual is capable of self-administration; or

(2) the facility provides for the medication to be administered by a certified home health agency, a licensed hospice care program, or a qualified member of the staff.

A residential care facility shall not admit an individual who requires services or accommodations beyond that which a residential care facility is authorized to provide or beyond that which the specific facility provides. A residential care facility shall not admit a resident prior to searching for the individual on the Ohio sex offender registry. Except for residents receiving hospice care, no residential care facility shall admit or retain an individual who: (1) requires skilled nursing care that is not authorized by the Ohio Revised Code or is beyond that which the specific facility can provide; (2) requires medical or skilled nursing care at least eight hours per day or forty hours per week; (3) requires chemical or physical restraints; (4) is bedridden with limited potential for improvement; (5) has stage III or IV pressure ulcers; or (6) has a medical condition that is so medically complex or changes so rapidly that it requires constant monitoring and adjustment of treatment regimen on an ongoing basis.

### **Resident Assessment**

A resident assessment must be completed within 48 hours of admission or before admission, annually, and upon significant change. There are specific components required in the assessment, but not a mandated form. Residents with medical, psychological, or developmental or intellectual impairment require additional assessment.

### **Medication Management**

Residents must either be capable of self-administering medications or the facility must provide for medication administration by a home health agency, hospice, or qualified staff person (e.g., a registered nurse (RN), licensed practical nurse, or physician). Trained, unlicensed staff may assist with self-administration only if the resident is mentally alert, able to participate in the medication process, and requests such assistance. Assistance includes reminders, observing, handing medications to the resident, and verifying the resident's name on the label, etc.

### **Square Feet Requirements**

Private resident units must be a minimum of 100 square feet and multiple-occupancy resident units must provide a minimum of 80 square feet per resident. This does not include closets or toilet rooms.

**Residents Allowed Per Room**

A maximum of four residents is allowed per resident unit.

**Bathroom Requirements**

One toilet, sink, and tub/shower are required for every eight residents. Additionally, if there are more than four persons of one gender to be accommodated in one bathroom on a floor, a bathroom must be provided for each gender residing on that floor. New facilities constructed or converted to use after the effective date of the new rules shall have a bathroom for each unit/apartment.

**Life Safety**

Sprinklers and smoke detectors have been required since 1974. The current Life Safety Code does not apply to residential care facilities but they must comply with the Ohio Fire Code and Ohio Building Code, which have been brought up to National Fire Protection Association and International Fire Code standards. Each residential care facility must develop and maintain a written disaster preparedness plan to be followed in case of emergency or disaster and conduct at least two disaster preparedness drills per year, one of which shall be a tornado drill which shall occur during the months of March through July. Twelve fire drills are required annually, to be done for each shift and at least every three months. Buildings must be equipped with both an automatic fire extinguishing system and fire alarm system. Each residential care facility must conduct fire safety inspections at least monthly.

Each residential care facility that is licensed after March 1, 2018 and that has a permanently installed fuel-burning appliance(s) must install and maintain carbon monoxide detectors in: each room containing a permanently installed fuel-burning appliance; and a central location on every habitable level and in every heating/ventilation/air conditioning zone of the building. For those facilities that were licensed prior to March 1, 2018 that have a permanently installed fuel-burning appliance(s), they must also install and maintain carbon monoxide alarms or carbon monoxide detectors in those same locations by March 1, 2019. The rule defines a carbon monoxide alarm, detector, detection system, and fuel-burning appliance.

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

A special care unit is a facility or part of a facility dedicated to providing care residents with diagnoses including, but not limited to late-stage cognitive impairments with

significant ongoing daily living assistance needs, cognitive impairments with increased emotional needs or presenting behaviors that cause problems for the resident or other residents, or serious mental illness.

Facilities that have special units must disclose information about unit placement, transfer and discharge policies, special assessments, unit services and resident activities, unit staffing and staff qualifications, special physical design features, family involvement, and costs for services on the unit. The attending physician must also document the need for such placement, and placement cannot be based solely on the resident's diagnosis.

Licensure rules outline specific training upon hire and annually related to specialized populations. For example, staff employed by a facility that admits or retains residents with late-stage cognitive impairments with significant ongoing daily living assistance needs, or cognitive impairments with increased emotional needs or presenting problematic behaviors must have two hours of training on care for such residents within 14 days of the first day of work and four hours of continuing education. Activity staff must also receive specialized training related to those with cognitive impairments, behaviors, and/or seriously mentally ill individuals as appropriate.

## **Staffing Requirements**

A facility must have an administrator who is responsible for its daily operation and provides at least 20 hours of service in the facility during each calendar week between 8:00 a.m., and 6:00 p.m. While there are not staffing ratios, at least one staff member must be on duty at all times and sufficient additional staff members must be present to meet the residents' total care needs. For facilities that provide personal care services, at least one staff member trained and capable of providing such services, including having successfully completed first aid training, must be on duty at all times. For homes that provide skilled nursing care, the rules require enough onsite RN time to manage the provision of skilled nursing care if that care is provided by the facility, excluding medication administration, supervision of special diets, or application of dressings, and sufficient nursing staff to provide needed skilled nursing care. At night, a staff member may be on call if the facility meets certain call signal requirements, but another person must also be on call in such cases. A dietitian working as

consultant or employee is necessary for facilities that provide and supervise complex therapeutic diets.

**Administrator  
Education/Training**

Administrators must be 21 years of age and meet one of the following criteria: (1) be licensed as a nursing home administrator; (2) have 3,000 hours of direct operational responsibility for a senior housing facility; (3) complete 100 credit hours of post-high school education in the field of gerontology or health care; (4) be a licensed health care professional; or (5) hold a baccalaureate degree.

Administrators must complete nine hours of continuing education in gerontology, health care, business administration, or residential care facility administration per year.

**Staff Education/Training**

Staff members providing personal care services must be at least 16 years of age, have first aid training, and complete a specified training program. Staff members providing personal care services who are under the age of 18 shall have on-site supervision by a staff member over the age of 18. All staff must be able to understand and communicate job-related information in English and be appropriately trained to implement residents' rights. Staff members who plan activities for residents with late-stage cognitive impairment with significant ongoing daily living assistance needs, cognitive impairments with increased emotional needs or presenting behaviors that cause problems for the resident or other residents, or both; or serious mental illness shall have training in appropriate activities for such residents.

Staff that provide personal care services, except licensed health professionals whose scope of practice include the provision of personal care services, must meet specified requirements prior to providing such services without supervision. Staff that provide personal care services must have eight hours of continuing education annually which may include the specialized training for those caring for specialized populations. Staff caring for specialized populations must complete four hours of continuing education in the care of such residents annually, and these four hours may count toward the eight hours of general continuing education annually required.

**Entity Approving CE Program**

The initial training required for providing care for special populations of residents (late-stage cognitive impairment, increased emotional needs or presenting behaviors, or serious mental illness) must be conducted by a qualified instructor for the topic covered. The annual continuing education requirements may be completed online or by other media provided there is a qualified instructor present to answer questions and to facilitate discussion about the topic at the end of the lesson.

**Medicaid Policy and Reimbursement**

Two Medicaid waivers cover services in licensed residential care facilities, including a Section 1915(c) Assisted Living Waiver and a Section 1915(b) waiver for managed care.

In addition, Ohio's Residential State Supplement (RSS) program is a state-funded cash assistance program for certain Medicaid-eligible aged, blind, or disabled adults who have been determined to be at risk of needing institutional care. A monthly supplement, in combination with the recipient's regular monthly income, is used to pay for accommodations, supervision, and personal care services in approved community-based living arrangements, including adult foster homes and RCFs. Effective January 1, 2016, the maximum monthly fee an RCF was allowed to charge a recipient was \$1,100. Residents may contract and pay for additional services. Effective July 1, 2017, residential care facilities licensed by the Department for 17 beds or more are no longer eligible living arrangements for RSS unless approved by Ohio Mental Health and Addiction Services on an individual basis.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

Ohio Revised Code, Chapter 3721: Nursing Homes; Residential Care Facilities. <http://codes.ohio.gov/orc/3721>

Ohio Administrative Code, Chapter 3701-16: Residential Care Facility. <http://codes.ohio.gov/oac/3701-16>

Ohio Department of Medicaid. HCBS Waiver. <https://medicaid.ohio.gov/wps/portal/gov/medicaid/families-and-individuals/citizen-programs-and-initiatives/hcbs/waivers/hcbs-waivers>

Department of Aging. Assisted Living Waiver Program.

<https://ohio.gov/wps/portal/gov/site/residents/resources/assisted-living-waiver-program>

Ohio Department of Mental Health and Addiction Services.  
Residential State Supplement Program.

<https://mha.ohio.gov/wps/portal/gov/mha/get-help/recovery-supports/residential-state-supplement>

## Oklahoma

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**Licensure Term** Assisted Living Centers

**Opening Statement** The Department of Health, Protective Health Services, Long-term Care Services, licenses assisted living centers and residential care facilities. While both types of facilities can provide personal care assistance, such as assistance with activities of daily living, assisted living facilities are licensed to provide medical care, which cannot be provided by a resident care home. In a residential care home, residents must be ambulatory and essentially capable of managing their own affairs.

**Legislative and Regulatory Update** There are no finalized regulatory updates affecting assisted living in Oklahoma.

**Definition** An assisted living center is a home or establishment offering, coordinating, or providing services to two or more persons who by choice or functional impairment need assistance with personal care or nursing supervision; and may need intermittent or unscheduled nursing care, medication assistance, and assistance with transfer and/or ambulation.

**Disclosure Items** Each assisted living center must provide each resident a copy of the resident service contract, which must include specified information, for example: admission criteria; services provided, discharge criteria; dispute resolution; and grievance procedures and service charges.

There is a required disclosure form that must be completed by all facilities that provide care to residents with Alzheimer's disease or related disorders in a special unit or under a special program. The form must be given to the Department of Health, the State Long Term Care Ombudsman, and any person seeking placement on behalf of a person with Alzheimer's disease or related disorders.

Information provided in the form includes the type of services provided and any additional cost associated with those services; the admission process; the transfer/discharge process; planning and implementation of care including specific structured activities that are offered; staffing and staff training to address the needs of the population; and safety features of the physical environment.

### **Facility Scope of Care**

Providers may define their scope of services, admission criteria, and the nature of the residents they serve. Facilities may provide assistance with personal care; nursing supervision; intermittent or unscheduled nursing care; medication administration; assistance with cognitive orientation and care or service for Alzheimer's disease and related dementias; and assistance with transfer or ambulation.

An assisted living center may not care for any resident needing care in excess of the level that the assisted living center is licensed to provide or capable of providing. The assisted living center cannot provide 24-hour skilled nursing care as is provided in a nursing facility.

### **Third Party Scope of Care**

Facilities and/or residents may contract with licensed home health agencies as defined in the facility's description of services. Residents or their family or representative may privately contract or arrange for private nursing services under the orders and supervision of specified personnel.

Residents may receive home health care, hospice care, and intermittent, periodic, or recurrent nursing care. Assisted living centers must monitor and assure the delivery of such services. All nursing services must be in accordance with the written orders of the resident's personal or attending physician. The statute also states that a resident, or the family or legal representative of the resident, may privately contract or arrange for private nursing services under the orders and supervision of the resident's personal or attending physician and care must be coordinated and monitored by the facility. These individuals are also subject to the national criminal arrest checks with fingerprinting and registry screenings applicable to all licensed staff, nurse aides and nontechnical workers in Oklahoma. (See Oklahoma

Continuum of Care and Assisted Living Act, Title 63 O.S. §1-890.8.)

**Admission and Retention Policy**

A resident may not be admitted if: his/her need for care or services exceeds what the facility can provide; a physician determines that physical or chemical restraints are needed in non-emergency situations; a threat is posed to self or others; or the facility is unable to meet the resident's needs for privacy or dignity. Additionally, an assisted living center may find that a current resident is inappropriately placed pursuant to these criteria, at which point the resident may voluntarily terminate his or her residency or the facility must follow procedures articulated in Oklahoma's rules.

If a resident develops a disability or a condition consistent with the facility's discharge criteria, the resident's personal or attending physician, a representative of the assisted living center, and the resident or his/her designated representative shall determine through consensus any reasonable and necessary accommodations and additional services required to permit the resident to remain in place in the assisted living center as the least restrictive environment and with privacy and dignity. All accommodations or additional services shall be described in a written plan that must be reviewed at least quarterly by a licensed health care professional. If the parties fail to reach a consensus on a plan of accommodation, the assisted living center may give written notice of the termination of the residency in accordance with the provisions of the resident's contract with the assisted living center. Such notice shall not be less than 30 calendar days prior to the date of termination, unless the assisted living center or the personal or attending physician of the resident determines the resident is in imminent peril or the continued residency of the resident places other persons at risk of imminent harm.

**Resident Assessment**

There is a required resident assessment form designated by the Department. The assisted living center must complete the admission assessment within 30 days before or at the time of admission, and a comprehensive assessment within 14 days after admission and once every 12 months thereafter or promptly after a significant change in resident condition.

<b>Medication Management</b>	Medication administration is permitted. Each assisted living center must provide or arrange for qualified staff to administer medications as needed. Unlicensed staff administering medications must have completed a training program that has been reviewed and approved by the Department of Health. Certified Medication Aides (CMAs) are allowed to perform advanced nursing tasks such as blood glucose monitoring, insulin administration, administering oral metered dose inhalers and handheld nebulizers, but only if the resident meets certain required criteria and the CMA has attended advanced training.
<b>Square Feet Requirements</b>	Design shall be appropriate to the mental or physical disabilities of the residents served.
<b>Residents Allowed Per Room</b>	A maximum of two residents is allowed per resident unit.
<b>Bathroom Requirements</b>	Shower and bathing facilities must not be occupied by more than one resident at a time and no more than four residents may share a toilet facilities or bathing facility unless the Department of Health has approved use by more than four residents based on documentation that the design of the bathing facility is appropriate to the special needs of each resident using it.
<b>Life Safety</b>	Facilities must follow construction and safety standards adopted by the State Fire Marshal or the local authority having jurisdiction. The fire marshal or an authorized representative inspects and approves assisted living centers and continuum of care facilities. Sprinklers and smoke detectors are required. Adopted codes include the International Building Code, 2006 edition; International Fire Prevention Code, 2006 edition; and National Fire Protection Association 101 Life Safety Code, 2006 edition. Where codes conflict, the most stringent requirement applies. Residents incapable of self-preservation are only allowed in buildings permitted as I-II under the International Building Code, 2006 edition. Legislation enacted in 2008 allows assisted living facilities constructed before Nov. 1, 2008 to house residents who are not capable of responding in emergency situations without physical assistance from staff or are not capable of self-preservation if, as part of the annual licensure renewal process, the facility discloses that it houses any residents of this type and the facility installs fire sprinkler protection and an alarm system in accordance

with the building code for I-II facilities and in agreement with the local authority having jurisdiction. Facilities licensed to house six or fewer residents prior to July 1, 2008, may install a 13D or 13R fire sprinkler in lieu of meeting I-II sprinkler requirements, with approval of the municipal fire marshal or compliance with local codes.

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

The center must disclose whether it has special care units. If it does, it must outline the scope of services provided within the unit and specific staffing to address the needs of the population.

A minimum of two staff members must be on duty and awake on all shifts if a continuum of care facility or assisted living center has a unit or program designed to prevent or limit resident access to areas outside the designated unit or program, one of which must be on duty at all times in the restricted egress unit.

Staff working in a specialized unit must be trained to meet the specialized needs of residents.

**Staffing Requirements**

Each center shall designate an administrator who is responsible for its operation. All staff are subject to national criminal arrest checks with fingerprinting and registry screenings applicable to nurse aides and non-technical workers in Oklahoma. While there are no staffing ratios, facilities shall provide adequate staffing as necessary to meet the services described in the facility's contract with each resident. Staff providing socialization, activity, and exercise services must be qualified by training. All direct care staff must be trained in first aid and CPR. Dietary and nurse staffing shall be provided or arranged. Certified nurse aids (certified as long term care aides or home health aides) must be under the supervision of a registered nurse.

An assisted living center that has only one direct care staff member on duty and awake during the night shift must disclose this fact to the resident or the resident's representative prior to move in and must have in place a plan that is approved by the Department of Health for dealing with urgent or emergency situations, including resident falls.

A minimum of two staff members must be on duty and awake on all shifts if a continuum of care facility or assisted living center has a unit or program designed to prevent or limit resident access to areas outside the designated unit or program, one of which must be on duty at all times in the restricted egress unit.

**Administrator  
Education/Training**

An administrator must either hold a nursing home administrator's license, an assisted living/residential care (AL/RC) home administrator's certificate of training, or a nationally recognized assisted living certificate of training and competency approved by the Department of Health. AL/RC Administrators must complete 16 hours of continuing education per year.

**Staff Education/Training**

All staff shall be trained to meet the specialized needs of residents. Direct care staff shall be trained in first aid and CPR and be trained, certified and in good standing on the Oklahoma Nurse Aide Registry at a minimum as a Long Term Care nurse aide or Home Health nurse aide.

**Entity Approving CE  
Program**

The entity that issued the license or certificate.

**Medicaid Policy and  
Reimbursement**

Oklahoma's ADvantage Section 1915(c) waiver covers personal care and supportive services provided in assisted living. There are three rates based on the level of care provided. Assisted living facilities have the option to participate in the ADvantage Waiver program, though it is not required.

**COVID-19 Public Health  
Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

Oklahoma Administrative Code, Title 310, Chapter 663: Continuum of Care and Assisted Living. [October 1, 2017] <https://www.ok.gov/health2/documents/663.pdf>

Oklahoma Administrative Code, Title 310, Chapter 6759-9-9-1 Resident Care Services: Medication Services. [2017] <http://okrules.elaws.us/oac/310:675-9-9.1>

Oklahoma Statutes, Title 63, Continuum of Care and Assisted Living Act. [Amended November 1, 2017] <https://oklahoma.gov/content/dam/ok/en/health/health2/ae-m-documents/protective-health/hrds/nurse-aide-registry/63->

[os-1-1950.1-63-1-1951-nurse-aide-certification-11-1-2017.pdf](#)

Oklahoma Statutes, Title 63, Alzheimer's Disease Special Care Disclosure Act. [November 2, 1998]  
[https://www.ok.gov/health2/documents/HRDS-AlzAct\\_reCh673.pdf](https://www.ok.gov/health2/documents/HRDS-AlzAct_reCh673.pdf)

Oklahoma State Department of Health, Long Term Care Programs in Oklahoma.  
<https://oklahoma.gov/health/services/licensing-inspections/health-resources-development-service/health-facility-systems/continuum-of-care-and-assisted-living-centers.html>

Oklahoma Department of Human Services, Aging Services Division. <https://www.okdrs.gov/guide/oklahoma-department-human-services-aging-services-division>

Oklahoma Health Care Authority. Advantage Waiver Program. <http://www.okhca.org/individuals.aspx?id=8143>

## Oregon

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**Licensure Term** Assisted Living Facility and Residential Care Facility

**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.

**Legislative and Regulatory Update** By July 1, 2022, all ALFs and RCFs were required to implement an Acuity-Based Staffing Tool (ABST) to determine the appropriate number and qualifications of staff necessary to meet the scheduled and unscheduled needs of all facility residents at all times. ODHS has developed a model ABST that can be utilized at state option.

Beginning July 1, 2022, the Department will regulate staffing; the Department will review facilities' acuity levels to determine if staffing levels are adequate.

Facilities are prohibited from interfering with or retaliating against any staff member or volunteer who, in good faith, discloses any information concerning mistreatment in the RCF.

By January 1, 2022, all administrators were required to have a Residential Care Administrator License issued by the Oregon Health Authority's Health Licensing Office.

In 2023, the Department will be required to report to the Legislature on the following financial indicators:

- What is total cost of providing care to residents?
- Does reimbursement paid to facilities cover costs?
- What is the average wage of direct care workers?

The Department will collaborate with a new Governor's Council to fund local public sector pilot projects that aim to:

- Fund "innovative strategies" for addressing emergency situations
- Reduce the overall costs of senior EMS while promoting quality.
- Encourage unique community-based responses to challenges faced by local communities in meeting their residents' needs for senior EMS.

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

## Disclosure Items

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 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 of 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.

**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.

**Third Party Scope of Care**

Facilities must provide or arrange for transportation for medical and social services, as well as ancillary services for medically-related care—such as physician, therapy, barber or beauty services, hospice or home health—and other services necessary to support the resident.

**Admission and Retention Policy**

Facilities may care for individuals with various levels of care needs. Residents may be asked to move out in certain situations. 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. 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**

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 a significant change in condition. Providers are not required to use a Department-designated form but must address a common set of evaluation elements including 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.

### **Square Foot Requirements**

Assisted Living Facility: Newly constructed private resident units must be a minimum of 220 square feet (not including the bathroom) and must include a kitchen and fully accessible bathroom. Pre-existing facilities being remodeled must be a minimum of 160 square feet (not

including the bathroom). Other extensive physical plant requirements apply.

Residential Care Facility: Resident units may be limited to a bedroom only, with bathroom facilities centrally located off common corridors. In bedroom units, the door must open to an indoor, temperature-controlled common area or common corridor and residents must not enter a room through another resident's bedroom. Resident units must include a minimum of 80 square feet per resident exclusive of closets, vestibules, and bathroom facilities and allow for a minimum of three feet between beds.

**Residents Allowed Per Room**

Assisted Living Facility: Resident units may only be shared by couples or individuals who choose to live together.

Residential Care Facility: Each resident unit may house no more than two residents.

**Bathroom Requirements**

Assisted Living Facility: Private bathrooms are required.

Residential Care Facility: Toilet facilities must be located for resident use at a minimum ratio of one to six residents for all residents not served by toilet facilities within their own unit.

**Life Safety**

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

Building must have a heating and ventilation system that complies with building codes and are 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.

