

Florida

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Licensure Term Assisted Living Facilities

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.

Regulatory and Legislative Update

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.

Effective July 1, 2023, HB 299 created the "Alzheimer's Disease and Related Forms of Dementia Education and Training Act." Under this Act, employees of covered providers, including assisted living facilities, employees of covered providers must complete the following training for Alzheimer's disease and related forms of dementia:

(a) Upon beginning employment, each employee must receive basic written information about interacting with persons who have Alzheimer's disease or related forms of dementia.

(b) Within 30 days after beginning employment, each employee who provides personal care to or has regular contact with participants, patients, or residents must complete a 1-hour training program provided by the Department of Elderly Affairs.

Additionally, paragraph (d) requires within 7 months after beginning employment for a nursing home, an assisted living facility, an adult family-care home, or an adult day care center, each employee who provides personal care must complete 3 hours of training in addition to the training required in (a) and (b).

The additional training must include, but is not limited to, behavior management, promoting the person's independence in activities of daily living, skills in working with families and caregivers, group and individual activities, maintaining an appropriate environment, and ethical issues. Further, for an assisted living facility, adult family-care home, or adult day care center that advertises and provides, or is designated to provide, specialized care for persons with Alzheimer's disease or related forms of dementia, in addition to the training specified in paragraphs (a) and (b), employees must receive the following training:

1. Within 3 months after beginning employment, each employee who provides personal care to or has regular contact with the residents or participants must complete the additional 3 hours of training as provided in paragraph (d).

2. Within 6 months after beginning employment, each employee who provides personal care must complete an additional 4 hours of dementia-specific training. Such training must include, but is not limited to, understanding Alzheimer's disease and related forms of dementia, the stages of Alzheimer's disease, communication strategies, medical information, and stress management.

Thereafter, each employee who provides personal care must participate in at least 4 hours of continuing education each calendar year through contact hours, on-the-job training, or electronic learning technology. For this subparagraph, the term "on-the-job training" means a form of direct coaching in which a facility administrator or his or her designee instructs an employee who provides personal care with guidance, support, or hands-on experience to help develop and refine the employee's skills for caring for a person with Alzheimer's disease or a related form of dementia. The continuing education must cover at least one of the topics included in the dementia-specific training in which the

employee has not received previous training in the previous calendar year. The continuing education may be fulfilled and documented in a minimum of one quarter-hour increments through on-the-job training of the employee by a facility administrator or his or her designee or by an electronic learning technology chosen by the facility administrator. On-the-job training may not account for more than 2 hours of continuing education each calendar year. The legislation also sets forth requirements for providers of the training and the ability and responsibilities of the Department of Elderly Affairs (DOEA) in administration/oversight. Additional information on the training can be found at the DOEA website:

<https://elderaffairs.org/programs-services/bureau-of-elder-rights/>

Effective July 1, 2023, under SB 252, assisted living providers must comply with the “Protection from Discrimination Based on Health Care Choices” legislation which prohibits the mandatory use of facial coverings except when clinically appropriate. The legislation also prohibits employment discrimination based on vaccination status, post-infection status, or failure to take a COVID-19 test. Regular rulemaking is ongoing, however, an emergency rule implementing this legislation can be found here: <https://ahca.myflorida.com/health-care-policy-and-oversight/bureau-of-health-facility-regulation/rulemaking>.

Effective November 23, 2023, the Comprehensive Emergency Management Plan rules have been revised to include updated emergency management criteria based on the experience and lessons learned over the past decade. The specific rule changes and the updated planning criteria document can be found in Rules 59A-35.019 and 59A-36.025, F.A.C., located here: <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=59A-36>

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.

Limitations of Services

Residents admitted to standard, limited nursing services, or limited mental health licensed facilities may not require any of the following nursing services: artificial airway management of any kind, except that of continuous positive airway pressure may be provided through the use of a CPAP or bipap machine; assistance with tube feeding; monitoring of blood gases; management of post-surgical drainage tubes and wound vacuum devices; the administration of blood products in the facility; or treatment of surgical incisions or wounds, unless the surgical incision or wound and the underlying condition have been stabilized and a plan of care has been developed. Additionally, residents admitted to facilities holding only standard and/or limited mental health licenses may not require any of the following nursing services: hemodialysis and peritoneal dialysis performed in the facility or intravenous therapy performed in the facility. Residents should not require 24-hour nursing supervision, unless the resident is receiving licensed hospice services, nor require skilled rehabilitative services.

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.

**Move-in Requirements
Including Required
Disclosures/Notifications**

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.

**Resident Assessment
Requirements and Frequency**

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.

Staffing Requirements

A facility which advertises that it provides special care for persons with Alzheimer's disease or other related disorders must:

- (a) If the facility has 17 or more residents, have an awake staff member on duty at all hours of the day and night; or
- (b) If the facility has fewer than 17 residents, have an awake staff member on duty at all hours of the day and night or have mechanisms in place to monitor and ensure the safety of the facility's residents.

Effective July 1, 2023, assisted living facility staff must also meet the training requirements of the "Alzheimer's Disease and Related Forms of Dementia Education and Training Act" set forth under "Regulatory and Legislative Update."

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/Director Education and Training Requirements

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.

Effective July 1, 2023, assisted living facility staff must also meet the training requirements of the "Alzheimer's Disease and Related Forms of Dementia Education and Training Act" set forth under "Regulatory and Legislative Update."

