

Massachusetts

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Licensure Term Assisted Living Residences

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**

While no legislative or regulatory updates have been finalized since January 2017 through June 2018, there are several bills under consideration that would affect assisted living residences. Regulations have been in effect since January 1996. Revisions were made in December 2002, September 2006, January 2015 and January 2017.

2017 changes include: (1) new defined terms added to 651 CMR 12.02: Definitions; (2) enhanced the Specialized Training Requirements ((651CMR 12.07(4)(f)(2)) to include the annual in-service education requirement for all employees include "falls prevention" which should be based on the Residence's established policies and procedures; (3) each ALR is required to implement an Evidenced Based Informed Falls Prevention Program, to be included in the annual Quality Assurance and Performance Improvement program focusing on "Resident Safety and Assurances"; (4) each ALR must alert EOEA within ten business days after the Executive Director/Manager leaves the position; (5) no person working in an

ALR shall have been convicted of a felony related to the theft or illegal sale of a controlled substance; (6) an ALR may submit applications for exemption regarding Special Care Residence staffing levels; (7) EOEAs may require the inclusion of an information cover sheet for each Resident Agreement; (8) EOEAs shall be authorized to photocopy materials or request the Residence to send copies of identified materials to EOEAs via facsimile or other electronic means; and (9) Personal Care and Self-administered Medication Management evaluations of personal care staff must now be conducted every six months instead of just twice yearly.

Definition

An assisted living residence is any entity that provides room and board and personal care services for three or more adults and collects payments from or on behalf of residents for the provision of assistance with activities of daily living (ADLs).

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.

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. (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; and if self-administered medication management is appropriate for the resident. 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, level of personal care needs, 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, 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 cooking facilities. 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 resident must have his/her own comprehensive emergency plan to meet potential disasters/emergencies.

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.

The Special Care Residences must 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. The Special Care residence must have at least two awake staff on duty at all times. In addition to requirements for general orientation, all new employees who work in a Special Care Resident and have direct contact with residents must receive seven hours of additional training on the specialized care needs of the resident population.

All staff in an assisted living residence must receive at least two hours of training on the topic of dementia/cognitive impairment, including a basic overview of the disease process, communication skills, and behavioral management as part of the general orientation. The manager and service coordinator shall receive an additional two hours of training (at least four hours total) on these topics. 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.

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. There must never be fewer than two staff members in a Special Care Residence awake and on duty at all times. 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; hold a bachelor's degree or have equivalent experience in human services, housing, or nursing home management; and have demonstrated experience in administration, supervision and management skills. The manager is required to be of good moral character and must never have been convicted of a felony.

In addition to the requirements for staff training and additional training on dementia/cognitive impairment, managers must complete five hours of training.

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 an additional 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.

Citations

Code of Massachusetts Regulations, Title 651, Section 12.00: Certification Procedures and Standards for Assisted Living Residences. Executive Office of Elder Affairs. [January 13, 2017]
<http://www.mass.gov/courts/docs/lawlib/600-699cmr/651cmr12.pdf>

Executive Office of Elder Affairs. Long-Term Care in Home Services: Adult Foster Care Programs.
<http://www.mass.gov/elders/healthcare/ltc-in-home/adult-foster-care-programs.html>

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