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

In 2010, Oregon revised new rules for the endorsement of Memory Care Communities, formerly known as Alzheimer's Care Units. To achieve endorsement, a Memory Care Community must meet underlying licensing requirements for Assisted Living and Residential Care as well as the endorsement rules. Endorsement rules focus on person-centered care, consumer protection, and staff training specific to caring for people with dementia and include enhanced physical plant and environmental requirements. A Memory Care Community is defined as a special care unit in a designated separate area for individuals with Alzheimer's disease or other forms of dementia that is secured to prevent or limit access by a resident outside the designated or separated area.

Applicants for endorsement must demonstrate their capacity to operate a Memory Care Community, taking into account their history of compliance and experience in operating any care facility. Applicants without sufficient experience must employ a consultant or management company for at least the first six months of operation.

Communities that are not endorsed may not advertise or imply that they have an endorsement. An endorsed community must provide a Memory Care Community Uniform Disclosure Statement (SDS 9098mc) to residents or their representatives prior to move-in.

Staffing levels must comply with licensing rules and be sufficient to meet the scheduled and unscheduled needs of residents. Staffing levels during nighttime hours shall be based on sleep patterns and needs of residents. Required policies and procedures include philosophy of how memory care services are provided and promotion of person-directed care, evaluation of behavioral symptoms and design for supports for an intervention plan, resident assessment for the use and effects of medications including psychotropic medications, wandering and egress prevention, and description of family support programs. Minimum services are specified including an individualized nutritional plan, an activity plan, evaluation of behavioral symptoms that negatively impact the resident or others in the community, support to family and other significant relationships, and access to secured outdoor space and walkways.

The physical design should maximize functional abilities, accommodate behavior related to dementia, promote safety, encourage dignity, and encourage independence. Specific elements for new construction or remodels include SR-2 occupancy classification; lighting requirements that meet the ANSI/IESNA RP28-07; and a secure outdoor recreation area.

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.

## **Staffing Requirements**

Facilities must employ a full-time administrator who must be scheduled to 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 written, 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 Education/Training**

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:

- (1) Complete a state-approved administrator training program that includes both a classroom training of no less than 40 hours; and
- (2) Administrators must complete 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.

### **Staff Education/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.

**Entity Approving CE Program**

The Oregon Health Licensing Office

**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.

**COVID-19 Public Health Emergency**

Oregon requires all healthcare providers and healthcare staff who work in a healthcare setting to be fully vaccinated against COVID-19, unless the individual has a medical or religious exemption. In addition, facilities must provide weekly reporting under OAR Chapter 411, Division 61 to the Oregon Health Authority, including the number of staff and residents who are fully vaccinated, who have only received one dose of an available two-dose vaccine, and who have a medical contraindication to the receipt of a COVID-19 vaccine. OAR Chapter 411, Division 60 outlines the testing protocols required in facilities, including

admission and readmission testing, routine staff testing requirements and outbreak prevention testing.

## Citations

Oregon Administrative Rules, Chapter 411, Division 54: Residential Care and Assisted Living Facilities. [January 1, 2020]

[http://www.dhs.state.or.us/policy/spd/rules/411\\_054.pdf](http://www.dhs.state.or.us/policy/spd/rules/411_054.pdf)

Oregon Administrative Rules, Chapter 411, Division 57: Memory Care Communities. [November 1, 2010]

[http://www.dhs.state.or.us/policy/spd/rules/411\\_057.pdf](http://www.dhs.state.or.us/policy/spd/rules/411_057.pdf)

Oregon Department of Human Services, Seniors and People with Disabilities. Home and Community-Based Services. <https://www.oregon.gov/dhs/SENIORS-DISABILITIES/HCBS/Pages/index.aspx>

79th Oregon Legislative Assembly. House Bill 3359.

<https://olis.oregonlegislature.gov/liz/2017R1/Downloads/MeasureDocument/HB3359>

## Pennsylvania

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**Licensure Term** Personal Care Homes and Assisted Living Residences

**Opening Statement** The Department of Human Services, Bureau of Human Services Licensing is responsible for the oversight of Personal Care Homes and Assisted Living Residences in Pennsylvania. The two licensures are different in concept, type of units provided, and level of care provided. Personal Care Homes are residences that serve residents who are aged, have a mental illness, have an intellectual disability, and/or physical disabilities. The Personal Care Homes serve residents who do not need 24-hour nursing home care, yet who may need assistance with activities of daily living (ADLs). In contrast, Assisted Living Residences may serve residents that need a nursing home level of care. Licensing protects the health, safety, and well-being of individuals residing in the Personal Care Home and Assisted Living Residence settings.

As of December 31, 2021, there were 1,124 licensed Personal Care Homes, 29 licensed assisted living residences, and 35 assisted living special care providers licensed. Special care units, which are a residence or portion of a residence providing in the least restrictive manner, provide 1) specialized care and services for residents with Alzheimer's disease or dementia, and/or 2) intense neurobehavioral rehabilitation for residents with severely disruptive and potentially dangerous behaviors as a result of brain injury.

**Legislative and Regulatory Update** There are no legislative updates affecting Personal Care Homes or Assisted Living Residences in Pennsylvania.

**Definition** Personal Care Home: A premise in which food, shelter and personal assistance or supervision are provided for a period exceeding 24 hours, for four or more adults who are not relatives of the operator, who do not require the services in or of a licensed long-term care facility, but who do require assistance or supervision in ADLs or

instrumental activities of daily living (IADLs). The term includes a premise that has held or presently holds itself out as a Personal Care Home and provides food and shelter to four or more adults who need personal care services, but who are not receiving the services.

Assisted Living Residences: A premise in which food, shelter, assisted living services, assistance or supervision, and supplemental health care services are provided for a period exceeding 24-hours for four or more adults who are not relatives of the operator, who require assistance or supervision in matters such as dressing, bathing, diet, financial management, evacuation from the residence in the event of an emergency, or medication prescribed for self-administration.

## **Disclosure Items**

For both Personal Care Homes and Assisted Living Residences, a written contract is required between the home/residence and the resident.

Personal Care Home: Specific contract must specify: each resident shall retain the current personal needs allowance as the resident's own funds for personal expenditures; fee schedule listing actual amount of allowable charges for each available service; explanation of the annual assessment; medical evaluation and support plan requirements and procedures; party responsible for payment; method for payment of charges for long distance telephone calls; conditions surrounding refunds; financial management arrangements and assistance; home's rules; contract termination conditions; statement about 30-days advance notice of change of contract; list of personal care services to be provided based on support plan, list of rates for food, shelter and services; bed hold charges; and resident rights and complaint procedures.

Assisted Living Residence: The contract must specify: each resident shall retain the current personal needs allowance as the resident's own funds for personal expenditures; fee schedule listing actual amount of charges for each assisted living service included in the resident's core service package; explanation of the annual assessment; medical evaluation and support plan requirements and procedures; party responsible for payment; method for payment of charges for long distance telephone calls; conditions surrounding refunds; financial management arrangements

and assistance; residence's rules; contract termination conditions; statement about 30-days advance notice of change of contract; list of assisted living services or supplemental health care services or both provided based on the support plan; list of rates for food, shelter and services; bed hold charges; and resident rights and complaint procedures.

### **Facility Scope of Care**

**Personal Care Home:** May provide assistance with ADLs, IADLs, and medications. ADLs and IADLs are defined in the code.

**Assisted Living Residence:** Must provide an independent core service package, which includes, at a minimum, 24-hour supervision, monitoring and emergency response, nutritious meals and snacks, housekeeping, laundry services, assistance with unanticipated ADLs for a defined recovery period, activities and socialization, and basic cognitive support services.

An enhanced core package must be available to residents who require assistance with ADLs, to include the core package as well as assistance with performing ADLs for an undefined period of time, transportation as defined in the code, and assistance with self-administration of medication or medication administration.

Assisted Living Residences must also provide or arrange for the provision of supplemental health care services, including, but not limited to, hospice services, occupational therapy, skilled nursing services, physical therapy, behavioral health services, home health services, escort service if indicated in the resident's support plan or requested by the resident to and from medical appointments, and specialized cognitive support services.

### **Third Party Scope of Care**

Hospice care licensed by the Pennsylvania Department of Health may be provided in both Personal Care Homes and Assisted Living Residences.

**Personal Care Home:** None specified.

**Assisted Living Residence:** Each residence must demonstrate the ability to provide or arrange for the provision of supplemental health care services in a manner protective of the health, safety, and well-being of its

residents utilizing employees, independent contractors, or contractual arrangements with other health care facilities or practitioners licensed, registered, or certified to the extent required by law to provide the service. Supplemental health care services are defined as the provision by an Assisted Living Residence of any type of health care service, either directly or through contractors, subcontractors, agents, or designated providers, except for any service that is required by law to be provided by a health care facility under the Health Care Facilities Act. Supplemental health care services include, but are not limited to hospice, occupational therapy, skilled nursing services, physical therapy, behavioral health services, home health services, escort service, and specialized cognitive support services.

The Assisted Living Residence must assist residents in securing medical care and supplement health care services. The residence may require residents to use providers of supplemental health care services approved or designated by the residence. However, the residence must permit a resident to select or retain his/her primary care physician. The residence must assist residents in securing preventive medical, dental, vision, and behavioral health care as requested by a physician, physician's assistant, or certified registered nurse practitioner.

## **Admission and Retention Policy**

**Personal Care Home:** Residents requiring the services in or of a nursing facility may not be admitted into the home. Admission of residents with special needs is allowed, only if the home complies with certain additional staffing, physical site, and fire safety requirements. A home must have a written program description including the services the home intends to provide and the needs of the residents that can be safely served.

**Assisted Living Residence:** May not admit, retain, or serve an individual with any of the following conditions or health care needs unless the residence seeks approval from the Department: ventilator dependency; stage III and IV decubiti and vascular ulcers that are not in a healing stage; continuous intravenous fluids; reportable infectious diseases in a communicable state that requires isolation of the individual or requires special precautions by a caretaker to prevent transmission of the disease unless the Department of Health directs that isolation be established within the residence; nasogastric tubes; physical restraints;

or continuous skilled nursing care 24-hours a day. The Department may approve an exception related to any of the conditions or health care needs listed above under specified conditions and procedures. Adults requiring the services of a licensed long-term care nursing facility, including those with mobility needs, may reside in a residence, provided that appropriate supplemental health care services are provided to those residents and provisions are made to allow for their safe emergency evacuation.

With regard to transfers and discharges, both Personal Care Homes and Assisted Living Residences must ensure a safe and orderly transfer or discharge that is appropriate to meet the resident's needs and allows the resident to participate in the decision relating to relocation. If the home or residence initiates a transfer or discharge, or if the legal entity chooses to close the residence, the home or residence must provide a 30-day advance written notice to the resident, the resident's family, or designated person and the referral agent citing the reasons for the transfer or discharge, the effective date of the transfer or discharge, the location to which the resident will be transferred or discharged, an explanation of the measures the resident or the resident's designated person can take if they disagree with the residence decision to transfer or discharge, and the resident's transfer or discharge rights.

## **Resident Assessment**

**Personal Care Home:** An Adult Residential Licensing Personal Care Home Preadmission Screening must be completed prior to move-in to assess the needs of the resident and whether the home can meet these needs. A medical evaluation must be completed 60 days prior to or 30 days after moving into the home. The assessment includes an assessment of mobility needs, medication administration needs, communication abilities, cognitive functioning, ADLs, IADLs, referral sources, and personal interests and preferences. It must be completed within 15 days of admission. A support plan must be developed to meet the needs identified in the assessment and implemented within 30 days after admission. The Department requires specified forms to be used in each instance.

**Assisted Living Residence:** An initial assessment must be completed within 30 days prior to admission, or within 15

days following admission in specified circumstances. Either the Department's form, the Assessment and Support Plan, is to be used or the residence may use its own assessment and support plan forms if they include the same information as the Department's form. The code specifies requirements for the assessment.

## **Medication Management**

**Personal Care Home:** Must provide residents with assistance, as needed, with medication prescribed for the resident's self-administration. A home may provide medication administration services for a resident who is assessed to need medication administration services. Medications must be administered by licensed medical personnel or by a staff person who has completed a Department-approved medication administration course that includes passing the Department's performance-based competency test.

**Assisted Living Residence:** Must provide residents with assistance, as needed, with medication prescribed for the resident's self-administration. This assistance includes helping the resident to remember the schedule for taking the medication, storing the medication in a secure place, and offering the resident the medication at the prescribed times. A residence shall provide medication administration services for a resident who is assessed to need medication administration services and for a resident who chooses not to self-administer medications. Prescription medication that is not self-administered by a resident shall be administered by a licensed professional or a staff person who has completed a Department-approved medication administration course that includes passing the Department's performance-based competency test.

## **Square Foot Requirements**

**Personal Care Homes:** Resident bedrooms must be a minimum of 80 square feet and multiple-occupancy bedrooms must provide a minimum of 60 square feet per resident. A bedroom for one or more residents with a mobility need must have at least 100 square feet per resident and allow for passage of beds and for the comfortable use of assistive devices, wheelchairs, walkers, special furniture, or oxygen equipment.

**Assisted Living Residences:** For new construction after January 18, 2011, must have at least 225 square feet of floor space measured wall-to-wall, excluding bathrooms

and closet space for each living unit of one resident. If two residents share a living unit, there must be a total of 300 square feet. Regulations also specify requirements for a kitchen.

For residences in existence prior to January 18, 2011, each living unit must have at least 160 square feet measured wall-to-wall, excluding bathrooms and closet space. If two residents share a living unit, there must be a total of 210 square feet. Regulations also specify requirements for a kitchen.

**Residents Allowed Per Room**

Personal Care Homes: A maximum of four residents is allowed per bedroom. No more than two residents are permitted in each secure dementia care unit bedroom.

Assisted Living Residences: May not require residents to share a living unit. However, two residents may voluntarily agree to share one living unit, provided that the agreement is in writing and contained in each resident-residence contract. No more than two residents may reside in any living unit.

**Bathroom Requirements**

Personal Care Home: Shall have at least one functioning flush toilet and at least one sink and wall mirror for every six or fewer users, including residents, staff persons, and household members. There shall be at least one bathtub or shower for every ten or fewer users, including residents, staff persons, and household members.

Assisted Living Residence: Each living unit must have a bathroom with one functioning flush toilet, at least one sink and wall mirror, and a bathtub or shower for each unit. Residences must have at least one public restroom that is convenient to common areas and be wheelchair accessible. Each bathroom must be equipped with a system to notify staff in the event of an emergency.

**Life Safety**

Personal Care Home: Must have two exits on each floor of the home. Operable automatic smoke detectors must be located in the hallways within 15 feet of each bedroom door. If the home serves nine or more residents, there shall be at least one smoke detector on each floor interconnected and audible throughout the home or an automatic fire alarm system that is interconnected and audible throughout the home. If one or more residents or

staff persons are not able to hear the smoke detector or fire alarm system, a signaling device approved by a fire safety expert shall be used. There shall be at least one operable fire extinguisher with a minimum 2-A rating for each floor, including the basement and attic. An unannounced fire drill shall be held once a month at various times of the day and night, under normal staffing conditions. A fire drill shall be held during normal sleeping hours once every six months. During fire drills, all residents must evacuate to a designated meeting place away from the building or within the fire safe area during each drill, within the time specified by a fire department or within 2.5 minutes.

Assisted Living Residence: Stairways, hallways, doorways, passageways, and egress routes from living units and from the building must be unlocked and unobstructed. All buildings must have at least two independent and accessible exits from every floor, arranged to reduce the possibility that both will be blocked in an emergency situation. For a residence serving nine or more residents, an emergency evacuation diagram of each floor showing corridors, line of travel to exit doors, and location of the fire extinguishers and pull signals must be posted in a conspicuous and public place on each floor. If the residence serves one or more residents with mobility needs above or below the residence grade level, there must be a fire-safe area, as specified within the past year by a fire safety expert, on the same floor as each resident with mobility needs.

There must be an operable automatic smoke detector in each living unit. If the residence serves nine or more residents, there must be at least one smoke detector on each floor interconnected and audible throughout the residence or an automatic fire alarm system that is interconnected and audible throughout the residence. If one or more residents or staff persons are not able to hear the smoke detector or fire alarm system, a signaling device approved by a fire safety expert must be used and tested so that each resident and staff person with a hearing impairment will be alerted in the event of a fire. Smoke detectors and fire alarms must be tested for operability at least once per month. In residences where there are five or more residents with mobility needs, the fire alarm system must be directly connected to the local fire department or

24-hour monitoring service approved by the local fire department, if this service is available in the community.

There must be at least one operable fire extinguisher with a minimum 2-A rating for each floor, including public walkways and common living areas every 3,000 square feet, the basement, and attic. If the indoor floor area on a floor including the basement or attic is more than 3,000 square feet, there shall be an additional fire extinguisher with a minimum 2-A rating for each additional 3,000 square feet of indoor floor space. A fire extinguisher with a minimum 2A-10BC rating must be located in each kitchen of the residence.

There must be one unannounced fire drill once a month held on different days of the week and at various times of the day and night, under normal staffing conditions. A fire drill must be held during sleeping hours once every six months. Residents must evacuate to a designated meeting place away from the building or within the fire-safe area during each fire drill.

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

For Personal Care Homes, in addition to the assessments and support plans required in a standard Personal Care Homes, a resident of a dementia care unit must have a written cognitive preadmission screening in collaboration with a physician or a geriatric assessment team within 72 hours prior to admission to a secure dementia care unit. The resident must be assessed annually for the continuing need for the secured dementia care unit. The resident-home contract must include the services provided in the dementia care unit, admission and discharge criteria, change in condition policies, special programming, and costs and fees.

Facilities must offer the following types of activities at least weekly: gross motor activities, such as dancing, stretching, and other exercise; self-care activities, such as personal hygiene; social activities, such as games, music, and holiday and seasonal celebrations; crafts, such as sewing, decorations, and pictures; sensory and memory enhancement activities, such as review of current events, movies, storytelling, picture albums, cooking, pet therapy, and reminiscing; and outdoor activities, as weather permits, such as walking, gardening, and field trips. At least two hours per day of personal care services must be provided

to each resident. Additional staffing is required to provide the services specified in each resident's support plan.

In Personal Care Homes, no more than two residents are permitted in each secure dementia care unit bedroom. In a dementia care unit, key-operated locks are not permitted. All doors must be equipped with magnetic locks that automatically open when the fire alarm system is activated.

The Assisted Living Residences statute establishes standards for special care units, which are a residence or portion of a residence providing in the least restrictive manner 1) specialized care and services for residents with Alzheimer's disease or dementia; and/or 2) intense neurobehavioral rehabilitation for residents with severely disruptive and potentially dangerous behaviors as a result of brain injury. Admission to a special care unit must be in consultation with the resident's family or designated person. No more than two residents may occupy a living unit regardless of its size.

Special care units are permitted to have doors equipped with keylocking devices, electronic card operated systems, or other devices that prevent immediate egress if they have written approval from the Pennsylvania's Department of Labor and Industry, Department of Health, or appropriate local building authority permitting the use of the specific locking system. A residence must have a statement from the manufacturer, specific to that residence, verifying that the electronic or magnetic locking system will shut down, and that all doors will open easily and immediately upon a signal from an activated fire alarm system, heat or smoke detector; a power failure to the residence; or overriding the electronic or magnetic locking system by use of a keypad or other lock-releasing device.

The residence must provide space for dining, group and individual activities, and visits. Each resident in a special care unit shall be considered to be a resident with mobility needs and therefore must receive two hours per day of assisted living services.

Assisted Living Residence special care units for Alzheimer's disease or dementia, in addition to the medical evaluation required of all residents, a written cognitive

preadmission screening completed in collaboration with a physician or a geriatric assessment team and documented on the licensing agency's cognitive preadmission screening form must be completed for each resident within 72 hours prior to admission. A support plan that identifies the resident's physical, medical, social, cognitive, and safety needs must be developed within 72 hours of admission or within 72 hours prior to the resident's admission to the special care unit. The support plan must be reviewed, and if necessary, revised at least quarterly and as the resident's condition changes. Residents of a special care unit for Alzheimer's disease or dementia must also be assessed quarterly for the continuing need for the unit.

The following types of activities must be offered at least weekly to residents of a special care unit for residents with Alzheimer's disease or dementia: gross motor activities, such as dancing, stretching, and other exercise; self-care activities, such as personal hygiene; social activities, such as games, music, and holiday and seasonal celebrations; crafts, such as sewing, decorations, and pictures; sensory and memory enhancement activities, such as review of current events, movies, storytelling, picture albums, cooking, pet therapy, and reminiscing; and outdoor activities, as weather permits, such as walking, gardening, and field trips.

## **Staffing Requirements**

**Personal Care Home:** An administrator must be in the home an average of 20 hours or more per week in each calendar month. At least one direct care staff person shall be awake at all times residents are present in the home. While there are no staffing ratios, direct care staff must be present to provide one hour of personal care per day for mobile residents and two hours per day for residents with mobility needs, 75 percent of which shall be given during waking hours. Additionally, there must be staff available to meet the needs of each individual resident as specified in the resident's support plan. At least one staff person for every 50 residents who is trained in first aid and CPR must be present in the home at all times. Direct-care staff must be at least 18 years of age and have a high school diploma or GED.

**Assisted Living Residence:** An administrator must be present in the residence an average of 36 hours or more

per week, in each calendar month. At least 30 hours per week must be during normal business hours.

