

# Nebraska

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**Agency** Nebraska Department of Health and Human Services, Division of Public Health, Licensure Unit

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**Opening Statement** ALFs are licensed by the Nebraska Licensure Unit in the Department of Health and Human Services (DHHS), Division of Public Health, Licensure Unit.

**Licensure Term** Assisted Living Facilities

**Definition** An Assisted Living Facility (ALF) means a residential setting that provides assisted-living services for remuneration to four or more persons who reside in such residential setting and are not related to the owner of the residential setting. The definition of ALF does not include a home, apartment, or facility where casual care is provided at irregular intervals, or where a competent person residing in such home, apartment or facility provides for or contracts for his or her own personal or professional services if no more than 50% of persons residing in such home, apartment, or facility receive such services.

**Regulatory and Legislative Update** There have been no recent legislative or regulatory updates that affect assisted living in the past year.

**Move-in Requirements Including Required Disclosures/Notifications** To be eligible for admission to an ALF, a person must be in need of or wish to have available shelter, food, assistance with or provision of personal care, ADLs, or health maintenance activities or supervision due to age, illness, or physical disability. The administrator has the discretion regarding admission or retention of residents subject to the Assisted-Living Facility Act and rules and regulations adopted and promulgated under the act.

An ALF shall determine if an applicant or resident is admitted or retained based on the care needs of the applicant or resident, the ALF's ability to meet those care needs, and the degree to which the admission or retention poses a danger to others.

The facility is required to provide a 30-day advance written notice except in situations where the transfer or discharge is necessary to protect the health and safety of the resident, other residents, or staff.

An ALF must provide written information about its practices to each applicant or his or her authorized representative including:

- (1) A description of the services provided and the staff available to provide the services;
- (2) The charges for services provided;
- (3) Whether the ALF accepts residents who are eligible for Medicaid waiver coverage and, if applicable, policies or limitations regarding access to Medicaid coverage;
- (4) Criteria for admission to and continued residence in the ALF and the process for addressing issues that may prevent admission to or continued residence in the ALF;
- (5) The process for developing and updating the resident services agreement;
- (6) For facilities with Special Care Units for dementia, the additional services provided to meet the special needs of persons with dementia; and
- (7) Whether or not the ALF provides part-time or intermittent complex nursing interventions.

ALFs must also provide residents their rights in writing upon admission and for the duration of their stay.

Any facility which offers to provide or provides care for persons with Alzheimer's disease, dementia, or a related disorder by means of an Alzheimer's special care unit shall disclose the form of care or treatment provided that distinguishes such form as being especially applicable to or suitable for such persons. The disclosure shall be made to the department and to any person seeking placement within an Alzheimer's special care unit.

## **Facility Scope of Care**

Assisted living services means services that promote the health and safety of persons in a residential setting, including housing, three meals each day, access to staff for twenty-four hours each day, noncomplex nursing interventions, and support with activities of daily living (ADLs), and includes resident assessment for admission and continued stay. The facility may provide, but are not limited to:

- (1) ADLs;
- (2) Health maintenance activities (i.e., non-complex nursing interventions, which means nurse assessments and interventions that can safely be performed according to exact directions, that do

not require alteration of the standard procedure, and for which the results and resident responses are predictable);

(3) Personal care (i.e., bathing, hair care, nail care, shaving, dressing, oral care, and similar activities);

(4) Transportation;

(5) Laundry;

(6) Housekeeping;

(7) Financial assistance/management;

(8) Behavioral management;

(9) Case management;

(10) Shopping;

(11) Beauty/barber services; and

(12) Spiritual services.

An ALF may provide complex nursing interventions on a part-time or intermittent basis. Complex nursing interventions means interventions which require nursing judgment to safely alter standard procedures in accordance with the needs of the resident, which require nursing judgment to determine how to proceed from one step to the next, or which require a multidimensional application of the nursing process. Part-time or intermittent basis means not to exceed 10 hours each week for each resident for a period of time with a predictable end within 21 days.

