

South Dakota

Agency	Department of Health, Office of Health Facilities Licensure and Certification
Contact	Jennifer Maeschen
E-mail	Jennifer.Maeschen@state.sd.us
Phone	(605) 773-3356 or (605) 995-8147
Website	https://doh.sd.gov/health-care-professionals/health-facility-licensure/facility-types/assisted-living-centers/

Licensure Term Assisted Living Centers

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, which is staffed by persons with training to meet the needs of residents admitted to the unit.

Regulatory and Legislative Update There are no significant recent legislative or regulatory changes affecting assisted living centers in South Dakota. The most recent revisions to the ALC administrative rules were effective 8/30/23.

Facility Scope of Care Facilities must provide supportive services for activities and spiritual needs individualized to each resident. Facilities must 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.

Limitations of Services A facility may not accept or retain residents who require care in excess of the classification for which it is licensed.

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.

The assisted living may admit and retain only those residents for whom it can provide care safely and effectively.

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

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 activities of daily living (ADLs) and instrumental activities of daily living (IADLs). An assisted living center may admit and retain any resident who is able to:

- (1) Complete ADLs of mobility or ambulation, dressing, toileting, including the provision of incontinence, catheter, or ostomy care, personal hygiene, and bathing independently or with assist of staff according to additional provisions for total ADL assistance;
- (2) Feed self with set up, cueing, and supervision, assistance may be provided according to additional provision for dining assistance;
- (3) Complete own medication administration including injections or have medications administered by qualified personnel;
- (4) Remain free from the need for restraints, except for admission to a secured unit;
- (5) Demonstrate no need for skilled services unless provided by the assisted living licensed nurse, a licensed or otherwise appropriately credentialed therapist, Medicare certified home health agency, or a Medicare certified hospice provider; and
- (6) Maintain conditions that are stable and controlled that do not require frequent nursing care or frequent visits or notifications to a physician, physician assistant, or nurse practitioner.

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.

**Resident Assessment
Requirements and Frequency**

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 address at least the following:

- (1) Nursing care needs;
- (2) Medication administration needs;
- (3) Cognitive status, as shown by tasks performed routinely by a person; utilizing physical and social environmental features; to manage life situations, meal preparation, self-administration of medications, telephone use, housekeeping, laundry, handling finances, shopping, and use of transportation;
- (4) Mental health status;
- (5) Physical abilities including ADLs, ambulation, and the need for assistive devices; and
- (6) Dietary needs.

The facility must develop written communication outlining resident care and services it is licensed to provide to the resident's physician, physician assistant, or nurse practitioner 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 who assesses, and documents resident care and condition based on their individual needs. A registered nurse must provide medication administration training, according to the South Dakota Board of Nursing requirements, to any unlicensed staff who will be administering medications. 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.

Facilities shall establish and implement written policies and procedures for medication control that include:

- (1) A requirement that each resident's prescribing physician, physician assistant, or nurse practitioner provide electronic or written signed orders for any medications taken by the resident, authorization for medications kept on the person or in the room of a resident, and release of medications.
- (2) Provisions for proper storage of prescribed medications so that the medications are inaccessible to residents and visitors with additional requirements.
- (3) A requirement that designated personnel supervise any self-administration of medications by a resident with additional requirements.

- (4) The proper disposition of medications due to resident discharge, resident death, outdated medication(s), or the prescription being discontinued.

The pharmacist shall review each resident's medication regimen monthly and report any irregularities to the resident's physician, physician assistant or nurse practitioner, the facility's nurse, and the administrator.

Each facility shall establish and implement policies to check resident medication administration records against the physician, physician assistant, or nurse practitioner's orders to verify accuracy. Each medication administered must be recorded in the resident's record and signed by the individual administering the medications. Medication errors and drug reactions must be reported to the resident's physician, physician assistant or nurse practitioner.

A facility may stock opioid antagonist for emergency use if the facility develops and implements written policies and procedures consistent with manufacturer guidelines for safe storage and use.

Staffing Requirements

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.

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 safe and effective care. At least two staff persons must be on duty at all

times, and those staff on duty must be awake at all times, unless the department has approved a staffing exception requested by the facility. Each facility must employ or contract with a licensed nurse who assesses and documents that the resident's individual personal care, and medical, physical, mental, and emotional needs, including pain management, have been identified and addressed.