A direct care staff person 21 years of age or older must be present in the residence whenever at least one resident is present. While there are no staffing ratios, direct care staff persons must be available to provide at least one hour per day of assisted living services to each mobile resident and at least two hours per day to each resident with mobility needs. At least 75 percent of the Assisted Living Residence service hours must be available during waking hours. Direct care staff persons on duty in the residence shall be awake at all times. Staffing must be provided to meet the needs of the residents as specified in the resident's assessment and support plan. Residence staff or service providers who provide services to the residents in the residence shall meet the applicable professional licensure requirements. An Assisted Living Residence must have a licensed nurse available in the building or on call at all times. The licensed nurse shall be either an employee of the residence or under contract with the residence. The residence must have a dietician on staff or under contract to provide for any special dietary needs of a resident as indicated in his/her support plan. For every 35 residents, there shall be at least one staff person trained in first aid and certified in obstructed airway techniques and CPR present in the residence at all times.

### **Administrator Education/Training**

Prior to initial employment, all Personal Care Home and Assisted Living Residence Administrators must successfully complete the following:

- (1) An orientation program approved and administered by the Department;
- (2) A 100-hour standardized Department-approved administrator training course; and
- (3) A Department-approved competency-based training test with a passing score.

An Administrator must have at least 24 hours of annual training.

Personal Care Home: Administrator must be at least 21 years of age and meet one of the following qualifications:

- (1) Be a licensed registered nurse (RN);
- (2) Have an Associate's degree or 60 credit hours from an accredited college or university;
- (3) Be a licensed practical nurse (LPN) with one year of work experience in a related field;

- (4) Be a licensed nursing home administrator in Pennsylvania; or
- (5) For a home serving eight or fewer residents, a GED or high school diploma and two years of direct care or administrative experience in the human services field.

Assisted Living Residence: Administrator must be at least 21 years of age and have one of the following qualifications:

- (1) A license as an RN from the Department of State and one year, in the prior 10 years, of direct care or administrative experience in a health care or human services field;
- (2) An Associate's degree or 60 credit hours from an accredited college or university in a human services field and one year, in the prior 10 years, of direct care or administrative experience in a health care or human services field;
- (3) An Associate's degree or 60 credit hours from an accredited college or university in a field that is not related to human services and two years, in the prior 10 years, of direct care or administrative experience in a health care or human services field;
- (4) A license as an LPN from the Department of State and one year, in the prior 10 years, of direct care or administrative experience in a health care or human services field;
- (5) A license as a nursing home administrator from the Department of State and one year, in the prior 10 years, of direct care or administrative experience in a health care or human services field; or
- (6) Experience as a Personal Care Home administrator, employed as such for two years prior to Jan. 18, 2011, and completed the administrator training requirements and passed the Department-approved competency-based training test by January 18, 2012.

### **Staff Education/Training**

For both Personal Care Homes and Assisted Living Residences, direct care staff must be 18 years of age or older and have a high school diploma, GED, or active registry status on the Pennsylvania nurse aide registry. Prior to or during the first workday, all direct care staff persons, ancillary staff, substitute personnel and volunteers shall have an orientation in general fire safety and emergency preparedness that includes specified topics.

Within 40 scheduled working hours, all direct care staff persons, ancillary staff, substitute personnel and volunteers shall have an orientation on: Resident rights; emergency medical plan; mandatory reporting of abuse and neglect under the state's Older Adult Protective Services Act; and reporting of reportable incidents and conditions. Prior to providing unsupervised ADL services, direct care staff persons must successfully complete and pass the Department-approved direct care training course and competency test.

**Personal Care Home:** Direct care staff persons must have at least 12 hours of annual training relating to their job duties.

**Assisted Living Residence:** Direct care staff must complete an initial orientation approved by the Department and must be certified in first aid and CPR before providing direct care to residents.

Within 40 scheduled working hours, Assisted Living Residences direct care staff, ancillary staff, substitute personnel, and volunteers must have orientation training must include, in addition to the topics above: safe management techniques, and core competency training that includes person-centered care, communication, problem solving and relationship skills, and nutritional support according to resident preference.

For Assisted Living Residences, direct care staff may not provide unsupervised assisted living services until completion of 18-hours of training including: a demonstration of job duties followed by supervised practice, successful completion and passing the Department-approved direct care training course and passing of the competency test. Initial direct care staff training includes: safe management techniques; assisting with ADLs and IADLs; personal hygiene; care of residents with mental illness, neurological impairments, mental retardation, and other mental disabilities; normal aging-cognitive, psychological and functional abilities of individuals who are older; implementation of initial assessment, annual assessment, and support plan; nutrition, food handling, and sanitation; recreation, socialization, community resources, social services, and activities in the community; gerontology; staff person

supervision; care needs of residents served; safety management and hazard prevention; universal precautions; requirements of the regulation chapter; signs and symptoms of infections and infection control; care for individuals with mobility needs; behavioral management techniques; understanding the resident's assessment and how to implement the support plan; and person-centered care.

Assisted Living Residence direct care staff must have at least 16 hours of annual training relating to their job duties. Administrative staff, direct care staff, ancillary staff, substitute personnel, and volunteers must receive at least four hours of dementia-specific training within 30 days of hire and at least two hours of dementia-specific training annually.

**Entity Approving CE Program**

None specified.

**Medicaid Policy and Reimbursement**

While Medicaid funding is not available for Personal Care Homes, Pennsylvania does provide a state supplement to Supplemental Security Income to qualifying Personal Care Home residents.

Currently there is no Medicaid funding available for services provided in Assisted Living Residences.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

The Pennsylvania Code, Title 55, Chapter 2600: Personal Care Homes, [October 20, 2018]  
<http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/055/chapter2600/chap2600toc.html&d=reduce>

The Pennsylvania Code, Title 55, Chapter 2800: Assisted Living Residences, [October 20, 2018],  
<http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/055/chapter2800/chap2800toc.html&d=reduce>

Department of Human Services. Human Services Provider Directory, Provider Search.

[https://www.humanservices.state.pa.us/HUMAN\\_SERVICE\\_PROVIDER\\_DIRECTORY/](https://www.humanservices.state.pa.us/HUMAN_SERVICE_PROVIDER_DIRECTORY/)

## Rhode Island

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**Licensure Term** Assisted Living Residences, Alzheimer Dementia Special Care Unit/Program, Limited Health Services

**Opening Statement** The Department of Health, Center for Health Facilities Regulation, licenses assisted living residences for individuals who do not require the level of medical or nursing care provided in a health care facility, but who require room and board and personal assistance and may require medication administration.

Residences are licensed based on levels according to fire code and medication classifications, as well as for dementia care and Limited Health Services. Fire code Level 1 licensure is for residents who are not capable of self-preservation and Level 2 is for residents who are capable of self-preservation in an emergency.

Medication Level 1 licensure is used when one or more residents require central storage and/or medication administration, and Level 2 is used when residents require only assistance with self-administration of medications.

Alzheimer Dementia Special Care Unit Program licensure is required when: one or more resident's dementia symptoms affects their ability to function based on several specified criteria; a residence advertises or represents special dementia services; or if the residence segregates residents with dementia. Dementia care licensure must be at Level 1 for both fire and medication-related requirements. Additional requirements include a nurse on site at least 35 hours per week and staff training specific to Alzheimer's dementia.

Limited health services licensure is required for residences that provide limited health services which are services provided by a qualified licensed assisted living staff member, as ordered by the resident's physician. These services can include: stage I and stage II pressure ulcer treatment and prevention, simple wound care, ostomy care,

and urinary catheter care. Those that provide limited health services must also meet all of the other Assisted Living requirements, including those for Alzheimer Dementia Special Care Unit/Program Licensure.

**Legislative and Regulatory Update** There are no recent regulatory or legislative updates affecting assisted living in Rhode Island.

**Definition** Assisted living residence means a publicly or privately operated residence that provides directly or indirectly by means of contracts or arrangements, personal assistance and may include the delivery of limited health services, as defined in R.I. Gen Laws § 23-17.4-2(12) to meet the resident's changing needs and preferences, lodging, and meals to six or more adults who are unrelated to the licensee or administrator. However, this excludes any privately operated establishment or facility licensed pursuant to R.I. Gen. Laws Chapter 23-17 and those facilities licensed by or under the jurisdiction of any state agency. Assisted living residences include sheltered care homes, board and care residences, or any other entity by any other name providing the above services that meet the definition of assisted living residences.

Every residence is licensed with a fire code classification and a medication classification (see Medication Management below).

Assisted living residences may also be licensed for Alzheimer Dementia Special Care Unit Programs and Limited Health Services.

**Fire Code Classifications:**

Level F1 licensure is for a residence that has residents who are not capable of self-preservation and these residences must comply with a more stringent life safety code.

Level F2 licensure is for residences that will have residents who are capable of self-preservation.

**Dementia Classification:**

Dementia care licensure is required when one or more resident's dementia symptoms impact their ability to function as demonstrated by any of the following:

(1) Safety concerns due to elopement risk or other behaviors;

- (2) Inappropriate social behaviors that adversely impact the rights of others;
- (3) Inability to self-preserve due to dementia; or
- (4) A physician's recommendation that the resident needs dementia support consistent with this level. Additionally, this licensure is required if a residence advertises or represents special dementia services or if the residence segregates residents with dementia.

## **Disclosure Items**

Assisted living residences must disclose, in a print format, at least the following information to each potential resident, the resident's interested family, and the resident's agent early in the decision-making process and at least prior to the admission decision being made:

- (1) Identification of the residence and its owner and operator;
- (2) Level of license and an explanation of each level of licensure;
- (3) Admission and discharge criteria;
- (4) Services available;
- (5) Financial terms to include all fees and deposits, including any first month rental arrangements, and the residence's policy regarding notification to tenants of increases in fees, rates, services, and deposits;
- (6) Terms of the residency agreement, including the process used in the event that a resident can no longer afford the cost of care being provided; and
- (7) The names, addresses, and telephone numbers of: the Department; the Medicaid Fraud and Patient Abuse Unit of the Department of Attorney General, the State Ombudsperson, and local police office.

The residency agreement or contract must also include specified information, such as resident's rights and admission and discharge criteria.

Any assisted living residence that refers clients to any health care facility or a certified adult day care in Rhode Island and has a financial interest in that entity must disclose the following information to the individual:

- (1) That the referring entity has a financial interest in the residence or provider to which the referral is being made; and
- (2) That the client has the option of seeking care from a different residence or provider that is also licensed and/or certified by the state to provide similar services to the client.

Facilities with Alzheimer Dementia Special Care Unit's/Program's or a Limited Health Services license must also disclose information specific to the following areas: philosophy; pre-occupancy, occupancy, and termination of residence; assessment, service planning & implementation; family role in providing support and services; and program costs.

Alzheimer Dementia Special Care Units must also disclose staffing patterns, training ratio, physical environment, and resident activities.

### **Facility Scope of Care**

Residences may: provide assistance with activities of daily living; assist the resident with self-administration of medication or administration of medication by appropriately licensed staff, depending on the licensure; arrange for support services; and monitor residents' recreational, social, and personal activities. Residences may also be licensed to provide limited health services, which include: state I and stage II pressure ulcer treatment and prevention, simple wound care, ostomy care, and urinary catheter care.

See "Admission and Retention Policy" below for additional details.

### **Third Party Scope of Care**

Residents have the right to arrange for services not available through the setting at their own expense as long as the resident remains in compliance with the resident contract and all applicable laws and regulations.

### **Admission and Retention Policy**

Residences are licensed based on the level of service they provide and only residents meeting the classification criteria specified in the license may move in. Admission and residency are limited to persons not requiring medical or nursing care as provided in a health care facility, but who require personal assistance, lodging and meals and may require the administration of medication and/or limited health services. A resident must be capable of self-preservation in emergency situations, except in limited circumstances. Persons needing medical or skilled nursing care and/or persons who are bedbound or in need of the assistance of more than one person for ambulation are not appropriate to reside in assisted living residences. However, an established resident may receive daily skilled nursing care or therapy from a licensed health care

provider for a condition that results from a temporary illness or injury for up to 45 days subject to an extension of additional days as approved by the state or in specified circumstances. Residents who are bed bound or in need of assistance of more than one staff person for ambulation may reside in a residence if they are receiving hospice care.

The residence can require that a resident move out only for certain reasons and with 30 days advance written notice of termination of residency agreement with a statement containing the reason, the effective date of termination, the resident's right to an appeal under state law, and the name/address of the state ombudsperson's office. In cases of a life-threatening emergency or non-payment of fees and costs, the 30-day notice is not required. If termination due to non-payment of fees and costs is anticipated, the residence must make a good faith effort to counsel the resident of this expectation. Residences may discharge a resident in the following circumstances:

- (1) If a resident does not meet the requirements for residency criteria stated in the residency agreement or requirements of state or local laws or regulations;
- (2) If a resident is a danger to self or the welfare of others, and the residence has made reasonable accommodation without success to address resident behavior in ways that would make termination of residency agreement or change unnecessary; and
- (3) Failure to pay all fees and costs, resulting in bills more than 30 days outstanding.

## **Resident Assessment**

Prior to a resident moving into a residence, the administrator must have a comprehensive assessment of the resident's health, physical, social, functional, activity, and cognitive needs and preferences conducted and signed by a registered nurse (RN). The assessment must be on a form designed or approved by the Department of Health.

The approved Department form is available at <http://health.ri.gov/forms/assessment/AssistedLivingResident.pdf>

## **Medication Management**

Facilities are further classified by the degree to which they manage medications. Nurse review is necessary under all levels of medication licensure. Level M1 is for a residence

that has one or more residents who require central storage and/or administration of medications. In Level M1 facilities, licensed employees—registered medication aides, RNs, licensed practical nurses—may administer oral or topical drugs and monitor health indicators; however, schedule II medications may only be administered by licensed personnel (e.g., RN or licensed practical nurse). Level M2 is for residences that have residents who require assistance with self-administration of medications, as defined in the regulations.

**Square Feet Requirements** Single rooms must be a minimum of 100 square feet in area and eight feet wide; double bedrooms must be a minimum of 160 square feet in area and 10 feet wide, exclusive of toilet rooms, closets, lockers, wardrobes, alcoves or vestibules.

**Residents Allowed Per Room** A maximum of two residents is allowed per resident unit.

**Bathroom Requirements** The facility must provide a minimum of one bath per 10 residents and one toilet per eight residents.

**Life Safety** Facilities must have sprinklers and smoke detectors. Residential board and care facilities must have carbon monoxide detectors, which must be either hardwired or wireless and be installed in accordance with National Fire Protection Association 720. Facilities must have an annual inspection conducted under the authority of the State Fire Marshal to assess compliance with the Fire Safety Code.

**Unit and Staffing Requirements for Serving Persons with Dementia** A residence that offers or provides services to residents with Alzheimer's disease or other dementia, by means of an Alzheimer Dementia Special Care Unit/Program, must disclose the type of services provided in addition to those services required by the state. A standard disclosure form created by the licensing agency must be completed and submitted to the licensing agency for review to verify the accuracy of the information reported on it. The form must also be provided to any individual seeking to move into the residence. The information disclosed must explain the additional care that is provided through:

- (1) The residence's philosophy;
- (2) Pre-occupancy, occupancy, and termination of residence;
- (3) Assessment, service planning, and implementation;

- (4) Staffing patterns and staff training;
- (5) Physical environment;
- (6) Resident activities;
- (7) Family role in care; and
- (8) Program costs.

In addition to training required for staff in all assisted living residences, staff in a residence licensed for dementia care level must receive at least 12 hours of orientation and training on (1) understanding various dementias; (2) communicating effectively with dementia residents; and (3) managing behaviors, within 30 days of hire and prior to beginning work alone in the assisted living residence.

## **Staffing Requirements**

Each residence must have an administrator who is certified by the Department of Health, and who is responsible for the safe and proper operation of the residence at all times. All residences must provide staffing that is sufficient to provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of the residents, according to the appropriate level of licensing. There are no staffing ratios, though the administrator must be in charge of no more than three residences with an aggregate resident total of no more than 120 residents.

At least one staff person who has completed employee training and at least one person who has successfully completed CPR training must be on the premises at all times. In addition, each residence must have responsible adults who are employees or who have a contractual relationship with the residence to provide the services required who is at least 18 years of age and:

- (1) Awake and on the premises at all times;
- (2) Designated in charge of the operation of the residence; and
- (3) Physically and mentally capable of communication with emergency personnel.

All staff having contact with residents must have a criminal records check.

An RN must visit the residence at least once every 30 days, except in specified circumstances, to complete a review as defined in the regulation.

Additional staffing requirements are in place for residents that offer Alzheimer Dementia Special Care Unit/Program and Limited Health Services.

### **Administrator Education/Training**

The Department of Health shall issue certification as an administrator for up to two years if the applicant is 18 years or older, of good moral character, and has initial training that includes one of the following:

- (1) Successful completion of a training program and assisted living administrator licensing examination, satisfactory completion of at least 80 hours of field experience in a training capacity in a state-licensed assisted living residence to include specified training within a 12-month period;
- (2) Successful completion of a degree in a health-centered field from an accredited college or university that includes coursework in gerontology, personnel management, and financial management, and satisfactory completion of at least 80 hours of field experience in a training capacity in a state-licensed assisted living residence to include specified training within a 12-month period; or
- (3) Possess a current Rhode Island nursing home administrator's license.

If an individual does not meet the above specified training requirements, a written examination as determined by the Department of Health to test the qualifications of the individual as an assisted living residence administrator must be successfully completed.

To be eligible for recertification, an administrator must complete 32 hours of Department of Health-approved continuing education within the previous two years. Sixteen of the required 32 hours of continuing education must be contact hours. The remaining 16 hours of continuing education may be non-contact hours.

### **Staff Education/Training**

All new employees must receive at least two hours of orientation and training in the areas listed below within 10 days of hire and prior to beginning work alone, in addition to any training that may be required for a specific job classification at the residences. Training areas include:

- (1) Fire prevention;
- (2) Recognition and reporting of abuse, neglect, and mistreatment;

- (3) Assisted living philosophy (goals/values: dignity, independence, autonomy, choice);
- (4) Resident's rights;
- (5) Confidentiality;
- (6) Emergency preparedness and procedures;
- (7) Medical emergency procedures;
- (8) Infection control policies and procedures; and
- (9) Resident elopement.

New employees who will have regular contact with residents and provide residents with personal care must receive at least 10 hours of orientation and training on specified topics within 30 days of hire and prior to beginning work alone in the assisted living residence, in addition to the areas identified above. Training areas include a variety of topics, such as basic knowledge of cultural differences and aging-related behaviors, personal assistance, and resident transfers.

Employees must have on-going (at intervals not to exceed 12 months) in-service training as appropriate for their job classifications and that includes the topics identified above.

See the "Unit and Staffing Requirements for Serving Persons with Dementia" section above for additional training requirements that exist for facilities that have Alzheimer Dementia Special Care Unit/Program Licensure.

### **Entity Approving CE Program**

Approved continuing education programs in assisted living related areas include those offered or approved by:

- (1) Rhode Island Association of Facilities and Services for the Aging;
- (2) Rhode Island Assisted Living Association;
- (3) Rhode Island Health Care Association;
- (4) Alliance for Better Long Term Care;
- (5) Rhode Island Chapter, Alzheimer's Association;
- (6) Appropriate coursework from any regionally accredited college;
- (7) A national affiliate of any of the organizations listed above; and
- (8) Any other organizations as may be approved by the Assisted Living Residence Administrator Certification Board.

**Medicaid Policy and Reimbursement**

A Medicaid Section 1115 demonstration waiver program now called the Rhode Island Comprehensive Demonstration (formerly the “Global Consumer Choice Compact Waiver”) covers assisted living services. The demonstration was extended in December 2018 and will expire in December 2023.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

Department of State. Licensing Assisted Living Residences (216-RICR-40-10-2). <https://rules.sos.ri.gov/regulations/part/216-40-10-2>

Department of State. Assisted Living Residence Administrators (216-RICR-40-05-18). <https://rules.sos.ri.gov/regulations/part/216-40-05-18>

Department of Human Services, Office of Health and Human Services, Long Term Services and Supports (LTSS). <https://dhs.ri.gov/programs-and-services/long-term-services-and-supports>

Executive Office of Health & Human Services. Rhode Island Comprehension Demonstration. [https://eohhs.ri.gov/sites/g/files/xkqbur226/files/2021-04/RI-global-consumer-choice-compact-ca\\_STCs\\_07\\_27\\_20.pdf](https://eohhs.ri.gov/sites/g/files/xkqbur226/files/2021-04/RI-global-consumer-choice-compact-ca_STCs_07_27_20.pdf)

## South Carolina

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**Licensure Term** Community Residential Care Facilities

**Opening Statement** Community Residential Care Facilities (CRCFs), also called assisted living facilities, are licensed by the South Carolina Department of Health and Environmental Control, Healthcare Quality to provide room, board, and a degree of personal care to two or more adults unrelated to the owner. Providers that care for two or more persons are licensed as CRCFs.

**Legislative and Regulatory Update** There are no recent legislative or regulatory changes affecting CRCFs.

**Definition** A community residential care facility offers room and board and a degree of personal assistance for a period of time in excess of 24 consecutive hours for two or more persons 18 years or older. It is designed to accommodate residents' changing needs and preferences, maximize residents' dignity, autonomy, privacy, independence, and safety, and encourage family and community involvement. Included in this definition is any facility that offers a beneficial or protected environment specifically for individuals who have mental illness or disabilities and facilities that are referred to as 'assisted living,' provided they meet the definition of community residential care facility.

**Disclosure Items** Prior to admission, there shall be a written agreement between the resident, and/or his/her responsible party, and the facility.

1. An explanation of the specific care, services, and/or equipment provided by the facility, e.g., administration of medication, provision of special diet as necessary, assistance with bathing, toileting, feeding, dressing, and mobility
2. Disclosure of fees for all care, services, and/or equipment provided;
3. Advance notice requirements of not less than thirty (30)

- days to change fee amount for care, services and/or equipment;
4. Refund policy to include when monies are to be forwarded to resident upon discharge/transfer/relocation;
  5. The date a resident is to receive his/her personal needs allowance;
  6. The amount a resident receives for his/her personal needs allowance;
  7. Transportation policy;
  8. Discharge/transfer provisions to include the conditions under which the resident may be discharged and the agreement terminated, and the disposition of personal belongings;
  9. Documentation of the explanation of the Resident's Bill of Rights and the grievance procedure.