Direct Care Staff Education and Training Requirements

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. Effective July 1, 2023, assisted living facility staff must also meet the training requirements of the "Alzheimer's Disease and Related Forms of Dementia Education and Training Act" set forth under "Regulatory and Legislative Update." Alzheimer's Disease training may substitute for one hour of the required two hours of preservice orientation.

Quality Requirements

Facilities may, as part of their administrative functions, voluntarily establish a risk management and quality assurance program, the purpose of which is to assess resident care practices, facility incident reports, deficiencies cited by the agency, adverse incident reports, and resident grievances and develop plans of action to correct and respond quickly to identify quality differences.

Infection Control Requirements

Facilities must provide services in a manner that reduces the risk of transmission of infectious diseases.

(1) The facility must implement a hand hygiene program before and after the provision of personal services to residents whenever there is an expectation of possible exposure to infectious materials or bodily fluids. Hand hygiene may include the use of alcohol-based rubs, antiseptic handwash, or handwashing with soap and water.

(2) Standard precautions must be used when there is an anticipated exposure to transmissible infectious agents in blood, body fluids, secretions, excretions, nonintact skin, and mucous membranes during the provision of personal services. Standard precautions include: hand hygiene, and dependent upon the exposure, use of gloves, gown, mask, eye protection, or a face shield.

(3) The facility must 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.

Facilities also must have a written statement of its house rules and procedures that address minimum topics, including infection control, sanitation, and standard precautions.

Emergency Preparedness Requirements

Effective July 1, 2023, assisted living facilities must comply with the infectious disease and facial covering requirements of the "Protection from Discrimination Based on Health Care Choices" legislation set forth under "Regulatory and Legislative Update."

Each facility must prepare a written comprehensive emergency management plan which must, at a minimum, address the following:

- (a) Provision for all hazards;
- (b) Provision for the care of residents remaining in the facility during an emergency, including pre-disaster or emergency preparation; protecting the facility; supplies; emergency power; food and water; staffing; and emergency equipment;
- (c) Provision for the care of residents who must be evacuated from the facility during an emergency including identification of such residents and transfer of resident records; evacuation transportation; sheltering arrangements; supplies; staffing; emergency equipment; and medications;
- (d) Provision for the care of additional residents who may be evacuated to the facility during an emergency including the identification of such residents, staffing, and supplies;
- (e) Identification of residents with Alzheimer's disease or related disorders, and residents with mobility limitations who may need specialized assistance either at the facility or in case of evacuation;
- (f) Identification of and coordination with the local emergency management agency;
- (g) Arrangement for post-disaster activities including responding to family inquiries, obtaining medical intervention for residents, transportation, and reporting to the local emergency management agency the number of residents who have been relocated, and the place of relocation; and,
- (h) The identification of the safety liaison and other staff responsible for implementing each part of the plan.

The plan must be submitted for review and approval to the local emergency management agency which is the final administrative authority for emergency management plans prepared by assisted living facilities.

- (a) If the local emergency management agency requires revisions to the emergency management plan, such revisions must be made and the plan resubmitted to the local office within 30 days of receiving notification that the plan must be revised.
- (b) A new facility and facilities whose ownership has been transferred, must submit an emergency management plan within 30 days after obtaining a license.
- (c) The facility must review its emergency management plan on

an annual basis. Any substantive changes must be submitted to the local emergency agency for review and approval.

1. Changes in the name, address, telephone number, or position of staff listed in the plan are not considered substantive revisions for this purpose.

2. Changes in the identification of specific staff must be submitted to the local emergency management agency annually as a signed and dated addendum that is not subject to review and approval.

All staff must be trained in their duties and are responsible for implementing the emergency management plan. If telephone service is not available during an emergency, the facility must request assistance from local law enforcement or emergency management personnel in maintaining communication.

The facility must evacuate the premises during or after an emergency if so directed by the local emergency management agency.

(a) The facility must report the evacuation to the local office of emergency management or designee and to the agency within 6 hours of the evacuation order. If the evacuation takes more than 6 hours, the facility must report when the evacuation is completed.

(b) The facility must not be re-occupied until the area is cleared for reentry by the local emergency management agency or its designee and the facility can meet the immediate needs of the residents.

(c) A facility with significant structural damage must relocate residents until the facility can be safely re-occupied.

(d) The facility is responsible for knowing the location of all residents until the residents have been relocated to another facility.

(e) The facility must provide the agency with the name of a contact person who must be available by telephone 24 hours a day, seven days a week, until the facility is re-occupied.

(f) The facility must assist in the relocation of residents, and must cooperate with outreach teams established by the Department of Health or emergency management agency to assist in relocation efforts. Resident needs and preferences must be considered to the extent possible in any relocation decision.

Additionally, in the event a state of emergency has been declared and the facility is not required to evacuate the premises, the facility may provide emergency shelter above the facility's licensed capacity provided certain conditions are met.

Effective November 23, 2023, assisted living facilities must comply with new regulatory requirements contained in the amended emergency management rules set forth under "Regulatory and Legislative Update."

Life Safety Requirements

Effective November 23, 2023, a regulatory update requires each assisted living facility to prepare a detailed plan to serve as an appendix 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.

Medicaid Policy and Reimbursement

Florida has two Section 1915(c) 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.

Citations

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