### **Limitations of Services**

Assisted-living facility staff while on duty must not provide complex nursing interventions for facility residents, except that a registered nurse assessment to determine the suitability of the resident or potential resident for admission to and/or continued residence in the assisted-living facility is permitted.

### **Resident Assessment Requirements and Frequency**

The ALF must evaluate each resident and must have a written service agreement negotiated with the resident and authorized representative, if applicable, to determine the services to be provided to meet the needs identified in the evaluation. Resident services agreement means an agreement entered into by the resident or the resident's authorized representative and the assisted living facility that stipulates the responsibilities of the assisted-living facility and the resident, identifies service needs of the resident, outlines the services that will be provided to the resident by the assisted-living facility and from other sources, and specifies the cost of services provided by the assisted-living facility. There is no required resident assessment form.

The resident service agreement must be reviewed and updated as the resident's needs change.

### **Medication Management**

When a facility is responsible for the administration or provision of

medications, it must be accomplished by the following methods: 1) self-administration of medications by the resident, with or without supervision, when assessment determines the resident is capable of doing so; 2) by licensed health care professionals for whom medication administration is included in the scope of practice and in accordance with prevailing professional standards; or 3) by persons other than a licensed health care professional if the medication aides who provide medications are trained, have demonstrated minimum competency standards, and are appropriately directed and monitored.

Every person seeking admission to or residing in an ALF must, upon admission and annually thereafter, provide the facility with a list of drugs, devices, biologicals, and supplements being taken or used by the person, including dosage, instructions for use, and reported use.

The ALF must provide for a registered nurse (RN) to review medication administration policies and procedures and document that review at least annually. An RN also is required to provide or oversee the training of medication aides.

### **Staff Scheduling Requirements**

The facility must have an administrator who is responsible for the overall operation of the facility. The administrator is responsible for overall planning, organizing, and directing the day-to-day operation of the facility. The administrator must report all matters related to the maintenance, operation, and management of the facility and be directly responsible to the licensee of the facility. The administrator is responsible for maintaining staff with appropriate training and skills and sufficient in number to meet resident needs as defined in the resident service agreements. There are no staffing ratios. The facility must maintain a sufficient number of staff with the required training and skills necessary to meet the resident population's requirements for assistance or provision of personal care, ADLs, health maintenance activities, supervision and other supportive services, as defined in Resident Service Agreements. The facility must provide for a RN to review medication administration policies and procedures and to provide or oversee training of medication aides at the facility.

### **Administrator/Director Education and Training Requirements**

Administrators must be 21 years of age or older. Administrators employed for the first time after January 1, 2005, must have completed initial, department-approved training that is at least 30 hours and includes six specific topic areas, including but not limited to residential care and services, social services, financial management, administration, gerontology, and rules and

regulations. Hospital or current licensed nursing home administrators are exempt from this training requirement.

A facility administrator must complete 12 hours of ongoing training annually in areas related to care and facility management of the population served. Ongoing training does not apply to administrators who are hospital or current licensed nursing home administrators.

### **Direct Care Staff Education and Training**

Direct-care staff must complete an initial orientation within two weeks of employment on specified topics, including but not limited to resident's rights, resident service agreement, and the facility's emergency procedures. All staff must complete at least 12 hours of continuing education per year on topics appropriate to the employee's job duties, including meeting the physical and mental special care needs of residents in the facility.

Staff training and continuing education practices which shall include, but not be limited to, four hours annually on Alzheimer's and dementia care for direct care staff. Such training shall include topics pertaining to the form of care or treatment set forth in the disclosure described in this section. The requirement in this subdivision shall not be construed to increase the aggregate hourly training requirements of the Alzheimer's special care unit; the physical environment and design features appropriate to support the functioning of cognitively impaired adult residents; the frequency and types of resident activities; The involvement of families and the availability of family support programs; and the costs of care and any additional fees.

An RN must provide or oversee specific areas of medication aide training on specified topics.