**Facility Scope of Care** CRCFs offer room and board and provides/coordinates a degree of personal care for a period of time in excess of 24 consecutive hours.

**Third Party Scope of Care** When a facility engages a source other than the facility to provide services, normally provided by the facility, there shall be a written agreement with the source that describes how and when the services are to be provided, the exact services to be provided, and that these services are to be provided by qualified individuals. The source shall comply with this regulation in regard to resident care, services, and rights.

**Admission and Retention Policy** Individuals seeking admission shall be identified as appropriate for the level of care, services, or assistance offered. The facility shall establish admission criteria that are consistently applied and comply with local, State, and Federal laws and regulations. The facility shall admit and retain only those persons appropriate for placement in a CRCF in compliance with the standards of this regulation. The regulation specifies persons who should not be admitted or retained in the Admission/Retention section.

**Resident Assessment** A resident assessment is required but there is not a specific required form. A written assessment must be completed no later than 72 hours after admission. The assessment must include a procedure for determining the nature and extent of the problems and needs of a resident/potential resident to ascertain if the facility can adequately address those problems, meet those needs,

and to secure information for use in the development of the individual care plan. Included in the process is an evaluation of the physical, emotional, behavioral, social, spiritual, nutritional, recreational, and, when appropriate, vocational, educational, and legal status/needs of a resident/potential resident. Consideration of each resident's needs, strengths, and weaknesses also must be included in the assessment. Using the written assessment, the facility shall develop within seven (7) days of admission an Individual Care Plan (ICP) with participation of the resident, administrator (or designee), and/or the sponsor or responsible party when appropriate, as evidenced by their signatures and date. An ICP is a documented regimen of appropriate care/services or written action plan prepared by the facility for each resident based on resident's needs and preferences and which is to be implemented for the benefit of the resident.

### **Medication Management**

Facility staff members may administer routine medications, acting in a surrogate family role, provided these staff members have been trained to perform these tasks by individuals licensed to administer medications. Facility staff members may administer injections of medications only in instances where medications are required for diabetes and conditions associated with anaphylactic reactions under established medical protocol. A staff licensed nurse may administer certain other injections as well.

Facilities may elect not to permit self-administration. Self-administration of medications by a resident is permitted if: specific written orders of the physician or other authorized healthcare provider are obtained on a semi-annual basis or staff shall document the resident demonstration to self-administer medication.

### **Square Feet Requirements**

Rooms for one resident must be a minimum of 100 square feet and multiple-occupancy resident units must provide square feet per resident. Facilities must have 20 square feet per licensed bed of living and recreational areas combined, excluding bedrooms, halls, kitchens, dining rooms, bathrooms, and rooms not available to residents. Facilities must also have 15 square feet of floor space in the dining room per licensed bed.

### **Residents Allowed Per Room**

A maximum of three residents is allowed per resident unit.

**Bathroom Requirements**

One toilet is required for every six licensed beds with at least one handwash lavatory adjacent to each toilet. One tub/shower is required for every eight licensed beds.

**Life Safety**

The department utilizes the provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal applicable to community residential care facilities. Unless specifically required otherwise in writing by the department's Division of Health Facilities Construction, all facilities existing when the regulation was promulgated shall meet the codes, regulations, and requirements for the building and its essential equipment and systems in effect at the time the license was issued.

Any additions or renovations to an existing facility shall meet the codes, regulations, and requirements for the building and its essential equipment and systems in effect at the time of the addition or renovation. When the work area of additions or renovations to the building exceeds 50 percent of the building area and its essential equipment and systems, the entire building shall meet the then current codes, regulations, and requirements.

Any facility that closes or has its license revoked, and for which application is made at the same site, shall be considered a new building and shall meet the current codes, regulations, and requirements for the building and essential equipment and systems in effect at the time of application for re-licensing.

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

An Alzheimer's Special Care Unit or Program is a facility or area within a facility providing a secure, special program or unit for residents with a diagnosis of probable Alzheimer's disease and/or related dementia to prevent or limit access by a resident outside the designated or separated areas, and that advertises, markets, or otherwise promotes the facility as providing specialized care/services for persons with Alzheimer's disease and/or related dementia or both.

Facilities offering special care units or programs for residents with Alzheimer's disease must disclose the form of care or treatment provided that distinguishes it as being especially suitable for the resident requiring special

care. The facility must comply with the Alzheimer's Special Care Disclosure Act.

Staff are required to have annual training specific to the physical/mental condition of the persons being cared for in the facility to include communication techniques (cueing and mirroring), understanding and coping with behaviors, safety, activities, etc.

## **Staffing Requirements**

An administrator, appropriately licensed, has the authority and responsibility to manage the facility, is in charge of all functions and activities of the facility.

There must be a staff member actively on duty and present in the facility at all times that the facility is occupied by residents and to whom the residents can immediately report injuries, symptoms of illness, or emergencies.

There must be at least one staff person or direct care volunteer for each eight residents or fraction thereof on duty during all periods of peak hours (from 7:00 am. to 7:00 p.m., or as otherwise approved by the Department of Health and Environmental Control).

During "non-peak" hours, at least one staff member or direct care volunteer must be on duty for each 30 residents or fraction thereof. Staff must be awake and dressed at all times to be able to appropriately respond to resident needs during nonpeak hours.

In facilities that are licensed for more than 10 beds, and the facility is of multi-floor design, there shall be a staff member available on each floor at all times residents are present on that floor. Each facility must designate a staff member responsible for developing recreational programming.

## **Administrator Education/Training**

Administrators must be 21 years of age, have an Associate's degree or higher, onsite work experience under a licensed administrator, pass required exams and be licensed by the South Carolina Board of Long Term Care Administrators.

Administrators must complete 18 hours of continuing education per year.

**Staff Education/Training** Staff must complete in-service training programs that include training in basic first aid; procedures for checking vital signs (for designated staff); contagious and/or communicable diseases; medication management; care of persons specific to the physical/mental condition being cared for in the facility; use of restraints Occupational Safety and Health Administration standards regarding blood borne pathogens; CPR for designated staff; confidentiality of resident information and records; bill of rights for Long-Term Care Facilities; fire response and emergency procedures to be completed within 24 hours of their first day on the job; and activity training (for the designated staff only. Training must be provided prior to resident contact and annually thereafter, unless otherwise specified by certificate.

**Entity Approving CE Program** The South Carolina Department of Labor, Licensing and Regulation Board of Long Term Health Care Administrators is responsible for the CE Program.

**Medicaid Policy and Reimbursement** Medicaid generally does not cover services offered in a CRCF.

**COVID-19 Public Health Emergency** There are no permanent regulatory changes related to the COVID-19 public health emergency. Infection control requirements listed in the regulation states Staff/volunteer practices shall promote conditions that prevent the spread of infectious, contagious, or communicable diseases and provide for the proper disposal of toxic and hazardous substances. These preventive measures/practices shall be in compliance with applicable guidelines of the Blood borne Pathogens Standard of the Occupational Safety and Health Act (OSHA) of 1970; the Centers for Disease Control and Prevention (CDC); and R.61-105; and other applicable Federal, State, and local laws and regulations.

**Citations** Department of Health and Environmental Control, Bureau of Health Facilities Licensing. Community Residential Care Facilities. <https://scdhec.gov/BHFL/community-residential-care-facilities>

South Carolina Code of Regulations, Chapter 61: Department of Health and Environmental Control, Section 84: Standards for Licensing Community Residential Care Facilities.

<https://scdhec.gov/sites/default/files/Library/Regulations/R.61-84.pdf>

South Carolina Community Residential Care Facilities Committee. Assisted Living and Community Residential Care Facilities, A Practical Guide for Consumers. [January 4, 2013] <https://llr.sc.gov/lthc/PDF/Residents%20Rights.pdf>

South Carolina Department of Labor, Licensing and Regulation, Board of Long Term Health Care Administrators, Continuing Education Laws and Procedures.  
[https://llr.sc.gov/lthc/PDF/CEU\\_Laws\\_and\\_Procedures.pdf](https://llr.sc.gov/lthc/PDF/CEU_Laws_and_Procedures.pdf)

South Carolina Code of Laws, Title 44 - Health, Chapter 36: Alzheimer's Disease and Related Disorders, Article 5: Special Care Disclosure, Section 44-36-520: Information respecting form of Alzheimer's care or treatment provided.  
<https://www.scstatehouse.gov/code/t44c036.php>

## South Dakota

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**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.

<b>Facility Scope of Care</b>	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.
<b>Third Party Scope of Care</b>	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.
<b>Admission and Retention Policy</b>	<p>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:</p> <ul style="list-style-type: none"> <li>(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;</li> <li>(2) Feed self with set up, cueing, and supervision, assistance may be provided according to additional provision for dining assistance;</li> </ul>

- (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.

**Entity Approving CE Program**

None specified.

**Medicaid Policy and Reimbursement**

State funds coupled with a broad Section 1915(c)\_Medicaid home and community-based services waiver, the Home & 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.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

South Dakota Department of Human Services, Long Term Services and Supports, Assisted Living.  
<https://dhs.sd.gov/ltss/assistedliving.aspx>.

South Dakota Legislature, Legislative Research Council. Administrative Rules, Article 44:70: Assisted Living Centers.  
<https://sdlegislature.gov/Rules/Administrative/32256>

South Dakota Department of Health, Healthcare Providers, Health Facilities Licensure, Staffing Exception Forms for Assisted Living Centers. [2019]  
<https://doh.sd.gov/providers/licensure/Staffing-Exceptions.aspx>

South Dakota Department of Health, Healthcare Providers, Health Facilities Licensure, Levels of Long Term Care in South Dakota. [2019]  
<https://doh.sd.gov/providers/licensure/long-term-care.aspx>

South Dakota Department of Social Services, Medicaid Home and Community Based Services. [2020]  
<https://dss.sd.gov/medicaid/hcbs.aspx>

## Tennessee

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**Licensure Term** Assisted-Care Living Facilities and Residential Homes for the Aged

**Opening Statement** The Tennessee Department of Health, Board for Licensing Health Care Facilities, licenses assisted-care living facilities (ACLFs) and residential homes for the aged (RHAs) to provide services to older persons who need assistance with personal care. Assisted care living facilities may provide a higher level of care than residential homes for the aged, including the provision of medical services. Licensing rules specify requirements for dementia care in both settings.

**Legislative and Regulatory Update** The state issued revised Chapter 1200-08-11: Standards for Homes for the Aged and Chapter 1200-08-25: Standards for Assisted-Care Living Facilities in November 2020.

**Definition** An ACLF is a building, establishment, complex, or distinct part thereof that accepts primarily aged persons for domiciliary care and services. The purpose of assisted-care living services is to:

- (1) Promote the availability of appropriate residential facilities for the elderly and adults with disabilities in the least restrictive and most homelike environment;
- (2) Provide assisted-care living services to residents in facilities by meeting each individual's medical and other needs safely and effectively; and (3) Enhance the individual's ability to age in place while promoting personal individuality, respect, independence, and privacy.

A Home for the Aged is a home represented and held out to the general public as a home which accepts primarily aged persons for relatively permanent, domiciliary care with primarily being defined as 51% or more of the population of the home for the aged. It provides room, board and personal services to four or more nonrelated persons. The term home includes any building or part thereof which provides services as defined in these rules.

## **Disclosure Items**

Both ACLFs and RHAs must have an accurate written statement regarding fees and services that will be provided to the resident upon admission and provide to each resident at the time of admission a copy of the resident's rights for the resident's review and signature. Prior to the admission or execution of a contract for the care of a resident, the facility shall disclose in writing to the resident, or to the resident's legal representative, whether the facility has liability insurance and the identity of the primary insurance carrier. If the facility is self-insured, its statement shall reflect that fact and indicate the corporate entity responsible for payment of any claims.

## **Facility Scope of Care**

ACLF: An ACLF may provide medical services and oversight of medical services. Medical services include administration of medication, part-time or intermittent nursing care, various therapies, podiatry care, medical social services, medical supplies, durable medical equipment, and hospice services.

The ACLF shall provide personal services. Personal services include protective care, safety when in the ACLF, daily awareness of the individual's whereabouts, the ability and readiness to intervene if crises arise, room and board, non-medical living assistance with activities of daily living (ADLs), laundry services, dietary services, a suitable and comfortable furnished area for activities and family visits, reading materials, and a telephone accessible to all residents to make and receive personal phone calls 24 hours per day.

RHA: An RHA shall provide personal services, which include: protective care of the resident, responsibility for the safety of the resident when in the facility, daily awareness of the resident's whereabouts, and the ability and readiness to intervene if crises arise. Personal services do not include nursing or medical care. Personal services must be provided by employees of the home. An RHA resident must self-administer medication; however, if the home chooses to employ a currently licensed nurse, medications may be administered by the nurse. Staff may assist with self-administration [see Medication Management section]. Residents shall be provided assistance, if needed, in personal care such as bathing, grooming and dressing. An RHA shall also provide laundry arrangements for linens for the home and for residents' clothing, three meals per day

that constitute an acceptable diet, a suitable and comfortable furnished area for activities and family visits, reading materials, and a telephone accessible to all residents to make and receive personal phone calls 24 hours per day.

**Third Party Scope of Care** ACLF: Medical services identified in the Facility Scope of Care provided in the facility may be provided by appropriately licensed or qualified staff of an ACLF, appropriately licensed or qualified contractors of an ACLF, a licensed home care organization, appropriately licensed staff of a nursing home, or another appropriately licensed entity.

RHA: None specified.

**Admission and Retention Policy** ACLF: A facility shall not admit or permit the continued stay of any resident if he/she:

- (1) Requires treatment of extensive stage III or IV decubitus ulcer or with exfoliative dermatitis;
- (2) Requires continuous nursing care;
- (3) Has an active, infectious, and reportable disease in a communicable state that requires contact isolation;
- (4) Exhibits verbal or physical aggressive behavior which poses an imminent physical threat to self or others, based on behavior, not diagnosis;
- (5) Requires physical or chemical restraints, not including psychotropic medications for a manageable mental disorder or condition; or
- (6) Has needs that cannot be safely and effectively met in the ACLF.

Additionally, in specified circumstances, an ACLF may not retain a resident who cannot evacuate within 13 minutes. An ACLF resident shall be discharged and transferred to another appropriate setting such as home, a hospital, or a nursing home when the resident, the resident's legal representative, ACLF administrator, or the resident's treating physician determine that the ACLF cannot safely and effectively meet the resident's needs, including medical services. The Board for Licensing Health Care Facilities may require that an ACLF resident be discharged or transferred to another level of care if it determines that the resident's needs, including medical services, cannot be safely and effectively met in the ACLF.

A facility shall not admit, but may permit the continued stay of residents who require the following treatments on an intermittent basis of up to three 21-day periods: nasopharyngeal or tracheotomy aspiration, nasogastric feedings, gastrostomy feedings, or intravenous therapy or intravenous feedings. The resident's treating physician must certify that treatment can be safely and effectively provided by the ACLF for the last two 21-day periods. These treatments can be provided on an ongoing basis in a few limited, specified circumstances.

With some exceptions, an ACLF may admit and permit the continued stay of an individual meeting the level of care requirement for nursing facility services, if the resident's treating physician certifies in writing that the resident's needs, including medical services, can be safely and effectively met by care provided in the ACLF and the ACLF can provide assurances that the resident can be timely evacuated in case of fire or emergency.

Any ACLF resident who qualifies for hospice care shall be able to receive hospice services and continue as a resident of the facility as long as the resident's treating physician certifies that hospice care can be appropriately provided at the facility.

RHA: Homes for the aged may not admit individuals whose needs can be met by the facility within its licensure category and may not admit or retain individuals who:

- (1) Cannot self-administer medications or require medications that are not typically self-administered, unless provided by a home care organization or physician;
  - (2) Require professional medical or nursing observation and/or care on a continual or daily basis, with some exceptions for short-term medical or nursing care;
  - (3) Pose a clearly documented danger to themselves or other residents;
  - (4) Cannot safely evacuate the facility within 13 minutes;
- or
- (5) Require chemical or physical restraints.

Residents who require professional medical or nursing observation and/or care on a continual or daily basis or who require more technical medical or nursing care than the personnel and the home can lawfully offer on a short-term basis must be transferred to a licensed hospital, nursing home or assisted care living facility. Additionally,

RHAs may only admit individuals in the early stages of Alzheimer's disease and related disorders after it has been determined by an interdisciplinary team that care can appropriately and safely be given in the facility. The interdisciplinary team must review such persons at least quarterly as to the appropriateness of placement in the facility.

## **Resident Assessment**

ACLF: Facilities are required to assess prospective residents before they move in to make sure they meet the definition of an ACLF resident. The complete written assessment of the resident shall occur within a time-period determined by the ACLF, but no later than 72 hours after admission. Quarterly reviews are to be performed by an interdisciplinary team for residents in a secured unit.

For admittance to a secured unit of a facility, documentation is required that an interdisciplinary team consisting of at least a physician, a registered nurse, and a family member (or patient care advocate) has evaluated each resident prior to admittance to the unit.

RHA: Facilities that admit individuals in the early stages of Alzheimer's disease and related disorders are required to have an interdisciplinary team review such persons at least quarterly to determine appropriateness of placement in the facility. The interdisciplinary team shall consist of, at a minimum, a physician experienced in the treatment of Alzheimer's disease and related disorders, a social worker, a registered nurse, and a family member (or patient care advocate).

## **Medication Management**

ACLF: Medication must be self-administered or administered by a licensed or certified health care professional operating within the scope of the professional license or certification and according to the resident's plan of care. The facility may assist residents with medication, including reading labels, reminders, and observation.

RHA: Medications shall be self-administered. If the RHA chooses to employ a licensed nurse, medications may be administered by the nurse. Assistance in reading labels, opening bottles, reminding residents of their medication, observing the resident while taking medication and checking the self-administered dose against the dosage shown on the prescription are permissible.

**Square Feet Requirements** A minimum of 80 square feet of bedroom space must be provided to each resident. Living room and dining areas capable of accommodating all residents shall be provided, with a minimum of 15 square feet per resident per dining area.

**Residents Allowed Per Room** No bedroom shall have more than two beds. Privacy screens or curtains must be provided and used when requested by the resident.

**Bathroom Requirements** Each toilet, lavatory, bath, or shower shall serve no more than six residents.

**Life Safety** All new facilities must conform to the 2012 editions of the: International Building Code; National Fire Protection Code of the National Fire Protection Association (NFPA); and the International Mechanical, Plumbing, and Fuel and Gas Codes. They must also comply with: the 2018 Guidelines for Design and Construction for hospitals, outpatient facilities and residential health care and support facilities; 2011 edition of the National Electrical Code; and the 2009 edition of the U.S. Public Health Service Food Code as adopted by the Board for Licensing Health Care Facilities. Where there are conflicts between requirements in local codes and the above listed codes and regulations, the most stringent requirements shall apply.

All facilities must be protected throughout by an approved automatic sprinkler system using quick-response or residential sprinklers. All facilities must have electrically operated smoke detectors with battery back-up power operating at all times in at least sleeping rooms, day rooms, corridors, laundry rooms, and any other hazardous areas. In addition to state and federal laws and regulations, Tennessee adheres to NFPA standards. Fire drills shall be held at least quarterly for each work shift for personnel in each separate building. There shall be one fire drill per quarter during sleeping hours.

**Unit and Staffing Requirements for Serving Persons with Dementia** Facilities are permitted to have secured units and can retain residents into the last stages of Alzheimer's disease, consistent with the above admission/discharge/transfer criteria.

Regulations define a “secured unit” a distinct part of an ACLF where the residents are intentionally denied egress except as is necessary to comply with life safety requirements. Facilities utilizing secured units must provide to survey staff specific information and documentation accumulated during the previous 12 months regarding staffing patterns, care provided, and other health-related issues. For admittance to a secured unit of a facility, documentation is required that an interdisciplinary team consisting of at least a physician, a registered nurse, and a family member (or patient care advocate) has evaluated each resident prior to admittance to the unit.

Any staff working on a secured unit must have annual in-service training, including at least the following subject areas:

- (1) Basic facts about the causes, progression, and management of Alzheimer's disease and related disorders;
- (2) Dealing with dysfunctional behavior and catastrophic reactions in the residents;
- (3) Identifying and alleviating safety risks to the resident;
- (4) Providing assistance with ADLs for the resident; and
- (5) Communication with families and other persons interested in the resident.

## **Staffing Requirements**

All facilities must employ an administrator, an identified responsible attendant, and a sufficient number of staff to meet the needs of the residents.

ACLF: Facilities must have an attendant who is alert and awake at all times. A licensed nurse must be available as needed. An ACLF shall employ a qualified dietician, full time, part time, or on a consultant basis. There are no specified staffing ratios. The responsible attendant, administrator, and direct care staff must be at least 18 years of age.

RHA: An RHA must have a responsible attendant, who is at least 18 years of age, awake, on duty, and on the premises at all times.

## **Administrator Education/Training**

Administrators must hold a high school diploma or equivalent, must not have been convicted of a criminal offense involving the abuse or intentional neglect of an elderly or vulnerable individual, and provide proof of being at least 21 years of age. An administrator must be certified

by the Board for Licensing Health Care Facilities, unless the administrator is currently licensed in Tennessee as a nursing home administrator as required by T.C.A. 63-16-101.

Administrators must complete 24 hours of continuing education every two years in courses related to Tennessee rules and regulations, health care management, nutrition and food service, financial management, and healthy lifestyles.

**Staff Education/Training**

None specified.

