

South Dakota

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Licensure Term Assisted Living Centers

Opening Statement The South Dakota Department of Health, Office of Health Care 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 recent legislative or regulatory changes affecting assisted living. Major revisions were made to South Dakota's assisted living regulations, effective Jan. 9, 2012, including separating the rules for assisted living centers from the state's medical facility rules.

South Dakota added two new optional services effective January 5, 2015. First, a facility that admits or retains any resident who requires dining assistance must develop a nutrition and hydration assistance program. The requirement specifies a variety of staffing requirements for providing this service. Second, a facility that admits or retains any resident who requires one or two staff for up to total assistance with completing activities of daily living (ADL) or assistance to turn or raise in bed and to transfer resident must meet specified provisions, including staffing and resident assessment requirements.

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

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

Disclosure Items

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

Facility Scope of Care

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

Third Party Scope of Care

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

Admission and Retention Policy

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

(1) Turn self in bed and raise from bed or chair independently or with assist of one staff;

(2) Transfer independently or with the assistance of one staff and

does not require a mechanical lift;

(3) Complete ADLs of mobility or ambulation, dressing, toileting, personal hygiene, and bathing with assist of one staff but less than total assist;

(4) Feed self with set up, cueing, and supervision;

(5) Complete own ostomy or catheter cares;

(6) Display normal expected behaviors for condition that do not place self or others at risk;

(7) Complete own injections if scheduled or required or provided by nursing staff if assisted living staffing allows;

(8) Manage care for his or her own feeding tube, tracheotomy, or peritoneal dialysis;

(9) Remains free from the need for restraints, except for admission to a secured unit;

(10) Demonstrate no need for skilled services unless provided by contract with a Medicare certified home health agency or assisted living nursing staff for a limited time with a planned end date;

(11) Be free from communicable diseases that place other residents or staff at risk; and

(12) Maintain conditions that are stable and controlled that do not require frequent nursing care.

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.

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 be approved by the department and 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 use a form developed by the department outlining services it is licensed to provide 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 to review and document resident care and condition at least weekly. 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 2009 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

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

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.

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.

Staff working in secured units must have specific training regarding the needs of residents in the unit and at least one caregiver must be on duty on the secured unit at all times.

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, with a minimum of 0.8 hours of direct resident care for each resident for each 24-hour period. At least one staff person must be on duty at all times, and those staff on duty must be awake at all times. South Dakota legislation has additional staffing ratio requirements for health care facilities, from which assisted living centers may

request an exception by completing a state form.

If the facility admits and retains residents on therapeutic diets, it must have a registered dietician consultant. 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 assistance to turn or raise in bed and to transfer.

**Administrator
Education/Training**

Administrators must: (1) be licensed health care professionals as defined in regulation; or (2) hold a high school diploma or equivalent and become a qualified administrator within a year of employment by completing a training program and competency evaluation. The department shall determine if other training programs are substantially equivalent to meet the regulation.

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) Care of residents with unique needs; and
- (9) Nutritional risks and hydration needs of residents.

Regulations require a number of additional trainings in specified circumstances when facilities provide care for certain patient populations or certain services. For example, each staff member at a facility that admits or retains a resident with cognitive impairment must attend an in-service training. If a facility admits residents dependent on supplemental oxygen must train staff regarding

safety, administration, and procedures.

**Entity Approving
CE Program**

None specified.

**Medicaid Policy and
Reimbursement**

A broad Medicaid home and community-based services waiver coupled with state funds covers services in assisted living.

Citations

South Dakota Department of Social Services website: Assisted Living with information and links to licensing regulations.

<http://dss.sd.gov/asa/services/assistedliving/>

South Dakota Administrative Rules, Article 44:70: Assisted Living Centers.

<http://legis.sd.gov/ruleS/DisplayRule.aspx?Rule=44:70>

South Dakota Department of Health website: Healthcare Providers, Staffing Exception Forms for Assisted Living Centers. [2012]

<https://doh.sd.gov/providers/licensure/Staffing-Exceptions.aspx>

South Dakota Department of Social Services, Medicaid. Home and Community Based Services

<https://dss.sd.gov/medicaid/hcbs.aspx>