### **Quality Requirements**

There are no specific quality requirements detailed.

### **Infection Control Requirements**

The assisted living must provide orientation within two weeks of employment to each direct care staff person of the facility and must include certain minimum topics, including infection control practices including handwashing techniques, personal hygiene and disposal of infectious material.

Water and Sewer Systems: The assisted-living facility must have and maintain an accessible, adequate, safe and potable supply of water. The facility must maintain a sanitary and functioning sewage system.

**Emergency  
Preparedness**

Assisted-living facilities must establish and implement disaster preparedness plans and procedures to ensure that resident care, safety, and well-being are provided and maintained during and following instances of natural (tornado, flood, etc.) or other disasters, disease outbreaks, or other similar situations. These plans and procedures must address and delineate:

1. How the facility will maintain the proper identification of each resident to ensure that care coincides with the resident's needs;
2. How the facility will move residents to points of safety or provide other means of protection when all or part of the building is damaged or uninhabitable due to natural or other disaster;
3. How the facility will protect residents during the threat of exposure to the ingestion, absorption, or inhalation of hazardous substances or materials;
4. How the facility will provide food, water, medicine, medical supplies, and other necessary items for care in the event of a natural or other disaster; and
5. How the facility will provide for the comfort, safety, and well-being of residents in the event of 24 or more consecutive hours of:
  - a. Electrical or gas outage;
  - b. Heating, cooling, or sewer system failure; or
  - c. Loss or contamination of water supply.

**Medicaid Policy and  
Reimbursement**

Medicaid covers assisted living services through two Section 1915(c) waiver programs, Aged and Disabled (AD) Waiver and Traumatic Brain Injury (TBI) Waiver. The AD Waiver serves persons over age 65 and persons of all ages with physical disabilities. To qualify for the AD Waiver, a person must have physical and health needs that require nursing facility level of care. Traumatic Brain Injury Waiver beneficiaries are between ages 18 and 64, have an acquired brain injury, and require a nursing facility level of care. Currently there is only one Nebraska provider enrolled with the TBI waiver.

**Life Safety Requirements**

All facilities must comply with applicable Nebraska state fire codes and standards to provide a safe environment. Life safety codes for Assisted-Living Facilities are based on National Fire Protection Association standards. Facilities are classified as either Residential Board and Care Occupancy or Limited Care Facility (Health Care Occupancy). Based on the evacuation capability of the residents, the Nebraska State Fire Marshal inspects and determines applicable requirements for fire drills, fire alarm systems, fire sprinkler systems, etc.

**Citations**

Nebraska Department of Health and Human Services. (2007, April 3). Nebraska Administrative Code, Title 175 Health Care Facilities and Services Licensure, Chapter 4 Assisted-Living Facilities.

[https://www.nebraska.gov/rules-and-regs/regsearch/Rules/Health\\_and\\_Human\\_Services\\_System/Title-175/Chapter-04.pdf](https://www.nebraska.gov/rules-and-regs/regsearch/Rules/Health_and_Human_Services_System/Title-175/Chapter-04.pdf)

Nebraska Department of Health and Human Services. (2022, September 24). Nebraska Administrative Code, Title 172 Professional and Occupational Licensure, Chapter 95, Administration of Medication by Medication Aides and Medication Staff. [https://www.nebraska.gov/rules-and-regs/regsearch/Rules/Health\\_and\\_Human\\_Services\\_System/Title-172/Chapter-095.pdf](https://www.nebraska.gov/rules-and-regs/regsearch/Rules/Health_and_Human_Services_System/Title-172/Chapter-095.pdf)

Nebraska Legislature. (2023). Legislative Bill (LB) 227. <https://nebraskalegislature.gov/FloorDocs/108/PDF/Slip/LB227.pdf>

Nebraska Legislature. (2019). Nebraska Revised Statute §§ 71-5901 - 71-5909, Assisted Living Facility Act. <https://nebraskalegislature.gov/laws/browse-chapters.php?chapter=71>

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