

# Massachusetts

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**Licensure Term** 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:

- (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.

**Regulatory and Legislative Update** Assisted living residences offer a combination of housing, meals, and personal care services to adults on a rental basis. Assisted living does 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.

Assisted living residences must meet regulatory standards to be certified by the Executive Office of Elder Affairs (EOEA).

There is current proposed legislation under review by the Elder Affairs committee that would allow limited skilled services in MA ALRs.

**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).

### **Limitations of Services**

The Residency Agreement and Disclosure Statement shall include an explanation of any limitations on the services the Residence will provide, specifically including any limitations on services to address specific Activities of Daily Living and behavioral management. Such explanation shall also include a description of the role of the nurse(s) employed by the Residence, and the nursing and personal care worker staffing levels.

Resident Services do not include optional services such as concierge services, recreational, or leisure services.

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

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.

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.

**Resident Assessment Requirements and Frequency**

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 (SAMM) and can be provided by train resident care aides with training in the process of SAMM assistance.

Limited medication administration (LMA) is provided by licensed nurses employed by the assisted living residence as long as there is a Dr's order on file. The nurse 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).

**Staffing Requirements**

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.

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 always have sufficient staffing 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 always awake and on duty 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

**Administrator/Director  
Education and Training  
Requirements**

she have been convicted of a felony related to the theft or illegal sale of a controlled substance.

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.

**Direct Care Staff Education  
and Training Requirements**

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 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 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).

## **Quality Requirements**

Administrative staff of the Residence qualified by training and experience shall review the operations of any Special Care Residence twice each year. The reviews may be conducted as part of the Residence Quality Improvement and Assurance program prescribed under 651 CMR 12.04(10).

The Residence shall establish an effective, ongoing quality improvement and assurance program to evaluate its operations and services to continuously improve services and operations, and to assure Resident health, safety, and welfare. The program should encompass oversight and monitoring of Residence services, ongoing quality improvement, and implementation of any plan that addresses improved quality of services. Residence staff shall periodically gather, review, and analyze data at least quarterly to evaluate its provision of services to its residents and assess the overall outcome of services and planning and Resident experience of care. The program must be based on analysis of relevant information focusing on Resident safety, well-being, and satisfaction. The program shall include but not be limited to review and assessment of the following operations:

- (a) Service Planning. The Residence shall review a random sample of Resident assessments, service plans and progress notes at least once each year to ensure that the Residents' service plans have been implemented and meet the Resident's general needs and any self-identified goals.
- (b) Resident Safety Assurances. The Residence shall review policies and procedures designed to ensure a safe environment for all residents. Such policies and procedures shall include an Evidence Informed Falls Prevention Program.
- (c) Medication Quality Plan. The Residence shall develop and implement systems that support and promote safe SAMM, and if applicable, LMA programs. The Medication quality plan shall include but need not be limited to the following components:
  1. Semiannual evaluation of each Personal Care worker that examines his or her awareness of SAMM and LMA regulations and applicable policies and verifies his or her demonstrated ability to comply with SAMM and LMA regulations and related Residence policies and procedures; and
  2. A quarterly audit of a random sample of the Residence

medication documentation sheets required under 651 CMR 12.04(2)(b)2. to ensure compliance with SAMM and LMA protocols and Residence policies.

(d) A system shall be in place to facilitate the detection of issues and problems, to expedite the implementation of action, to resolve problems and communicate outcomes of actions taken or refused. Information solicited from Residents should be collected in a manner which offers anonymity (e.g., suggestion box, resident satisfaction surveys, etc.).

(e) Data analysis shall be used to identify and implement changes that will improve performance or reduce the risk of Resident harm. The Residence shall maintain documentation demonstrating it has collected and analyzed data, implemented appropriate actions to address identified issues and resolve problems, and shall note any recommended follow-up actions and whether or not they were performed.

(f) The result of the quality assurance and performance improvement program cannot be the sole basis for a determination of non-compliance pursuant to 651 CMR 12.09.