**Entity Approving CE Program**

ACLF: Tennessee Board of Licensing Health Care Facilities. All NAB-approved classroom courses including interactive on-line courses are automatically accepted. Continuing education courses focusing on geriatric care that are sponsored by the state and/or national association are also accepted and can be taken either in a classroom setting or through interactive on-line courses. However, there is no licensing board for ACLF administrators.

RHA: Tennessee Board of Licensing Health Care Facilities. Courses sponsored by the National Association of Residential Care Facilities and the National Association of Nursing Home Administrators are deemed approved by the board.

**Medicaid Policy and Reimbursement**

The state covers services in assisted care living facilities through its Medicaid Section 1115 managed care Long-Term Services and Supports CHOICES program (CHOICES). The CHOICE program serves adults 21 years of age and older with a physical disability and seniors (age 65 and older).

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

## Citations

Tennessee Department of Health, Board for Licensing Health Care Facilities. Chapter 1200-08-25: Standards for Assisted Living Facilities. [November 2020]

<https://publications.tnsosfiles.com/rules/1200/1200-08/1200-08-25.20201126.pdf>

Tennessee Department of Health, Board for Licensing Health Care Facilities. Chapter 1200-08-11: Standards for Homes for the Aged. [November 2020]

<https://publications.tnsosfiles.com/rules/1200/1200-08/1200-08-11.20201126.pdf>

Long-Term Services & Supports, Division of TennCare.

<https://www.tn.gov/tenncare/section/long-term-services-supports>

## Texas

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**Licensure Term** Assisted Living Facilities – Type A and Type B Assisted Living Facilities

**Opening Statement** The Texas Health and Human Services Commission (HHSC) licenses two facility licensure types for assisted living: Type A and Type B, which are based on residents' capability to evacuate the facility. Facilities are classified as either being licensed as a small (fewer than 16 residents, but four or more) or large (17 or more residents) facility. Any facility that advertises, markets, or otherwise promotes itself as providing specialized care for persons with Alzheimer's disease or other disorders must be certified as such and have a Type B license. A person establishing or operating a facility that is not required to be licensed may not use the term "assisted living" in referring to the facility or the services provided. The ALF statute requires careful monitoring to detect and report unlicensed facilities.

**Legislative and Regulatory Update** Regulatory revisions from the 89<sup>th</sup> Legislative Session (2021) are currently being developed and they relate to disclosure statements for facilities who advertise as memory care as well as life safety code requirements regarding flood plains. Rules will be effective November 2022.

The formatting for Texas Administrative Code (TAC) Title 26, Chapter 553, was completely revised effective August 31, 2021 and all previous sections were renumbered and similar requirements were grouped together in specific sections to make the chapter easier to read and navigate. This effort was not legislatively mandated, but the industry requested general revisions to the formatting of the Chapter.

**Definition** An ALF is an establishment that furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor and provides personal care services or medication administration, or both and may

provide assistance with or supervision of medication administration.

In a Type A ALF, a resident: must be mentally and physically capable of evacuating the facility unassisted in the event of an emergency; must not require routine attendance during sleeping hours; must be capable of following direction under emergency conditions; and must be able to demonstrate that they can meet evacuation requirements.

In a Type B ALF, a resident: may require staff assistance to evacuate; may be incapable of following directions under emergency conditions; may require attendance during sleeping hours; and must not be permanently bedfast but may require assistance in transferring to and from bed.

**Disclosure Items**

There is a state-approved disclosure form that is required of all facilities, including a separate disclosure form for Alzheimer’s certified facilities or units.

**Facility Scope of Care**

Facilities provide personal care services or medication administration, or both and may provide assistance with or supervision of medication administration. An ALF may provide skilled nursing services for the following limited purposes: (1) coordinate resident care; (2) provide or delegate personal care services and medication administration; (3) assess residents to determine the care required; and (4) deliver temporary skilled nursing services for a minor illness, injury, or emergency for less than 30 days. An ALF may also provide health maintenance activities as defined by rule by the Texas Board of Nursing. Rules are being developed to implement this requirement.

**Third Party Scope of Care**

A resident may contract with a licensed home and community support services agency or with an independent health professional to have additional health care services delivered at the facility.

**Admission and Retention Policy**

Facilities must not admit or retain persons whose needs cannot be met by the facility or by the resident contracting with a home health agency.

**Resident Assessment**

Within 14 days of admission, a resident comprehensive assessment and an individual service plan for providing care based on that comprehensive assessment must be

completed. There is no state-mandated form. Facilities must include specific criteria from the licensing regulations on their assessment form, such as behavioral symptoms, psychosocial issues, and activities of daily living patterns.

<b>Medication Management</b>	Residents who choose not to or cannot self-administer medication must have medication administered by a person who: holds a current license to administer medication; holds a current medication aide permit (this person must function under the direct supervision of a licensed nurse on duty or on call); or is an employee of the facility to whom the administration of medication has been delegated by a registered nurse. Staff who are not licensed or certified may assist with self-administration of medication as allowed under the regulations.
<b>Square Feet Requirements</b>	Bedroom usable floor space for Type A facilities must be at least 80 square feet for a single-bed room and not less than 60 square feet per bed for a multiple-bed room. Bedroom usable floor space for Type B facilities must be at least 100 square feet per bed for a single-bed room and not less than 80 square feet per bed for a multiple-bed room.
<b>Residents Allowed Per Room</b>	A maximum of four residents is allowed per resident unit. No more than 50 percent of residents can be in units with more than two residents.
<b>Bathroom Requirements</b>	All bedrooms must be served by separate private, connecting, or general toilet rooms for each gender. A minimum of one water closet, lavatory, and bathing unit must be provided on each sleeping floor. One water closet and one lavatory for every six residents and one tub or shower for every 10 residents is required.
<b>Life Safety</b>	The regulations list extensive fire safety requirements under Chapters 12 or 21 of the NFPA Life Safety Code. ALFs must meet the requirements of the 2012 edition of NFPA 101, the Life Safety Code. All new Type A facilities and small Type B facilities must comply with Chapter 32, New Residential Board and Care Occupancies. All existing Type A facilities and small Type B facilities must comply with Chapter 33, Existing Residential Board and Care Occupancies. All new Type B large facilities must comply with Chapter 18. The requirements of limited care, as defined by the NFPA 101, may be used. All existing Type B large facilities must comply with Chapter 19. The

requirements of limited care, as defined by the NFPA 101, may be used. An existing facility is one that operated with a license as an assisted living facility before August 31, 2021 and has not subsequently become unlicensed. All new ALFs and all existing Type B facilities must be protected throughout by an approved, automatic sprinkler system. Fire alarm and smoke detection systems are established in the Life Safety Code with additional minimum coverage requirements established by state rules.

Licensing Standards for Assisted Living Facilities in Chapter 553 require ALFs to have an emergency preparedness plan that addresses the eight core functions of emergency preparedness. Proposed rules are being developed to provide clearer guidance and more detailed information relating to the eight core functions.

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

Any facility that advertises, markets, or promotes itself as providing specialized care for persons with Alzheimer's disease or related disorders must be certified. Alzheimer's certified facilities are required to have a Type B license. The facility must provide a disclosure statement that describes the nature of its care or treatment of residents with Alzheimer's disease and related disorders. All staff must receive dementia-specific orientation prior to assuming job responsibilities. Direct care staff in an Alzheimer's-certified ALF must annually complete 12 hours of in-service education regarding Alzheimer's disease.

**Staffing Requirements**

Each facility must designate a manager to have authority over its operation. A facility must have sufficient staff to maintain order, safety, and cleanliness; assist with medication regimens; prepare and service meals; assist with laundry; provide supervision and care to meet basic needs; and ensure evacuation in case of an emergency. There is no specified staffing ratio. Facilities must disclose their staffing patterns and post them monthly.

**Administrator  
Education/Training**

In small facilities, managers must have a high school diploma or certification of equivalency of graduation. In large facilities, a manager must have: an Associate's degree in nursing, health care management, or a related field; a Bachelor's degree; or proof of graduation from an accredited high school or certification of equivalency and at least one year of experience working in management or in health care management. Managers hired after August

2000 must complete a 24-hour course in assisted living management within their first year of employment.

Managers must complete 12 hours of continuing education per year in courses related to at least two of the following areas:

- (1) Resident and provider rights and responsibilities, abuse/neglect and confidentiality;
- (2) Basic principles of management;
- (3) Skills for working with residents, families, and other professional service providers;
- (4) Resident characteristics and needs;
- (5) Community resources;
- (6) Accounting and budgeting;
- (7) Basic emergency first aid; and
- (8) Federal laws, such as the Americans with Disabilities Act (1990) and Fair Housing Act (1968).

### **Staff Education/Training**

Full-time facility attendants must be at least 18 years of age or hold a high school diploma. The regulations list specific training requirements for licensed nurses, nurse aides, and medication aides. All staff must receive four hours of orientation on specific topics before assuming any job responsibilities. Attendants must complete 16 hours of on-the-job supervision and training within their first 16 hours of employment following orientation.

Direct care staff in ALFs must annually complete six hours of in-service education. Specific topics must be covered annually. Two hours of training must be competency-based. Facilities must adopt, implement, and enforce a written policy that requires direct care staff to successfully complete training in the provision of care to residents with Alzheimer's disease and related disorders and ensure the care and services provided by an employee to a resident with Alzheimer's disease or a related disorder meet the specific identified needs of the resident relating to the diagnosis of Alzheimer's disease or a related disorder. The training required for facility employees must include information about: symptoms of dementia; stages of Alzheimer's disease; person-centered behavioral interventions; and communication with a resident with Alzheimer's disease or a related disorder.

### **Entity Approving CE Program**

None specified.

**Medicaid Policy and Reimbursement**

A Medicaid Section 1915(c) home and community-based services (HCBS) waiver covers services in ALFs that contract with the resident's managed care organization to provide HCBS waiver services.

**COVID-19 Public Health Emergency**

26 Texas Administrative Code, Chapter 570 has permanent rules pertaining to public health emergencies.

**Citations**

Texas Statutes, Health and Safety Code, Title 4, Subtitle B, Chapter 247: Assisted Living Facilities. The chapter is cited as the Assisted Living Facility Licensing Act.  
<http://www.statutes.legis.state.tx.us/SOTWDocs/HS/htm/HS.247.htm>

Texas Administrative Code, Title 26, Part 1, Chapter 553: Licensing Standards for Assisted Living Facilities.  
[http://txrules.elaws.us/rule/title26\\_chapter553](http://txrules.elaws.us/rule/title26_chapter553)

House Bill 3329. An Act relating to the services provided by assisted living facilities.  
<https://capitol.texas.gov/tlodocs/86R/billtext/html/HB03329L.htm>

Texas Health and Human Services. Medicaid and CHIP: STAR+PLUS.  
<https://www.hhs.texas.gov/services/health/medicaid-chip/medicaid-chip-members/starplus>

## Utah

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**Licensure Term** Assisted Living Facilities – Type I and Type II

**Opening Statement** The Department of Health, Bureau of Health Facility Licensing and Certification, licenses two types of assisted living facilities (ALFs) according to the level of care required by residents. The following requirements apply to both types of ALFs unless otherwise noted.

The regulations establish assisted living as a place of residence where elderly and disabled persons can receive 24-hour individualized personal and health-related services to help maintain maximum independence, choice, dignity, privacy, and individuality in a home-like environment.

**Legislative and Regulatory Update** The state amended the Assisted Living Facility rule, R432-270, on September 15, 2020. This rule establishes the licensing and operational standards for assisted living facilities Type I and Type II.

**Definition** Type I Assisted Living Facility: Provide assistance with activities of daily living (ADLs) and social care to two or more residents who are capable of achieving mobility sufficient to exit the facility without the assistance of another person.

Type II Assisted Living Facility: Are homelike and provide an array of 24-hour coordinated supportive personal and health care services, including full assistance with ADLs and general nursing care, to residents capable of achieving mobility sufficient to evacuate the facility with the assistance of one person.

Type I and Type II facilities are classified as large (17 or more residents), small (6-16 residents), and limited capacity (2-5 residents). Depending on their classification, facilities must comply with different building codes.

**Disclosure Items** Upon admission, the facility must give the resident a written description of the resident's legal rights, including but not

limited to: a description of the manner of protecting personal funds; a statement that the resident may file a complaint with the state long term care ombudsman or an advocacy group concern resident abuse, neglect, or misappropriation of property; and the resident's rights.

**Facility Scope of Care**

Facilities must provide personal care, food service, housekeeping, laundry, maintenance, activity programs, administration, and assistance with self-administration of medication, and arrange for necessary medical and dental care. Facilities may provide intermittent nursing care.

**Third Party Scope of Care**

Residents have the right to arrange directly for medical and personal care with an outside agency. Facilities must assist residents in arranging access for ancillary services for medically related care, for example physician, dentist, and therapy services.

**Admission and Retention Policy**

Type I Assisted Living Facility: May accept and retain residents who meet the following criteria:  
(1) Be ambulatory or mobile and capable of taking life-saving action without the assistance of another person in an emergency;  
(2) Have stable health;  
(3) Require no assistance or only limited assistance from staff with ADLs; and  
(4) Do not require total assistance from staff or others with more than three ADLs.

Type 1 facilities may accept and retain residents who:  
(1) are cognitively impaired and physically disabled but are able to evacuate from the facility without the assistance of another person; and  
(2) require and receive regular or intermittent care or treatment in the facility from a licensed health professional.  
Type I facilities must not accept or retain persons who: require significant assistance during the night; are unable to take life-saving action in an emergency without assistance; and require close supervision and a controlled environment.

Type II Assisted Living Facility: May accept or retain residents who meet the following criteria:  
(1) Require total assistance from staff or others in more than three ADLs in certain circumstances;

- (2) Are physically disabled but able to direct their own care; and
- (3) Are cognitively impaired or physically disabled but can evacuate from the facility with limited assistance of one person.

Both Type I and II facilities must not admit or retain persons who:

- (1) Manifest behavior that is suicidal, sexually or socially inappropriate, assaultive, or poses a danger to self or others;
- (2) Have active tuberculosis or other chronic communicable diseases; or
- (3) Require inpatient hospital or nursing care.

For both Type I and Type II facilities, a resident may be discharged, transferred, or evicted if the facility is no longer able to meet the needs of the resident; the resident fails to pay for services as required by the admission agreement; and/or the resident fails to comply with policies or rules.

## **Resident Assessment**

A resident assessment must be completed prior to admission and at least every 6 months thereafter, or when there is a significant change in the resident's condition. There is a mandated assessment form that is available on the agency Web site. The form must be updated every six months.

The assessment must reflect each resident's ability or current condition in the following areas:

- (i) memory and daily decision making ability;
- (ii) ability to communicate effectively with others;
- (iii) physical functioning and ability to perform activities of daily living;
- (iv) continence;
- (v) mood and behavior patterns;
- (vi) weight loss;
- (vii) medication use and the ability to self-medicate;
- (viii) special treatments and procedures;
- (ix) disease diagnoses that have a relationship to current activities of daily living status, behavior status, medical treatments, or risk of death;
- (x) leisure patterns and interests;
- (xi) assistive devices; and
- (xii) prosthetics.

**Medication Management** Licensed staff may administer medication and unlicensed staff may assist with self-medication. There are six appropriate scenarios for medication administration:

- (1) the resident may self-administer;
- (2) the resident may self-direct with staff assistance;
- (3) family members or a designated responsible person may administer, but must have total responsibility for all medications;
- (4) staff may administer with appropriate delegation from a licensed health care professional;
- (5) residents may independently administer their own personal insulin injections if they have been assessed to be independent in that process exclusively or in conjunction with one of the other five scenarios; and
- (6) home health or hospice agency staff may provide medication administration exclusively or in conjunction with one of the other five scenarios.

A Type 1 facility must employ or contract with a registered nurse (RN) to provide or delegate medication administration for any resident who is unable to self-medicate or self-direct medication management.

**Square Feet Requirements** Private resident units (without living rooms, dining areas, or kitchens) must be a minimum of 120 square feet and double-occupancy resident units must be a minimum of 200 square feet.

**Residents Allowed Per Room** A maximum of two residents may share a unit upon written request of both residents.

**Bathroom Requirements** Common toilet, lavatory, and bathing facilities are permitted. If facilities do not have private bathrooms, there must be a toilet and lavatory for every six residents, and a bathtub or shower for every 10 residents.

**Life Safety** All facilities must be inspected annually and obtain a certificate of fire clearance signed by the State Fire Marshal, and all administrators must develop emergency plans as preparedness as required in the International Fire Code. An approved automatic fire detection system shall be installed in accordance with the provisions of this code and NFPA 72. Rule R710-3 specifies requirements for Type I and II assisted living facilities; the requirements vary based on both the licensed type of facility and the size of the facility. Generally, facilities must comply with the

International Building Code for construction and the International Fire Code for fire safety maintenance.

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

Type I Assisted Living Facility: None specified

Type II Assisted Living Facility: Those with approved secured units may admit residents with a diagnosis of Alzheimer's/dementia if the resident is able to exit the facility with limited assistance from one person.

At least one staff with documented training in Alzheimer's/dementia care must be in the secured unit at all times.

**Staffing Requirements**

Facilities must employ an administrator. Direct care staff are required on site 24 hours per day to meet resident needs as determined by assessments and service plans. There are no minimum staffing ratios.

Type I Assisted Living Facility: All staff who provide personal care must be at least 18 years of age or be a certified nurse aide and have related experience in the job to which they are assigned in the facility or receive on-the-job training.

Type II Assisted Living Facility: Staff providing personal care must be 18 years of age and certified nursing assistants or complete this training and become certified within four months of date of hire. The facility must employ or contract with an RN to provide or supervise nursing services to include a nursing assessment on each resident, general health monitoring, and routine nursing tasks.

**Administrator Education/Training**

Administrators must be 21 years of age, have knowledge of applicable laws and rules, and successfully complete criminal background screening.

Type I Assisted Living Facility: An Associate's degree or two years of experience in a health care facility is required.

Type II Assisted Living Facility: Administrators must complete a Department-approved, national certification program within six months of hire. Administrators of Type II small or limited-capacity facilities must meet at least one of the following:

- (1) hold an Associate's degree in the health care field;
- (2) have at least two years of management experience in the health care field; or
- (3) have one year experience in the health care field as a licensed health care professional.

Administrator of large Type II facilities must have at least one of the following:

- (1) A State of Utah health facility administrator license;
- (2) A Bachelor's degree in a health care field to include management training or one or more years of management experience;
- (3) A Bachelor's degree in any field, to include management training or one or more years of management experience and one or more years of experience in a health care field; or
- (4) An Associate's degree and four years or more management experience in a health care field.

**Staff Education/Training**

All staff must complete orientation to include: job descriptions; ethics, confidentiality, and resident rights; fire and disaster plan; policies and procedures; report responsibility for abuse, neglect, and exploitation; and dementia specific training including: communicating with dementia patients and their caregivers; communication methods and when they are appropriate; types and stages of dementia including information on the physical and cognitive declines as the disease progresses; person centered care principles; and how to maintain safety in the dementia patient environment. Staff must also complete extensive in-service training to include specified topics.

In addition to completing facility orientation and demonstration of core competency skills, each direct-care employee shall receive 16 hours of documented one-on-one job training with a direct-care employee, with at least three months of experience and who has completed orientation, or with the supervising nurse at the facility.

**Entity Approving CE Program**

None specified.

**Medicaid Policy and Reimbursement**

Utah's New Choices Waiver covers services in assisted living. It serves individuals 18 and older who meet a nursing facility level of care (both people who are aged and those with disabilities) and who have resided, at a

minimum, in a nursing home for at least 90 days or an assisted living for at least one year. The program provides supportive services to enable individuals to live in their own homes or in other community-based settings.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

Utah Administrative Code, Rule R432-270: Assisted Living Facilities. [September 15, 2020]

<https://adminrules.utah.gov/public/search/432-270/Current%20Rules>

Utah Administrative Code, Rule R432-6: Assisted Living Facility General Construction. [May 1, 2016]

<https://adminrules.utah.gov/public/search/R432-6/Current%20Rules>

Utah Administrative Code, Rule R710-3: Public Safety, Fire Marshal, Assisted Living Facilities [May 3, 2017]

<https://adminrules.utah.gov/public/search/R710-3/Current%20Rules>

Assisted Living Facility Type I & II Resident Assessment <http://health.utah.gov/hflcra/forms/ALASSESSMENT.pdf>

Utah Department of Health. Utah Home and Community Based Services (HCBS) Waiver Programs. New Choices Waiver. <https://medicaid.utah.gov/ltc-2/nc/>

## Vermont

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<b>Agency</b>	Department of Disabilities, Aging and Independent Living, Division of Licensing and Protection
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**Licensure Term** Assisted Living Residences and Residential Care Homes

**Opening Statement** The Department of Disabilities, Aging and Independent Living, Division of Licensing and Protection, licenses two settings that provide housing, meals, and supportive services to adults who cannot live independently but do not require the type of care provided in a nursing home: assisted living residences and residential care homes. Residential care homes are divided into two categories depending on the level of care: Level III or Level IV. Both levels must provide room and board, assistance with personal care, general supervision and/or medication management. Level III homes must provide the additional service of nursing overview. Assisted living residences must meet Level III residential care home licensing requirements, in addition to meeting assisted living residences licensing requirements. Assisted living regulations require private apartments that promote resident self-direction and active participation in decision-making while emphasizing individuality, privacy, and dignity. The following are requirements for assisted living residences.

Special care units that provide specialized services to a specific population must meet residential care home licensing requirements, which are incorporated by reference into the assisted living residences licensing regulations.

**Legislative and Regulatory Update** There is no recent legislative or regulatory activity that affects assisted living.

**Definition** An assisted living residence is a program or facility that combines housing, health, and supportive services to support resident independence and aging in place. Within a homelike setting, the residence must offer a minimum of a private bedroom, private bath, living space, kitchen capacity, and a lockable door. Assisted living must promote

resident self-direction and active participation in decision making while emphasizing individuality, privacy, and dignity.

