Massachusetts

Licensure Term

An assisted living residence is any entity, however organized, whether conducted for profit or not for profit, which meets all of the following criteria:

(a) provides room and board; and
(b) 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.

Opening Statement

The Executive Office of Elder Affairs (EOEA) certifies assisted living residences. 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 non-institutional 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 July 2018 to make technical edits. There is no recent legislation affecting assisted living residences.

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:

(a) provides room and board; and
(b) 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 for dealing with medication that is prescribed to be taken “as necessary”, and an explanation of its limited medication administration policy;

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 respiration (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.

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. (Note: The state attorney general has stated that this section of the statute violates the Americans with Disabilities Act and, therefore, Elder Affairs does not enforce this.)

**Resident Assessment**
Prior to a resident moving in, a nurse must conduct an initial screening. The initial screening must include an observational 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; 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. Elder Affairs 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-injectible 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/shower. 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,
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 state 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 facility must be at least 21 years of age and must have demonstrated experience in administration, supervision, 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.

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 training requirements can be satisfied by un-facilitated media presentations.

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).

The service coordinator must have a minimum of two years’ experience working with elders or persons with disabilities and 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.

**Entity Approving CE Program**

None specified.

**Medicaid Policy and Reimbursement**

The Medicaid state plan covers personal care services and case management oversight in an assisted living residence.
Reimbursement

Citations


Massachusetts Executive Office of Elder Affairs
(617) 727-7750