## **Infection Control Requirements**

Communicable Disease Control Plan. The Residence must implement a plan to prevent and limit the spread of communicable disease. The plan shall conform to the currently accepted standards for principles of universal precautions based on DPH guidelines and shall include, but need not be limited to, the following components:

- (a) A system to effectively identify and manage communicable diseases;
- (b) Organized arrangements to provide the necessary supplies, equipment and protective clothing, consistent with universal precautions under DPH guidelines; and
- (c) A process for maintaining records of illnesses and associated incidents involving staff pursuant to 651 CMR 12.06(8)(a).

## **Emergency Preparedness Requirements**

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.

(a) Plan Requirements.

1. The plan and any changes to the plan, which shall be developed in conjunction with local and state emergency planners, must include the following elements:

- a. an evacuation strategy for both immediate evacuations, for such events as fires or gas leaks, as well as delayed evacuations, for such events as impending severe weather;



- b. an established Mutual Aid plan that addresses essential issues, such as supplies, staff, and beds;
  - c. actions necessary to ensure supply, equipment and pharmaceutical support in the event such services are interrupted;
  - d. an established relationship with local public safety officials and with local Emergency Management Services (EMS) officials;
  - e. participation in Health and Homeland Alert Network (HHAN);
  - f. and protocols for full participation in the Silver Alert System (a system to register people at risk of wandering with participating local or county law enforcement to expedite their safe recovery in the event they become lost).
2. The plan shall indicate the location of emergency exits; evacuation procedures; and the telephone numbers of police, fire, ambulance, and emergency medical transport to be contacted in an emergency;
  3. The plan shall address the physical and cognitive needs of residents, and shall include special staff response, including the procedures needed to ensure the safety of any resident. The plan shall include provisions related to individuals residing in a Special Care Residence and shall be amended or revised whenever any resident with unusual needs is admitted;
  4. The plan shall provide for the conducting of annual simulated evacuation drills and rehearsals for all shifts;
  5. The Residence shall provide every Resident with a copy of the instructions they will be given under the Disaster and Emergency Preparedness Plan and shall have available for their review a copy of the Plan.

(b) Staff Training. The Residence shall ensure disaster and emergency preparedness by orienting new employees at the time of employment to the Residence's emergency preparedness plan, periodically reviewing the plan with employees, and making certain that all personnel are trained to perform the tasks assigned to them.

(c) Reporting Emergency Situations. Upon the occurrence of any emergency situation that displaces Residents from their Units for eight hours or more, the manager of the Residence or his or her designee must immediately provide a report to the EOE Assisted Living Residence Certification Unit. This report shall include, at a minimum:

1. the name and location of the Residence;
2. the nature of the problem;
3. the number of Residents displaced;
4. the number of Units rendered unusable due to the occurrence, and the anticipated length of time before the Residents may

return to them;

5. remedial action taken by the Residence; and 6. other State or local agencies notified about the problem.

(d) Reporting Resident-specific Emergencies. A Residence shall report to EOEA the occurrence of an incident or accident that arises within a Residence or its property, that has or may have a Significant Negative Effect on a resident's health, safety, or welfare, as defined by 651 CMR 12.02. A Significant Negative Effect shall be assumed whenever, as a result of an incident or accident, any unplanned or unscheduled visit to a hospital or medical treatment is necessary.

(e) Any report required under 651 CMR 12.04(11)(c) or 12.04(11)(d) shall be filed with the Assisted Living Certification Unit within 24 hours after the occurrence of the incident or accident via EOEA's online filing system. In the event the online filing system is inaccessible, a Residence must submit a temporary report by facsimile and telephone and formally submit the official report via the online filing system as soon as the service becomes accessible. The information submitted in the incident report must be accurate and include all details associated with the incident. This requirement is in addition to the requirements of M.G.L. c. 19A, § 15, and of any other applicable law.

### **Life Safety Requirements**

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.

### **Medicaid Policy and Reimbursement**

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

### **Citations**

Commonwealth of Massachusetts, Executive Office of Elder Affairs. (2021) 651 CMR 12.00: Certification procedures and standards for assisted living residences.

<https://www.mass.gov/regulations/651-CMR-1200-certification-procedures-and-standards-for-assisted-living-residences>