## **Disclosure Items**

Providers must describe all service plans, rates, and circumstances under which rates might be subject to change. A uniform disclosure form is required and must be available to residents prior to or at admission and to the public upon request. Information required includes:

- (1) The services the assisted living residence will provide;
- (2) The public programs or benefits that the assisted living residence accepts or delivers;
- (3) The policies that affect a resident's ability to remain in the residence;
- (4) If there are specialized programs offered, such as dementia care, a written statement of philosophy and mission and a description of how the assisted living residence can meet the specialized needs of residents; and
- (5) Any physical plant features that vary from those required by regulation.

## **Facility Scope of Care**

Providers must describe all service plans, rates, and circumstances under which rates might be subject to change. A uniform disclosure form is required and must be available to residents prior to or at admission and to the public upon request. Information required includes:

- (1) The services the assisted living residence will provide;
- (2) The public programs or benefits that the assisted living residence accepts or delivers;
- (3) The policies that affect a resident's ability to remain in the residence;
- (4) If there are specialized programs offered, such as dementia care, a written statement of philosophy and mission and a description of how the assisted living residence can meet the specialized needs of residents; and
- (5) Any physical plant features that vary from those required by regulation.

A resident needing skilled nursing care may arrange for that care to be provided in the facility by a licensed nurse as long as it does not interfere with other residents.

<b>Third Party Scope of Care</b>	<p>Facilities must provide access or coordinate access to ancillary services for medical-related care, regular maintenance of assistive devices and equipment, barber/beauty services, social/recreational opportunities, hospice, home health, and other services necessary to support the resident.</p> <p>Residents may arrange for third-party services not available through the assisted living residence from a provider of their choice.</p>
<b>Admission and Retention Policy</b>	<p>Facilities may not accept or retain an individual who meets level of care eligibility for nursing home admission, or who otherwise has care needs which exceed what the home can safely and appropriately provide. Residents may be discharged if they pose an immediate threat to themselves that cannot be managed through a negotiated risk agreement or to others, or if their needs cannot be met with available support services and arranged supplemental services.</p>
<b>Resident Assessment</b>	<p>There is a required assessment form: Vermont Residential Care Home/Assisted Living Residence Assessment Tool. This tool is available online. The assessment must be administered by a registered nurse (RN) within 14 days of move-in.</p>
<b>Medication Management</b>	<p>If residents are unable to self-administer medications, they may receive assistance with administration of medications from trained facility staff. Staff may be trained to administer medications by delegation from an RN in accordance with regulations and Vermont's Nurse Practice Act. Assisted living residences must provide medication management under the supervision of a licensed nurse.</p>
<b>Square Feet Requirements</b>	<p>Private resident units must be a minimum of 225 square feet (160 in pre-existing structures), excluding bathrooms and closets. Each resident unit shall include a private bedroom, private bathroom, living space, kitchen capacity, adequate space for storage, and a lockable door.</p> <p>The licensing agency may grant variances for pre-existing structures in specified instances.</p>
<b>Residents Allowed Per Room</b>	<p>All resident units must be private occupancy unless a resident voluntarily chooses to share the unit.</p>

<b>Bathroom Requirements</b>	All resident units must have a private bathroom.
<b>Life Safety</b>	<p>Vermont uses the 2006 edition of the National Fire Protection Association Life Safety Code as the basis for fire safety standards for assisted living facilities. The Department of Public Safety administers life safety rules published at <a href="https://firesafety.vermont.gov/buildingcode/codes">https://firesafety.vermont.gov/buildingcode/codes</a>.</p> <p>Requirements vary based on building type. Smoke detector and sprinkler system requirements apply to most facilities. The highest requirements apply to new construction. Effective October 2007 required carbon monoxide detectors must be hard-wired (versus battery-powered).</p>
<b>Unit and Staffing Requirements for Serving Persons with Dementia</b>	<p>Special care units must meet requirements of the Residential Care Home Licensing Regulations. A residence must obtain approval from the licensing agency prior to establishing and operating a special care unit. Approval is based on demonstration that the unit will provide specialized services to a specific population. A request for approval must include all of the following:</p> <ol style="list-style-type: none"> <li>(1) A statement outlining the philosophy, purpose, and scope of services to be provided;</li> <li>(2) A definition of the categories of residents to be served;</li> <li>(3) A description of the organizational structure of the unit consistent with the unit's philosophy, purpose, and scope of services;</li> <li>(4) A description and identification of the physical environment;</li> <li>(5) The criteria for admission, continued stay, and discharge; and</li> <li>(6) A description of unit staffing, including staff qualifications; orientation; in-service education and specialized training; and medical management and credentialing as necessary.</li> </ol> <p>Staff who have any direct care responsibility shall have training in communication skills specific to persons with Alzheimer's disease and other types of dementia.</p>
<b>Staffing Requirements</b>	A director is responsible for the daily management of the home, including supervision of employees and residences. There must be a sufficient number of qualified personnel

available on site at all times to provide necessary care. There are no staffing ratios. Staff must have access to the administrator and/or designee at all times. At least one personal care assistant must be on site and available 24-hours per day to meet residents' scheduled and unscheduled needs. An RN or licensed practical nurse must be on site as necessary to oversee service plans.

**Administrator Education/  
Training**

The manager must have completed a state-approved certification course or have one of the following:

- (1) At least an Associate's degree in the area of human services and two years of administrative experience in adult residential care;
- (2) Three years of general experience in residential care, including one year in management, supervisory, or administrative capacity;
- (3) A current Vermont license as a nurse or nursing home administrator; or
- (4) Other professional qualifications and experience related to the provision of healthcare services or management of healthcare facilities including, but not limited to, that of a licensed or certified social worker.

Directors/administrators must complete 20 hours of continuing education per year in courses related to assisted living principles and the philosophy and care of the elderly and disabled individuals.

**Staff Education/ Training**

All staff providing personal care must be at least 18 years of age. All staff must be oriented to the principles and philosophy of assisted living and receive training on an annual basis regarding the provision of services in accordance with the resident-driven values of assisted living. All staff providing personal care must receive training in the provision of personal care activities (e.g., transferring, toileting, infection control, Alzheimer's, and medication assistance and administration). Staff who have any direct care responsibility must have training in communications skills specific to persons with Alzheimer's disease and other types of dementia.

Staff providing direct care to residents must receive at least 12 hours of training each year. The training must include, but is not limited to: resident rights; fire safety and emergency evacuations; resident emergency response;

procedures, policies and procedures regarding reports of abuse, neglect or exploitation; respectful and effective resident interaction; infection control measures; and general supervision and care of residents.

All personal care services staff must receive 24 hours of continuing education in courses related to Alzheimer's disease, medication management and administration, behavioral management, documentation, transfers, infection control, toileting, and bathing.

**Entity Approving CE Program**

The licensing agency approves continuing education hours as part of the annual survey process.

**Medicaid Policy and Reimbursement**

Two programs cover assisted living services.

The Assistive Community Care Services Program is a Medicaid state plan service that provides services to eligible residents ages 65 or older or age 18 or older who have a disability and who live in participating Licensed Level III Residential Care Homes or Assisted Living Residences.

Vermont has a Section 1115 waiver, Global Commitment to Health is a Demonstration Waiver, that provides enhanced residential care home services in an approved Level III Residential Care Home or an Assisted Living Residence. All participating individuals have needs that meet Vermont's nursing home level of care guideline and meet long-term care Medicaid requirements. Vermont submitted an demonstration renewal application in June 2021; the application is with the Centers for Medicare and Medicaid Services for review.

Choices for Care, which operates under the Global Commitment to Health Waiver, covers long-term services and supports to eligible residents with a nursing home level of care. The Enhanced Residential Care option under Choices for Care provides 24-hour care and supervision in approved licensed Level III Residential Care Homes or Assisted Living Residences. For beneficiaries in the ERC option, the home may also bill Medicaid for Assistive Community Care Services (ACCS) payments as well.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

## Citations

Vermont Agency of Human Services, Department of Disabilities, Aging and Independent Living, Division of Licensing and Protection, Facility Regulations.  
<http://dlp.vermont.gov/survey-cert/facility-regs>

Vermont Agency of Human Services, Department of Disabilities, Aging and Independent Living Adult Services Division, Assistive Community Care Services At-A-Glance.  
[https://asd.vermont.gov/sites/asd/files/documents/Assistive\\_Community\\_Care\\_Services\\_At\\_A\\_Glance.pdf](https://asd.vermont.gov/sites/asd/files/documents/Assistive_Community_Care_Services_At_A_Glance.pdf)

Vermont Agency of Human Services, Global Commitment to Health Waiver.  
<https://humanservices.vermont.gov/about-us/medicaid-administration/global-commitment-health-1115-waiver>

Vermont Agency of Human Services, Department of Disabilities, Aging and Independent Living, Adult Services Division. Choices for Care Program (1115 Medicaid Long Term Care Waiver).  
<http://asd.vermont.gov/services/choices-for-care-program>

Vermont Agency of Human Services, Department of Disabilities, Aging and Independent Living, Adult Services Division. Enhanced Residential Care.  
<http://asd.vermont.gov/services/residential-options>

## Virginia

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<b>Agency</b>	Department of Social Services, Division of Licensing Programs
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**Licensure Term** Assisted Living Facilities

**Opening Statement** The Virginia Department of Social Services (DSS) licenses two levels of service: residential living care (minimal assistance) and assisted living care (at least moderate assistance). Facilities may be licensed for either residential living care only or for both residential and assisted living care. The standards were most recently comprehensively revised effective February 1, 2018; the standards emphasize resident-centered care and services and include requirements that strive for a homelike environment for residents.

**Legislative and Regulatory Update** DSS revised the Standards for Licensed Assisted Living Facilities effective October 13, 2021.

Legislation passed in the 2022 General Assembly session.

Involuntary Discharge of Assisted Living Facility Resident: SB 40 amends and reenacts § 63.2-1805, requiring DSS to adopt regulations to address involuntary discharge of assisted living facility residents. Involuntary discharge can only occur (i) when the resident's condition presents an immediate and serious risk to the health, safety, or welfare of the resident or others in accordance with § 63.2-1805 B.; (ii) for nonpayment of contracted charges, provided that the resident has been given at least 30 days to cure the delinquency after notice was provided; (iii) for failure of the resident to substantially comply with the terms and conditions of the resident agreement; (iv) if the facility closes; and (v) when the resident develops a condition or care need that is prohibited in accordance with § 63.2-1805 D.

Written discharge notice shall be provided to the resident, resident's legal representative or designated contact person, Virginia Department of Social Services (VDSS), and the State Long-Term Care Ombudsman at least 30 days prior to an involuntary discharge unless an

emergency discharge is necessary due to an immediate and serious risk to the health, safety or welfare of the resident or others. The assisted living facility shall provide relocation assistance to the resident and the resident's legal representative.

VDSS shall establish a process that a resident or resident's representative may file an appeal of the decision to involuntarily discharge a resident. The facility shall provide a statement of the resident's right to continue to reside in the facility until a final VDSS case decision unless the discharge is an emergency discharge or the resident has developed a condition or care need that is prohibited by § 63.2-1805 D or regulation.

These requirements are not effective until the regulation Standards for Licensed Assisted Living Facilities is revised to add these new provisions. Notice and an effective date for the revised regulations will be given when the regulation changes are approved.

Study of the Current Oversight and Regulation of Nursing Homes, Assisted Living Facilities, and other Congregate Living Settings: HB 234 created a study to improve efficiency and effectiveness of regulation and oversight; provide better transparency for members of the public navigating the process of receiving services; and better protect the health and safety of the public. This study will be completed by October 1, 2022.

## **Definition**

An assisted living facility is a congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance for the maintenance or care of four or more adults who are aged, infirm, or disabled and who are cared for in a primarily residential setting. Maintenance or care means the protection, general supervision, and oversight of the physical and mental well-being of an aged, infirm, or disabled individual.

Assisted living care means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require at least moderate assistance with the activities of daily living (ADLs). Included in this level of service are individuals who are dependent in

behavior pattern (i.e., abusive, aggressive, disruptive) as documented on the uniform assessment instrument.

Residential living care means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with ADLs. Included in this level of service are individuals who are dependent in medication administration as documented on the uniform assessment instrument, although they may not require minimal assistance with ADLs. This definition includes the services provided by the facility to individuals who are assessed as capable of maintaining themselves in an independent living status.

## **Disclosure Items**

Assisted living facilities must provide a disclosure statement on a department form to prospective residents and their legal representatives, with the information also available to the general public. The disclosure statement includes the following information: name of the facility; name of the licensee; ownership structure of the facility; description of the facility's accommodations, services, and care offered; description of and fees charged for accommodations, services, and care, including what is included in the base fee and what is an additional fee; criteria for admission to the facility and restrictions on admission; criteria for transfer within the same facility; criteria for discharge; categories, frequency, and number of activities; staffing on each shift; whether or not the facility maintains liability insurance that provides at least the minimum amount of coverage established for disclosure; the minimum amount of liability insurance coverage established in 22 VAC 40-73-45; notation that additional information about the facility that is included in the resident agreement is available upon request; and the department's website address, with a note that additional information about the facility may be obtained from the website.

Additionally, HB 1815 from General Assembly 2019 requires ALFs to disclose in writing whether the facility has an on-site emergency electrical power source for the provision of electricity during an interruption of the normal electric power supply.

## **Facility Scope of Care**

Facilities provide residents assistance with activities of daily living, other personal care services, social and recreational activities, and protective supervision. Services are provided

to meet the needs of residents, consistent with individualized service plans. Services include, but are not limited to, assistance or care with activities of daily living, instrumental activities of daily living, ambulation, hygiene and grooming, and functions and tasks such as arrangements for transportation and shopping. Service plans support individuality, personal dignity, and freedom of choice.

**Third Party Scope of Care** A licensed health care professional must be either directly employed or retained on a contractual basis to provide periodic health care oversight. Periodic reviews of residents' medications, when required, are performed by licensed health care professionals who are directly or contractually employed. Periodic oversight of special diets by a dietitian or nutritionist, either through direct or contractual employment, is required. If skilled nursing treatments are needed by a resident, they must be provided by a licensed nurse employed by the facility or by contractual agreement with a licensed nurse, a home health agency, or a private duty licensed nurse. For each resident requiring mental health services, appropriate services based on evaluation of the resident must be secured from a mental health provider.

**Admission and Retention Policy** No resident may be admitted or retained:

- (1) for whom the facility cannot provide or secure appropriate care;
- (2) who requires a level of care or service or type of service for which the facility is not licensed or which the facility does not provide; or
- (3) if the facility does not have staff appropriate in numbers and with appropriate skill to provide the care and services needed by the resident.

An assisted living facility shall only admit or retain individuals as permitted by its use and occupancy classification and certificate of occupancy. The ambulatory or non-ambulatory status of an individual is based upon information contained in the physical examination report and information contained in the most recent uniform assessment instrument (UAI). Based upon review of the UAI prior to admission of a resident, the facility administrator is required to provide written assurance to the resident that the facility has the appropriate license to meet the individual's care needs at the time of admission.

Additional admissions requirements include a documented interview between the administrator or a designee responsible for admission and retention decisions, the individual, and their legal representative, if any, and mental health screening.

All residents shall be 18 years of age or older, and the regulations list several specific criteria for residents who may not be admitted or retained. These exclusions include, but are not limited to, those with:

- (1) Ventilator dependency;
- (2) Some stage III and all stage IV dermal ulcers;
- (3) Some individuals who require intravenous therapy or injections directly into the vein;
- (4) Certain airborne infectious diseases in a communicable state requiring isolation of the individual or requiring special precautions by the caretaker to prevent transmission of the disease;
- (5) Psychotropic medications without appropriate diagnosis and treatment plans;
- (6) Nasogastric tubes and, in some cases, gastric tubes;
- (7) Imminent physical threat or danger to self or others;
- (8) Need for continuous licensed nursing care;
- (9) Whose physician certifies that placement is no longer appropriate; and
- (10) Physical or mental health care needs that cannot be met by a facility as determined by the facility.

## **Resident Assessment**

The Uniform Assessment Instrument (UAI) is the department-designated form used to assess all assisted living facility residents. There are two versions of the UAI, one for residents receiving Auxiliary Grants and one for private pay residents. Social and financial information that is not relevant because of a resident's payment status is not included on the private pay version. The UAI must be completed within 90 days prior to admission and updated at least once every 12 months, or whenever there is a significant change in the resident's condition. The forms are available on the agency Web site. An individual also must have a physical examination prior to admission. In addition, if needed, there must be a screening of psychological, behavioral, and emotional functioning. For residents who meet the criteria for assisted living care, by the time the comprehensive individualized service plan is completed, a fall risk rating must be done. The fall risk rating must be

reviewed and updated at least annually, when the condition of the resident changes, and after a fall.

### **Medication Management**

Medications may be administered by licensed individuals or by medication aides who have successfully completed a Board of Nursing approved training program, have passed a competency evaluation, and are registered with the Virginia Board of Nursing. Medication aides are permitted to act on a provisional basis when certain requirements are met. Medication aides must be supervised by facility staff who meet certain qualifications. Each facility must have a written plan for medication management. A licensed health care professional must perform an annual review of all the medications of each resident assessed for residential living care, except for those who self-administer all of their medications, and a review every six months of all the medications of each resident assessed for assisted living care.

### **Square Feet Requirements**

Private resident bedrooms must be a minimum of 100 square feet if the building was approved for construction or a change in use and occupancy classification on or after February 1, 1996; otherwise, a minimum of 80 square feet is required. Shared resident bedrooms must be a minimum of 80 square feet per resident if the building was approved for construction or change in use and occupancy classification on or after February 1, 1996; otherwise, a minimum of 60 square feet per resident is required. Resident sleeping quarters must provide for no less than 450 cubic feet of air space per resident. Other physical plant requirements also apply.

### **Residents Allowed Per Room**

As of December 28, 2006, in all buildings approved for construction or change in use and occupancy classification, there shall be no more than two residents residing in a bedroom. As of February 1, 2018, when there is a new facility licensee, there shall be no more than two residents residing in a bedroom. Otherwise, there may not be more than four residents residing in a bedroom.

### **Bathroom Requirements**

As of December 28, 2006, in all buildings approved for construction or change in use and occupancy classification, on floors where there are resident bedrooms, there must be at least one toilet and one sink for every four persons and at least one bathtub or shower for every seven persons. When more than four persons live on a floor, toilets, sinks,

and bathtubs or showers must be in separate rooms for men and women. Unless the provisions immediately above apply, on floors where there are resident bedrooms, there must be at least one toilet and one sink for every seven persons and at least one bathtub or shower for every 10 persons. When more than seven persons live on a floor, toilets, sinks, and bathtubs or showers must be in separate rooms for men and women. There are other requirements for bathrooms on floors used by residents where there are no resident bedrooms and on floors where there are resident bedrooms as well as the main living or dining area.

## **Life Safety**

A written plan for fire and emergency evacuation is required. This plan must be approved by the appropriate fire official. Fire and emergency evacuation drawings must be posted in all facilities. The telephone numbers for the fire department, rescue squad or ambulance, police, and Poison Control Center must be posted by each telephone shown on the fire and emergency evacuation plan or, under specified circumstances, by a central switchboard. Staff and volunteers are to be fully informed of the approved fire and emergency evacuation plan, including their duties, and the location and operation of fire extinguishers, fire alarm boxes, and any other available emergency equipment.

Fire and emergency evacuation drill frequency and participation are in accordance with the current edition of the Virginia Statewide Fire Prevention Code. Additional fire and emergency evacuation drills may be held at the discretion of the administrator or licensing inspector and must be held when there is any reason to question whether the requirements of the approved fire and emergency evacuation plan can be met. Each required fire and emergency evacuation drill must be unannounced and its effectiveness evaluated. Any problems identified in the evaluation must be corrected. A record of the required fire and emergency evacuation drills is to be kept in the facility for two years.

Assisted living facilities must comply with the sprinkler and smoke detector requirements of the appropriate building and/or fire codes. The International Fire Code is used.

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

The regulations cover facilities caring for adults with serious cognitive impairments due to a primary psychiatric diagnosis of dementia who cannot recognize danger or protect their own safety and welfare.

For a special care unit, when 20 or fewer residents are present, there shall be at least two direct care staff members awake and on duty at all times in each special care unit that is responsible for the care and supervision of the residents. For every additional 10 residents, or portion thereof, at least one more direct care staff member must be awake and on duty in the unit. There is an exception if there are no more than five residents present in the unit under certain conditions.

When there is a mixed population of residents with serious cognitive impairments due to a primary psychiatric diagnosis of dementia who cannot recognize danger or protect their own safety and welfare and others, when residents are present there shall be at least two direct care staff members awake and on duty at all times in each building who shall be responsible for the care and supervision of the residents. There will be an exception to this when a facility is licensed for 10 or fewer residents if no more than three have serious cognitive impairments.

In both the special care unit and the mixed population, during trips away from the facility, there shall be sufficient direct care staff to provide sight and sound supervision to all residents who cannot recognize danger or protect their own safety and welfare.

Doors leading to the outside shall have a system of security monitoring, such as door alarms, cameras, constant staff oversight, security bracelets that are part of an alarm system, or delayed egress mechanisms. In a mixed population, residents with serious cognitive impairments may be limited but not prohibited from exiting the facility or any part thereof. Before limiting any resident from freely leaving the facility, the resident's record shall reflect the behavioral observations or other bases for determining that the resident has a serious cognitive impairment and cannot recognize danger or protect his own safety and welfare. In a special care unit, doors leading to unprotected areas must be monitored or secured through devices that may include locking devices that conform to applicable building

and fire codes. In both mixed populations and special care units, there shall be protective devices on the bedroom and the bathroom windows of residents with serious cognitive impairments and on windows in common areas accessible to these residents to prevent the windows from being opened wide enough for a resident to crawl through. Free access to an indoor walking corridor or other indoor area that may be used for walking must be provided. There are other specific requirements for mixed populations and for special care units and who may be in the units.

## **Staffing Requirements**

The facility must have an administrator who is responsible for the general administration and management of the facility and who oversees its day-to-day operation.

The facility is required to have staff adequate in knowledge, skills, and abilities and sufficient in number to provide services to maintain the physical, mental, and psychosocial well-being of each resident, and to implement the fire and emergency evacuation plan. There must be a staff member in each building at all times who has a current first aid certificate, unless the facility has an on-duty registered nurse, licensed practical nurse, or currently certified emergency medical technician, first responder or paramedic. In addition, each direct care staff member, unless he/she is a registered nurse, licensed practical nurse, or currently certified emergency medical technician, first responder or paramedic must receive certification in first aid within 60 days of employment and then maintain current certification. There must also be a staff member in each building at all times who has current certification in CPR. In facilities licensed for more than 100 residents, there must be at least one additional employee with current CPR certification for every 100 residents or portion thereof.

Staffing requirements are specified for facilities with a mixed population consisting of any combination of:

- (1) Residents who have serious cognitive impairments due to a primary psychiatric diagnosis of dementia who are unable to recognize danger or protect their own safety and welfare and who are not in a special care unit;
- (2) Residents who have serious cognitive impairments due to any other diagnosis who cannot recognize danger or protect their own safety and welfare; and
- (3) Other residents.

When these residents are present, there shall be at least two direct care staff members awake and on duty at all times in each building. However, if the facility is licensed for 10 or fewer residents and not more than three of the residents have serious cognitive impairments, these increased staffing provisions do not apply. Additionally, during trips away from the facility, there shall be sufficient direct care staff to provide sight and sound supervision to all residents who cannot recognize danger or protect their own safety and welfare.

A licensed health care professional must be on site at least every six months to provide health care oversight for residents who meet the residential living care criteria, or if the facility employs a licensed health care professional who is on site on a full-time basis, at least annually.

A licensed health care professional must be on site at least every three months to provide health care oversight for residents who meet the assisted living care criteria, or if the facility employs a licensed health care professional who is on site on a full-time basis, at least every six months.

There are additional requirements to meet skilled nursing and rehabilitative needs of residents. There are also additional requirements for private duty personnel who provide direct care or companion services to residents.

## **Administrator Education/Training**

An administrator of a facility licensed for both residential and assisted living care must be licensed by the Virginia Board of Long-Term Care Administrators. An administrator of a facility licensed for residential living care only is not required to be licensed. Licensed assisted living facility administrators are regulated and governed by the Board of Long-Term Care Administrators, which has specific educational and Administrator in Training requirements.

For facilities licensed for residential living care only, an administrator employed prior to February 1, 2018 must be at least 21 years of age, a high school graduate or have a GED, have at least 30 credit hours of post-secondary education from an accredited college or university or a Department of Social Services approved course specific to the administration of an assisted living facility, and have at

least one year of administrative or supervisory experience in caring for adults in a group care facility.

Those employed after February 1, 2018 must be at least 21 years of age, a high school graduate or have a GED, have at least one year of administrative or supervisory experience in caring for adults in a residential group care facility, and either: have successfully completed at least 30 credit hours of postsecondary education from an accredited college or university with at least 15 of the 30 credit hours in business or human services or a combination thereof; have successfully completed a course of study approved by the department that is specific to the administration of an assisted living facility; have a Bachelor's degree from an accredited college or university; or, be a licensed nurse.

The Board of Long-Term Care Administrators regulates licensed administrators and requires 20 hours of approved continuing education annually. The Department of Social Services requires 20 hours of continuing education annually for any unlicensed administrators of residential living care only facilities. For a facility licensed only for residential living care that does not employ a licensed administrator, the administrator shall attend at least 20 hours of training related to management or operation of a residential facility for adults or relevant to the population in care within 12 months from the starting date of employment and annually thereafter from that date. At least two of the required 20 hours of training shall focus on infection control and prevention. When adults with mental impairments reside in the facility, at least six of the required 20 hours shall focus on topics related to residents' mental impairments.

Administrators of mixed population facilities are required to attend 12 hours of training in working with individuals who have a cognitive impairment within three months of beginning employment at the facility.

### **Staff Education/Training**

Staff are required to be trained in specified areas to protect the health, safety, and welfare of residents. Direct care staff must be registered as a certified nurse aide or complete one of the other specified educational curricula. Direct care staff must complete at least 14 hours annually (for residential living level of care) or at least 18 hours annually (for the assisted and residential living level of care) of

continuing education related to the population in care. The training shall be in addition to any required first aid training, CPR training, and, for medication aides continuing education required by the Virginia Board of Nursing. At least two of the required hours of training shall focus on infection control and prevention. When adults with mental impairments reside in the facility, at least four of the required hours shall focus on topics related to residents' mental impairments.

Direct care staff who are licensed health care professionals or certified nurse aides can complete 12 hours annually of continuing education instead of the 14 or 18 required earlier in this paragraph. Additionally, direct care staff of mixed population facilities must, within four months of the starting date of employment, attend six hours of training in working with individuals who have a cognitive impairment. This training may be counted toward the annual training requirement for the first year with certain exceptions.

**Entity Approving CE Program**

The regulations of the Virginia Board of Long-Term Care Administrators specify approval requirements for CE programs if the individual is a licensed assisted living facility administrator. If an administrator is not licensed, the Department of Social Services does not require approval for CE programs.

**Medicaid Policy and Reimbursement**

Virginia's Medicaid Alzheimer's assisted living waiver (AAL) ended on June 30, 2018.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

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Legislative Information System. Virginia SB 1409: Assisted living facilities; requirement for licensed administrator.  
<http://lis.virginia.gov/cgi-bin/legp604.exe?191+ful+CHAP0448>

## Washington

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**Licensure Term** Assisted Living Facility

**Opening Statement** The Washington State Department of Social and Health Services, Aging and Long-Term Support Administration, Residential Care Services (DSHS/ALTSA/RCS), licenses assisted living facilities (ALFs), which provide room and board and help with activities of daily living (ADLs) to seven or more residents. Exceptions exist for those facilities licensed for three to six residents prior to July 2000. ALFs may contract with ALTSA and meet additional contract requirements to provide assisted living services to residents paid for fully or partially by Medicaid. Medicaid contracts vary and include several different service features including specialized dementia care, behavioral health supports, and nursing services.

**Legislative and Regulatory Update** In 2020, the physical plant regulations were updated to meet the national building code standards for healthcare facilities licensed as assisted living facilities. With a moratorium on rule development, DSHS has not been able to keep the rules current in concert with the changes in building codes, energy efficiency standards, and the structural enhancements associated with assisted living facilities. The regulatory amendments encompass some technological advances in building design and the healthcare industry.

**Definition** An ALF is any home or institution, however named, that is advertised, announced, or maintained for the express or implied purpose of providing housing, basic services, and assuming general responsibility for the safety and well-being of the residents, and may also provide domiciliary care for seven or more residents after July 1, 2000. However, an ALF that is licensed for three to six residents prior to or on July 1, 2000, may maintain its ALF license as long as it is continually licensed as an ALF. An ALF does not include any facilities certified as group training homes, nor any home, institution or section thereof which is

otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of a group training home, institution or section thereof. It also does not include independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the U.S. Department of Housing and Urban Development.

## **Disclosure Items**

ALFs are required to disclose to interested persons on a standardized form the scope of care and services that they offer, including:

- (1) Activities;
- (2) Food and diets;
- (3) Services related to arranging and coordinating health care services;
- (4) Laundry;
- (5) Housekeeping;
- (6) Level of assistance with ADLs;
- (7) Intermittent nursing services;
- (8) Help with medications;
- (9) Services for persons with dementia, mental illness, and developmental disabilities;
- (10) Transportation services;
- (11) Ancillary services and services related to smoking and pets;
- (12) Any limitation on end-of-life care;
- (13) Payments/charges/costs;
- (14) 'Bed hold' policy;
- (15) Policy on acceptance of Medicaid payments;
- (16) Building's fire protection features; and
- (17) Security services.

## **Facility Scope of Care**

ALFs must provide the following basic services, consistent with the resident's assessed needs and negotiated service agreement:

- (1) Housing;
- (2) Activities;
- (3) Housekeeping;
- (4) Laundry;
- (5) Meals, including nutritious snacks and prescribed general low sodium diets, general diabetic diets, and mechanical soft diets;
- (6) Medication assistance;
- (7) Arranging for health care appointments;

- (8) Coordinating health care services with the ALF's services;
- (9) Monitoring of residents' functional status; and
- (10) Emergency assistance.

ALFs may provide the following optional services:

- (1) Assistance with ADLs;
- (2) Intermittent nursing services;
- (3) Health support services;
- (4) Medication administration;
- (5) Adult day services;
- (6) Care for residents with dementia, mental illness, and developmental disabilities;
- (7) Specialized therapeutic diets; and
- (8) Transportation services.

**Third Party Scope of Care** The ALF must allow a resident to arrange to receive on-site care and services from licensed health care practitioners and licensed home health, hospice, or home care agencies, if the resident chooses to do so. The ALF may permit the resident to independently arrange for other persons to provide on-site care and services.

**Admission and Retention Policy** The ALF may admit and retain an individual as a resident only if:

- (1) The ALF can safely, appropriately serve the individual with appropriate available staff who provide the scope of care and services described in the facility's disclosure information and make reasonable accommodations for the resident's changing needs;
- (2) The individual does not require the frequent presence and frequent evaluation of a registered nurse, excluding those individuals who are receiving hospice care or individuals who have a short-term illness that is expected to be resolved within 14 days as long as the ALF has the capacity to meet the individual's identified needs; and
- (3) The individual is ambulatory, unless the ALF is approved by the Washington state director of fire protection to care for semi-ambulatory or non-ambulatory residents.

**Resident Assessment** The ALF must ensure a preadmission assessment is conducted before each prospective resident moves in. The preadmission assessment must include specified information unless the information is unavailable. The ALF must complete a full assessment addressing more detailed information within fourteen days of the resident's move-in

date, upon changes in condition, and at least annually thereafter.

### **Medication Management**

All ALFs must provide medication assistance services (differentiated from medication administration). Medication assistance may be provided by trained caregivers other than licensed nurses without nursing supervision. Assistance may include reminding or coaching the resident to take medication or handing or opening the medication container to the individual, though the resident must be able to put the medication in his or her mouth or apply or instill the medication. If the resident is physically unable to put the medication in his or her mouth or apply or instill the medication, he or she can accurately direct caregivers to perform this task under the medication assistance regulations.

ALFs have the option to provide medication administration services directly through licensed nurses or through formal nurse delegation. Nurses may fill medication organizers for residents under certain conditions.

Residents may self-administer medications, or the ALF may permit family members to administer/assist with medications to residents. Residents have the right to refuse medications. An ALF may alter the form in which medications are administered under certain conditions. Residents who are assessed as capable have the right to store their own medications. The ALF must ensure that residents are protected from gaining access to other residents' medications.

### **Square Foot Requirements**

Resident rooms must be a minimum of 80 square feet for a single occupancy room and shared resident units must provide a minimum of 70 square feet per resident. ALFs receiving Medicaid funding under an assisted living contract with the state must provide a private room with a kitchen area and private bathroom. The room must be a minimum of 220 square feet, excluding the bathroom. ALFs with other contracts with DSHS/ALTSA must meet the licensing requirements for room size.

### **Residents Allowed Per Room**

A maximum of four residents is allowed per resident unit for ALFs licensed before July 1, 1989. For ALFs licensed after this date, a maximum of two residents is allowed per unit. Under an assisted living services contract with

DSHS/ALTSA, only one resident per room is allowed unless the resident requests to share the room with another person, such as a spouse.

### **Bathroom Requirements**

When providing common-use toilet rooms and bathrooms, one toilet and one sink are required for every eight residents and one bath/shower is required for every 12 residents. A private bathroom is required for all residents served under an assisted living contract with DSHS/ALTSA.

### **Life Safety**

All facilities or portions of facilities proposed for licensure as an ALF that initially submit construction review documents after July 1, 2005 are required to be protected by an automatic fire sprinkler system. All facilities or portions of facilities proposed for licensure as an ALF are required to be equipped with smoke detectors in each sleeping room, outside each sleeping room, and on each level. The primary power source for these detection systems must be the building wiring system with battery backup. When these new facilities are to be licensed for more than 16 residents, then they are required to be provided with an approved manual and automatic fire alarm system complying with the National Fire Protection Association 72 standard.

All ALFs first issued a project number by construction review services on or after Sept. 1, 2004 must provide emergency lighting in all areas of the facility. ALFs constructed prior to 2004 are required to have emergency lighting or flashlights in all areas of the facility.

ALFs also must have a current disaster plan describing measures to take in the event of internal or external disasters. Effective in 2022, ALFs must include infectious disease outbreaks in their disaster/emergency plans.

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

ALFs must collect additional assessment information for residents who meet screening criteria for having dementia.

Additionally, an ALF that operates a dementia care unit with restricted egress must ensure that residents or a legally authorized representative give consent to living in such units and, for example:

- (1) Make provisions for residents leaving the unit;
- (2) Ensure the unit meets applicable fire codes;

- (3) Make provisions to enable visitors to exit without sounding an alarm;
- (4) Make provisions for an appropriate secured outdoor area for residents; and
- (5) Provide group, individual, and independent activities.

If an ALF serves residents with dementia, the facility must provide specialized training with specific learning outcomes to staff who work with those residents.

## **Staffing Requirements**

The ALF must have a qualified administrator who is responsible for the overall 24-hour operation of the facility. The ALF must have an adequate number of trained staff to:

- (1) Furnish the services and care needed by each resident consistent with his or her negotiated service agreement;
- (2) Maintain the ALF free of hazards; and
- (3) Implement fire and disaster plans.

Long-term care workers hired after January 7, 2012 must have a federal fingerprint-based background check, in addition to a state background check.

## **Administrator Education/Training**

The administrator must be at least 21 years of age, and have the education, training, and experience outlined in the ALF regulations to qualify as an ALF administrator, including department training on Washington state statutes and administrative rules related to the operation of an ALF. Additionally, ALF administrators or their designees must meet the training requirements of chapter 388-112A WAC, including continuing education.

## **Staff Education/Training**

Long-term care workers must become either certified nursing assistants or certified home care aides. For those workers becoming certified home care aides, they must complete an orientation and safety program before having routine interaction with residents. The orientation provides basic introductory information appropriate to the residential care setting and population served. They also must complete a basic training class and demonstrate competency in the core knowledge and skills needed in order to provide personal care services effectively and safely. DSHS/ALISA must approve basic training curricula for home care aides. Long-term care workers must complete the basic training for home care aides or complete certified nursing assistant training within 120 days

of hire and must become certified within 200 days of hire. Until competency in the basic training or nursing assistant training has been demonstrated, they must have direct supervision when providing hands-on personal care.

Long-term care workers must complete specialty training whenever the ALF serves a resident whose primary special need is assessed as a developmental disability, dementia, or mental illness. The specialty training provides instruction in caregiving skills that meet the needs of individuals with mental illness, dementia, or developmental disabilities.

Certified or registered nursing assistants or home care aide-certified who accept delegated nursing tasks must complete nurse delegation training. If the certified long term care worker will be administering insulin through nurse delegation, he or she must complete the "Special Focus on Diabetes" course and successfully pass an exam with a score of 90 percent prior to assuming these duties. The registered nurse will continue to meet with the certified long term care worker once a week for the first four weeks of insulin delegation.

ALF administrators (or their designees) and long-term care workers must complete 12 hours of continuing education each year by their birthday.

### **Entity Approving CE Program**

Effective July 1, 2012, DSHS must pre-approve all continuing education courses and instructors.

### **Medicaid Policy and Reimbursement**

Medicaid covers several different contracts for services provided by licensed, Medicaid-contracted ALFs. Medicaid payments to ALFs are based on the assessed needs of the residents.

The Medicaid contracts include:

- (1) Adult Residential Care, which includes medication assistance, personal care, and limited supervision for residents who need monitoring for safety. Typically this contract includes two unrelated residents sharing a room.
- (2) Assisted Living Services, which includes a private apartment and some type of nursing care is occasionally provided along with help for medication assistance and/or administration and personal care; and
- (3) The Enhanced Adult Residential Care service package includes services provided under Adult Residential Care

with an additional level of services as needed, such as medication administration and intermittent nursing services..

(4) The Enhanced Adult Residential Care - Specialized Dementia Care Services service package includes all services in the Enhanced Adult Residential Care contract and additional services for a resident with dementia.

(5) Expanded Community Services is an additional layered contract that includes intensive supports for clients experiencing challenging behaviors due to mental illness and/or dementia.

### **COVID-19 Public Health Emergency**

Substitute House Bill 1218 passed the legislature in 2022 and includes various additional expectations for ALF providers as a result of the COVID-19 pandemic. Included in the bill was enhanced expectations for resident and staff communication with families and outside agencies, enhanced safety features, additions to the ALF's disaster/emergency plans, and the addition of an essential support person for each resident.

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## 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 types of 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** There are no finalized recent legislative or regulatory updates affecting assisted living residences and residential care communities.

**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 post-admission.

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 (i.e., 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.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

**Citations**

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Clearance for Access: Registry and Employment Screening  
Act.  
<http://www.wvlegislature.gov/wvcode/code.cfm?chap=16&art=49>

## Wisconsin

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**Licensure Term** Community-Based Residential Facilities, Residential Care Apartment Complexes, and Adult Family Homes

**Opening Statement** Wisconsin licenses three types of regulated residential assisted living providers: community-based residential facilities (CBRF), residential care apartment complexes (RCAC), and adult family homes (AFH). Assisted living facilities are designed to provide residential environments that enhance independence to the extent possible and are the least restrictive of each resident's freedom. Regulatory oversight is provided by the Bureau of Assisted Living, within the Division of Quality Assurance.

**Legislative and Regulatory Update** Chapter DHS 88 (Adult Family Homes) is currently under review. The state revised the licensing, certification, and registration process for state-regulated assisted living providers in May 2020.

**Definition** CBRF: Provides care, treatment, and other services to five or more unrelated adults who need supportive or protective services or supervision because they cannot or do not wish to live independently yet do not need the services of a nursing home or a hospital. CBRFs are limited to those who do not require care above intermediate nursing care and not more than three hours of nursing care per week, unless there is a waiver approved by the department. CBRFs provide a living environment that is as homelike as possible and is the least restrictive of each person's freedom and is compatible with the person's need for care and services. Residents are encouraged to move toward functional independence in daily living or to continue functioning independently to the extent possible.

CBRF licensing categories are based on the number of residents, the residents' level of ambulation and ability to evacuate based on level of ambulation and mental capability to respond under emergency conditions.

RCAC: Provides each tenant with an independent apartment in a setting that is homelike and residential in character; makes available personal, supportive, and nursing services that are appropriate to the needs, abilities, and preferences of individual tenants; and operates in a manner that protects tenants' rights, respects tenant privacy, enhances tenant self-reliance, and supports tenant autonomy in decision-making, including the right to accept risk. RCACs consist of independent apartments for five or more adults, each of which has an individual, lockable entrance and exit; a kitchen, including a stove or microwave oven; and individual bathroom, sleeping, and living areas. RCACs may provide up to 28 hours per week of personal, supportive, and nursing services per week per resident. RCACs cannot admit individuals who are under a guardianship, have an active power of attorney for health care, or have been found to be incapable of recognizing danger, summoning assistance, expressing need or making care decisions, unless the person being admitted shares an apartment with a competent spouse or other persons who has legal responsibility for the individual.

RCACs are not licensed and are either certified or registered. Certified RCACs are able to accept public funding and are inspected every two years in addition to complaints being investigated. Registered RCACs may only accept private pay tenants and are not inspected, but complaints are investigated.

AFH: Private residence in which care and maintenance above the level of room and board, but not including nursing care, are provided primarily to physically or developmentally disabled adults. AFHs that have three or four adults not related to the licensee are regulated by the Department of Health Services Division of Quality Assurance, while one- and two-bed AFHs are regulated by individual county Human Services Departments. Residents at AFHs receive care, treatment, or services above the level of room and board. No more than seven hours per week of nursing care may be provided. Residents are defined as adults unrelated to the licensee who live and sleep in the home and receive care, treatment, or services in addition to room and board.

## **Disclosure Items**

CBRF: Requires a Program Statement that discloses to each person seeking placement or to the person's legal

representative-among other items-facility contact; employee availability, including 24-hour staffing patterns and the availability of a licensed nurse, if any; resident capacity; client group served; a complete description of the program goals and services consistent with the needs of residents; and limitations of services, including the criteria for determining who may reside in an CBRF. The program statement must be available to employees, residents, and any other person upon request.

RCAC: Requires a service agreement that discloses to each of its tenants the services provided, the fees, and the facility policy and procedures.

AFH: Requires a Program Statement that discloses to the licensing agency the number and type of individuals that the applicant is willing to accept and whether the home is accessible to individuals with mobility problems. It will also provide a brief description of the home, its location, services available and who provides them, and community resources available. A service agreement is required to disclose to each person to be admitted to the home, except a person being admitted for respite care. The service agreement must specify, among other things: services that will be provided; charges for room, board, services, other applicable expenses and the security deposit, if any; and conditions for transfer or discharge.

## **Facility Scope of Care**

CBRF: Provides general services, client-specific services, and medication administration and assistance. General services include supervision, information and referral, leisure time activities, transportation, and health monitoring. Client-group-specific services include personal care, activity programming for persons with dementia, independent living skills, communication skills, and up to three hours of nursing care per week (unless hospice is involved).

RCAC: Provides services that are sufficient and qualified to meet the care needs identified in the tenant service agreements, meets unscheduled care needs of its tenants, and makes emergency services available 24 hours per day. Facilities may provide: (1) supportive services, including meals, housekeeping, and access to medical services; (2) personal services, including assistance with all activities of

daily living (ADLs); and (3) nursing services, including health monitoring and medication administration.

AFH: Provides supportive and personal care services to individuals who are defined as having one or more of the following disabilities, conditions, or statuses: a functional impairment that commonly accompanies advanced age or irreversible dementia such as Alzheimer's disease; a developmental disability; an emotional disturbance or mental illness; alcoholism; a physical disability; pregnant women who need counseling services; a diagnosis of terminal illness; or AIDS.

### **Third Party Scope of Care**

CBRF: May provide or contract for services. Residents may enter into contracts with outside providers as long as the contract agency complies with facility policies and procedures.

RCAC: May contract for the services it is required to provide. Residents may contract for additional services not included in the service agreement, as long as the tenant informs the facility, complies with applicable facility policies and procedures, and agrees to have the arrangement reflected in the risk agreement.

AFH: A resident may contract with outside agencies to provide services to meet needs that are identified in the assessment and individual service plan.

### **Admission and Retention Policy**

CBRF: Must ensure that residents of different ages, development levels, or behavior patterns, as identified in their assessment and individual service plans, are compatible and meet the license classification of the facility. Facilities may not admit persons who are:

- (1) confined to bed;
- (2) destructive to property or self;
- (3) are physically or mentally abusive to others, unless the facility has sufficient resources to care for such an individual and is able to protect the resident and others;
- (4) have physical, mental, psychiatric, or social needs that are not compatible with the CBRF client group or with the care, treatment, or services offered by the CBRF; and
- (5) present an imminent risk of serious harm to the health or safety of the resident, other residents, or employees, as documented in the resident's record. Persons requiring more than three hours of nursing care per week or

restraints may be admitted only if the licensing authority is satisfied that granting a waiver will meet the best interests of the resident or potential resident. Residents may not be involuntarily discharged without 30 days' notice and have appeal rights.

RCAC: Unless residents are admitted to share an apartment with a competent spouse or other person who has legal responsibility, facilities may not admit persons who:

- (1) have a court determination of incompetence and are subject to guardianship;
- (2) have an activated power of attorney for health care; or
- (3) have been found by a physician or psychologist to be incapable of recognizing danger, summoning assistance, expressing need, or making care decisions.

Facilities may discharge residents for the following reasons, among others:

- (1) their needs cannot be met at the facility's level of services;
- (2) the time required to provide services to the tenant exceeds 28 hours per week;
- (3) their condition requires the immediate availability of a nurse 24 hours per day;
- (4) their behavior poses an immediate threat to the health or safety of self or others;
- (5) they refuse to cooperate in a physical examination; fees have not been paid; or
- (6) they refuse to enter into a negotiated risk agreement.

AFH: New residents must have a health screening within 90 days prior to admission or within seven days after admission. The facility is required to have a service agreement with each resident that specifies, among other things; the names of the parties to the agreement; services that will be provided and a description of each; charges for room and board and services and any other fees; a method for paying fees; and conditions for transfer or discharge and how the facility will assist in the relocation. A facility may terminate a resident's placement upon 30-day notice to the resident, the resident's guardian, if any, the service coordinator, and the placing agency. The 30-day notification is not required for an emergency termination necessary to prevent harm to the resident or other household members.

## **Resident Assessment**

**CBRF:** Prior to admission, each person is assessed to identify needs and abilities. Based on the assessment, an individualized service plan is developed.

**RCAC:** A comprehensive assessment is performed with the active participation of the prospective resident prior to admission. Regulations identify components of the assessment but do not specify the format for the assessment.

**AFH:** Within 30 days of admission a written assessment and individual service plan are completed for each resident. The assessment identifies the person's needs and abilities. Although the assessment is required, the format is developed by each facility.

## **Medication Management**

**CBRF:** Medication administration and management are performed by licensed nurses or pharmacists unless medications are packaged by unit dose. All direct-care staff and administrative personnel must complete an eight-hour approved medication administration and management course.

**RCAC:** Medication administration and management must be performed by a nurse or a pharmacist or as a delegated task under the supervision of a nurse or pharmacist.

**AFH:** All prescription medications must be securely stored in the original container. Before a licensee or service provider dispenses or administers medication to a resident, the licensee must obtain a written order from the prescribing physician. The order must specify who by name or position is permitted to administer the medication and under what circumstances the medication is to be administered.

## **Square Feet Requirements**

**CBRF:** Minimum sleeping room size is 60 to 100 square feet depending on the license classification (ambulatory, semi-ambulatory or non-ambulatory), existing vs. new construction, and single vs. private occupancy.

**RCAC:** All resident units must be independent with lockable entrances/exits and provide a minimum of 250 square feet of interior floor space, excluding closets. They must meet building codes required for multi-family dwellings.

AFH: There must be at least 60 square feet per person in a shared bedroom and 80 square feet in a single occupancy room. For a person in a wheelchair, the bedroom space is 100 square feet.

**Residents Allowed Per Room**

CBRF: Resident bedrooms in a CBRF shall accommodate no more than two residents.

RCAC: A maximum of two residents is allowed per unit (limited to a spouse or a roommate chosen at the initiative of the tenant).

AFH: A maximum of two residents is allowed per room.

**Bathroom Requirements**

CBRF: Each CBRF must have at least one toilet, sink, and tub or shower for 10 residents.

RCAC: Each apartment must have a bathroom that has floor-to-ceiling walls, a door, a toilet, a sink, and a bathtub or shower.

AFH: There must be at least one bathroom with at least one sink, toilet, shower or tub for every eight household members and towel racks with sufficient space for each household member. The door of each bathroom shall have a lock that can be opened from outside in an emergency. Toilet and bathing facilities used by a resident not able to walk must have enough space to provide a turning radius for a wheelchair. Grab bars must be provided for toilet and bath facilities. If any resident has limited manual dexterity, the home shall have levered handles on all doors.

**Life Safety**

CBRF: Must determine the evacuation ability of each resident, develop an emergency plan, be inspected by the local fire authority, maintain a minimum of two exits, maintain a fire extinguisher on each floor, and have an interconnected smoke and heat detection system. Based on the type of residents the facility serves and the residents' ability to evacuate the facility, other fire safety requirements may be required. The additional requirements include: an externally monitored smoke detection system, vertical smoke separation between floors, a sprinkler system, and 24-hour awake staff.

RCAC: Must comply with Wisconsin Department of Safety and Professional Services codes for multifamily dwellings and with local fire and building codes.

AFH: Must be equipped with one or more fire extinguisher and one or more single station smoke detector on each floor. Smoke detectors are required in each habitable room except kitchens and bathrooms and are also required in other specific locations. The first floor of the home must have at least two means of exiting. The licensee must have a written evacuation plan and conduct semiannual fire drills.

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

CBRF: Must identify the client group(s) it can serve. Two categories of client groups are persons with functional impairments that commonly accompany advanced age and persons with irreversible dementia such as Alzheimer's. A full description of residents' special needs and how those needs will be met are provided as part of the licensing process. Structured activity programming must be integrated into the daily routines of residents with irreversible dementia.

If a facility serves persons with dementia, staff must receive training within 90 days of employment. This training is specific to the client groups served by the CBRF and includes, but is not limited to: the characteristics of the client group served by the facility such as group members' physical, social, and mental health needs; specific medications or treatments needed by the residents; program services needed by the residents; meeting the needs of persons with a dual diagnosis; and maintaining or increasing social participation, self-direction, self-care, and vocational abilities. RCAC: None specified.

AFH: Must identify the types of individuals it is willing to serve. Two categories of types of individuals are persons with functional impairments that commonly accompany advanced age and persons with irreversible dementia such as Alzheimer's disease. As part of the licensing process, the proposed AFH must develop a program statement that describes the number and types of individuals the applicant is willing to accept and how the entity will meet the needs of the residents.

## **Staffing Requirements**

**CBRF:** The ratio of staff to residents must be adequate to meet the needs of residents as defined in their assessments and individual service plans. At least one qualified resident care staff person shall be in the facility when one or more residents are in the facility. Staffing ratios vary based on the residents' ability to evacuate during an emergency and their care needs. There must be awake staff at night in facilities with one or more residents requiring continuous care.

**RCAC:** Staffing must be adequate to provide all services identified in the residents' service agreements. A designated service manager must be available on short notice.

**AFH:** The licensee or service provider must have a sufficient number of staff to meet the needs of the residents. Additionally, the licensee or service provider must be present and awake at all times if any resident is in need of continuous care. Residents have the right to prompt and adequate treatment.

## **Administrator Education/Training**

**CBRF:** The administrator of a CBRF shall be at least 21 years of age and exhibit the capacity to respond to the needs of the residents and manage the complexity of the CBRF. The administrator shall have any one of the following qualifications:

- (1) An associate degree or higher from an accredited college in a health care related field;
- (2) A bachelor's degree in a field other than in health care from an accredited college and one year of experience working in a health care related field having direct contact with one or more of the client groups identified under s. DHS 83.02 (16);
- (3) A bachelor's degree in a field other than in health care from an accredited college and have successfully completed a department-approved assisted living administrator's training course;
- (4) At least two years of experience working in a health care related field having direct contact with one or more of the client groups identified under s. DHS 83.02 (16) and have successfully completed a department-approved assisted living administrator's training course; or
- (5) A valid nursing home administrator's license issued by the department of regulation and licensing.

**RCAC:** Service managers must be capable of managing a multidisciplinary staff.

AFH: Licensee must be at least 21 years of age and be physically, emotionally, and mentally capable of providing care for residents. The licensee shall ensure that the home and its operation comply with all applicable rules, regulations, and statutes. The licensee is responsible for ensuring that staffing meets the needs of all residents. The licensee must have a clean criminal background check.

### **Staff Education/Training**

CBRF: Employees need to have orientation training before they can perform any job duty. Minimum initial training consists of department-approved training in medication management, standard precautions, fire safety, and first aid and choking. In addition, all staff must have training in resident rights, the client group, and challenging behaviors. Resident care staff involved in certain tasks must have training in needs assessment of prospective residents; development of service plans; provision of personal care; and in dietary needs, menu planning, food preparation, and sanitation.

Administrator and resident care staff receive 15 hours annually of relevant continuing education beginning with the first full calendar year of employment. Continuing education shall be relevant to the job responsibilities and shall include, at a minimum, all of the following:

- (1) Standard precautions.
- (2) Client group related training.
- (3) Medications.
- (4) Resident rights.
- (5) Prevention and reporting of abuse, neglect and misappropriation.
- (6) Fire safety and emergency procedures, including first aid.

RCAC: Resident care staff must have documented training or experience in:

- (1) the needs and techniques for assisting with ADLs;
  - (2) the physical, functional, and psychological characteristics associated with aging; and
  - (3) the purpose and philosophy of assisted living, including respect for tenant privacy, autonomy, and independence.
- All staff are required to have training in fire safety, first aid, standard precautions, and the facility's policies and procedures relating to tenant rights. No continuing education requirements are specified.

AFH: Service providers must be at least 18 years of age; responsible, mature, and of reputable character; and exercise and display the capacity to successfully provide care for three or four unrelated adult residents. The licensee and each service provider must complete 15 hours of training related to the health, safety, and welfare of residents, resident rights, and treatment appropriate to residents including fire safety and first aid. They must have a clean criminal background check. The licensee and each service provider must complete eight hours of training annually related to the health, safety, welfare, rights, and treatment of residents.

**Entity Approving CE Program**

None specified.

**Medicaid Policy and Reimbursement**

CBRF: Wisconsin's Family Care program, which is the Medicaid managed care waiver program, is the primary public funding for CBRF, RCAC, and AFH residents.

**COVID-19 Public Health Emergency**

There are no permanent regulatory changes related to the COVID-19 public health emergency.

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Wisconsin Department of Health Services, Assisted Living Resources.  
<https://www.dhs.wisconsin.gov/regulations/assisted-living/resources.htm>

## Wyoming

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**Licensure Term** Assisted Living Facilities

**Opening Statement** The Department of Health, Office of Healthcare Licensing and Surveys licenses assisted living facilities (ALFs). The rules do not specify a minimum number of residents needed to trigger licensure requirement. There are two levels of licensure: Level 1 is for ALFs that do not have a secure unit, and Level 2 is for ALFs that have a secure unit and are required to meet special staffing and staff education requirements defined under the rules. The licensing level is used for regulatory purposes only.

**Legislative and Regulatory Update** The Aging Division of the Department of Health updated Chapter 12: Program Administration of Assisted Living Facilities effective August 24, 2020.

**Definition** An assisted living facility is a dwelling operated by any person, firm, or corporation engaged in providing limited nursing care, personal care, and boarding home care, but not habilitative care, for persons not related to the owner of the facility.

**Disclosure Items** None specified.

**Facility Scope of Care** The facility must provide, among other core services:

- (1) meals, housekeeping, personal and other laundry services
- (2) a safe, clean environment
- (3) assistance with local transportation;
- (4) assistance with obtaining medical, dental, and optometric care;
- (5) assistance in adjusting to group living activities;
- (6) maintenance of a personal fund account, if requested by the resident or resident's responsible party;
- (7) provision of appropriate recreational activities in/out of the assisted living facility
- (8) Care of individuals who require any or all of the following services:
  - (A) partial assistance with personal care;

- (B) limited assistance with dressing;
- (C) minor non-sterile dressing changes;
- (D) stage I skin care;
- (E) infrequent assistance with mobility;
- (F) cueing;
- (G) limited care to residents with incontinence and catheters (if the resident can care for his/her condition independently); and
- (9) assessments completed by a registered nurse
- (10) 24-hour monitoring of each resident.

The following services cannot be provided:

- (1) Continuous assistance with transfer and mobility;
- (2) Care of the resident who is unable to feed himself independently and/or; monitoring of diet is required;
- (3) Total assistance with bathing and dressing;
- (4) Provision of catheter or ostomy care; e.g., changing of catheter or irrigation of ostomy; total assist with appliance care/changing.
- (5) Care of resident who is on continuous oxygen, if:
  - (1) The resident is unable to determine if oxygen is on or off;
  - (2) The resident is unable to adjust the flow or turn the oxygen on or off; or
  - (3) Continuous monitoring is required.
- (6) Care of resident whose wandering jeopardizes the health and safety of the resident;
- (7) Incontinence care by facility staff;
- (8) Wound care requiring sterile dressing changes;
- (9) Stage II skin care and beyond;
- (10) Care of the resident with inappropriate social behavior; e.g., frequent aggressive, abusive, or disruptive behavior;
- (11) Care of resident demonstrating chemical abuse that puts him and/or others at risk; and
- (12) Monitoring of acute medical conditions.

**Third Party Scope of Care** The facility may provide or arrange access for barber/beauty services, hospice care, Medicare/Medicaid home health care, and any other services necessary to support the resident.

**Admission and Retention Policy** Individuals may only be admitted if accompanied by a medical history and physical that is completed by a physician or physician extender (i.e., a mid-level practitioner such as an advanced registered nurse

practitioner or a physician assistant) within 90 days prior to admission.

### **Resident Assessment**

The staff or a contracted registered nurse (RN) must conduct initial assessment no earlier than 1 week prior to admission, immediately upon any significant changes to a resident's mental or physical condition, or no less than once every 12 months. The report must be an accurate, standardized, reproducible assessment of each resident's functional capacity, physical assessment and medication review. The RN must make an initial assessment of the resident's needs, which describes the resident's capability to perform activities of daily living (ADLs) and notes all significant impairments in functional capability. A current assessment must be maintained in each resident's file. The assessment should include, for example, medically defined conditions, prior medical history, physical status and impairments, and nutritional status and impairments. The assessments are used to develop, review, and revise the resident's individualized assistance plan.

Residents admitted to secure dementia units must be assessed on the MMSE on admission, and at least annually thereafter, and score between 20 and 10.

### **Medication Management**

An RN must be responsible for the supervision and management of all medication administration. Residents able to self-medicate may keep prescription medications in their room if deemed safe and appropriate by the RN. An RN completes medication review for each resident every two months or 62 days, when new medication is prescribed, or when the resident's medication is changed. The staff shall be responsible for providing necessary assistance to residents deemed capable of self-medicating, but are unable to do so because of a functional disability, in taking oral medications. Non-licensed staff can only assist with oral medications.

### **Square Feet Requirements**

Private resident units must be a minimum of 120 square feet and shared resident units must provide a minimum of 80 square feet per resident.

### **Residents Allowed Per Room**

A maximum of two residents is allowed per resident unit.

**Bathroom Requirements** At least one flush toilet and lavatory must be provided for every two beds and at least one tub or shower must be provided for every 10 beds.

**Life Safety** Assisted living facilities are evaluated for safety using the Life Safety Code (National Fire Protection Association (NFPA) 101). This code requires the facilities to meet national standards for sprinkler protection using NFPA 13 Installation of Sprinkler Systems and national standards for fire alarm systems using NFPA 72, the National Fire Alarm Code, which determines the installation and maintenance of smoke detectors and applicable devices.

**Unit and Staffing Requirements for Serving Persons with Dementia** Under Wyoming tiered licensing system, a Level 1 License is for ALFs that do not have a secure unit, and facilities operating with a Level 1 License are not required to meet the special staffing and education requirements. A Level 2 license is for ALFs that have a secure unit, and facilities operating with a Level 2 license are required to meet special staffing and staff education requirements defined under the rules.

For an ALF with a Level 2 license for a secured unit, a licensed nurse must be on duty on all shifts. This may be a licensed practical nurse if an RN is available on premises or by telephone to administer medication as needed and to perform ongoing resident evaluations to ensure appropriate, timely interventions.

In addition to meeting Staff Education/Training described below, direct care staff in Level 2 ALFs must receive documented training in:

- (1) The facility or unit's philosophy and approaches to providing care and supervision of persons with severe cognitive impairment;
- (2) The skills necessary to care for, intervene, and direct residents who are unable to independently perform activities of daily living;
- (3) Techniques for minimizing challenging behaviors, such as wandering and delusions;
- (4) Therapeutic programming to support the highest level of residents' functioning;
- (5) Promoting residents' dignity, independence, individuality, privacy, and choice;
- (6) Identifying and alleviating safety risks to residents;

- (7) Recognizing common side effects and reactions to medications; and
- (8) Techniques for dealing with bowel and bladder aberrant behavior.

Staff must have at least 12 hours of continuing education annually related to care of persons with dementia.

Managers of secure dementia units must:

- (1) Have at least three years of experience in working in the field of geriatrics or caring for disabled residents in a licensed facility; and
- (2) Be certified as a residential care/assisted living facility administrator or have equivalent training.

Certification requirements include a training program covering topics referenced in the regulations. The course work must take place in a college, vocational training, or state or national certification program, approved by the Department of Health. Licensed nursing home administrators, for the purpose of these rules, meet the qualifications.

## **Staffing Requirements**

The facility must designate a manager who is responsible for the overall operation of the ALF and ensuring compliance with the rules. Staffing must be sufficient to meet the needs of all residents and ensure the appropriate level of care is provided. There must be at least one RN, licensed practical nurse (LPN), or certified nursing assistant (CNA) on duty and awake at all times. There must be personnel on duty to: maintain order, safety, and cleanliness of the premises; prepare and serve meals; assist the residents with personal needs and recreational activities; and meet the other operational needs of the facility.

For an ALF with a Level 2 license for a secured unit, a licensed nurse must be on duty on all shifts. This may be a licensed practical nurse if an RN is available on premises or by telephone to administer medication as needed and to perform ongoing resident evaluations to ensure appropriate, timely interventions.

All ALF staff must successfully complete, at a minimum, a Wyoming Division of Criminal Investigation fingerprint background check and a Department of Family Services Central Registry Screening before direct resident contact.

<b>Administrator Education/Training</b>	<p>An ALF must have a manager who assumes overall responsibility for the day-to-day facility operation. Among other requirements, the manager must:</p> <ul style="list-style-type: none"> <li>(1) be at least 21 years of age;</li> <li>(2) pass an open book test (with a score of 85% or greater) on the state's assisted living licensure and program administration rules; and</li> <li>(3) meet at least one of the following: <ul style="list-style-type: none"> <li>(A) Have completed at least 48 semester hours or 72 quarter-system hours of post-secondary education in health care, elderly care, health case management, facility management, or other related field from an accredited college or institution; or</li> <li>(B) Have at least two years of experience working with elderly or disabled individuals.</li> </ul> </li> </ul> <p>Administrators must complete at least 16 hours of continuing education annually. At least eight of the 16 hours of the annual continuing education shall pertain to caring for persons with severe cognitive impairments.</p>
<b>Staff Education/Training</b>	<p>Management must provide new employee orientation and education regarding resident rights, evacuation, and emergency procedures, as well as training and supervision designed to improve resident care.</p> <p>Staff must have at least 12 hours of continuing education annually related to the care of persons with dementia.</p>
<b>Entity Approving CE Program</b>	None specified.
<b>Medicaid Policy and Reimbursement</b>	The state's Medicaid Section 1915(c) home and community-based services, Community Choices Waiver, covers services in assisted living centers.
<b>COVID-19 Public Health Emergency</b>	There are no permanent regulatory changes related to the COVID-19 public health emergency.
<b>Citations</b>	<p>Wyoming Department of Health, Health Quality, Administrative Rules for Licensure of Assisted Living Facilities, Chapter 4. [June 28, 2001]</p> <p><a href="https://health.wyo.gov/wp-content/uploads/2022/08/HLS-Rule-Ch-4-Assisted-Living-Facilities.pdf">https://health.wyo.gov/wp-content/uploads/2022/08/HLS-Rule-Ch-4-Assisted-Living-Facilities.pdf</a></p>

Wyoming Department of Health, Aging Division,  
Administrative Rules for Program Administration of  
Assisted Living Facilities, Chapter 12. [December 12, 2007]  
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