If the facility admits and retains residents on therapeutic diets, it must employ or contract with a registered dietician. 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 for a resident who is receiving hospice services.

**Administrator/Director
Education and Training
Requirements**

Administrators must:

- (1) be licensed health care professionals as defined in regulation; or
- (2) be a graduate from an accredited institution of a higher learning program for long-term healthcare or health service administration program; or
- (3) complete a department approved assisted living administrator course.

During completion of the course, oversight by a qualified administrator with at least two years' experience shall continue until the administrator training is complete.

**Direct Care Staff Education
and Training Requirements**

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, including responding to resident emergencies and information regarding advanced directives;
- (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) Nutritional risks and hydration needs of residents;
- (9) Abuse, neglect, and misappropriation of resident property and funds;
- (10) Problem solving and communication techniques related to individuals with cognitive impairment or challenging behaviors if admitted and retained in the facility; and

(11) Any additional healthcare employee education necessary based on the individualized resident care needs provided by the healthcare employees to the residents who are accepted and retained in the facility.

Regulations require additional trainings in specified circumstances when facilities provide care for certain patient populations or certain services. For example, each direct care staff member at a facility that admits or retains a resident who requires one or two staff members for total assistance must complete an approved certified nurse aide training program. If a facility admits and retains residents who require dining assistance, the staff member providing assistance must be a certified nurse aide or have completed an approved nutrition and hydration assistance program.

There are also required training topics for dietary and food-handling staff members to be completed within 30 days of hire and then annually.

Quality Requirements

The facility must ensure services are provided for residents to maintain, and when possible, improve functional ability.

Each facility shall provide for on-going evaluation of the quality of services provided to residents. Components of the quality assessment evaluation shall include establishment of facility standards; review of resident services to identify deviations from the standards and actions taken to correct deviations; resident satisfaction surveys; utilization of services provided; and documentation of the evaluation and report to the governing body.

Infection Control Requirements

Each facility shall be designed, constructed, maintained, and operated to minimize the sources of transmission of infectious diseases to residents, personnel, visitors, and the community at large by providing the physical resources, personnel, and technical expertise to ensure good public health practices. Each facility shall have policies and procedures for cleaning, sanitizing, and disinfecting all areas in the facility. The infection prevention and control program must utilize the concept of standard precautions. Each facility shall designate a healthcare personnel to be responsible for the infection control program including monitoring and reporting activities. All staff shall be provided education on the cause, effect, transmission, prevention, and elimination of infections. Each facility shall have a policy on evaluation and reporting of infectious diseases, including staff training on reportable diseases. Each facility shall have a personnel health program for the protection of residents. Each facility shall provide an organized infection control program

for preventing, investigating, and controlling infection. There are additional requirements for influenza and pneumonia vaccinations for residents as well as tuberculosis screening of residents and personnel.

Emergency Preparedness Requirements

Each facility shall ensure all healthcare personnel receive education on emergency procedures and preparedness within 30 days of hire and annually.

The facility shall maintain an on-site supply of perishable and nonperishable foods to meet the requirements of planned menus for three days. A facility shall maintain an additional supply of nonperishable foods as part of the facility's emergency preparedness plan. A facility may use military meals ready to eat in an emergency event according to the facility's emergency response plan.

Each facility shall report to the department any loss of utilities, emergency generator, fire alarm, sprinklers, and other critical equipment necessary for operation of the facility for more than twenty-four hours. There are additional requirements for emergency lighting, emergency power, and an emergency call system for resident use to summon assistance from staff. Additional fire safety and other emergency requirements may vary based on each facility's structure, occupancy, and additional license provisions.

Life Safety Requirements

The 2012 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 systems based on their occupancy classification. These systems must be installed in accordance with National Fire Protection Association (NFPA) codes (NFPA-13, NFPA-13R, & NFPA 72). All existing assisted living centers are inspected for compliance using the appropriate occupancy classification of the LSC and NFPA codes and standards.

Medicaid Policy and Reimbursement

State funds coupled with a broad Section 1915(c) Medicaid home and community-based services waiver, the Home & Community-Based Options and Person Centered Excellence (HOPE) Waiver, covers services in assisted living centers. The HOPE Waiver covers people ages 65 and older as well as people ages 18 years and older who have a qualifying disability. The Centers for Medicare and Medicaid Services renewed the (HOPE) Waiver, operated by the Division of Long Term Services and Supports, effective October 1, 2021; the waiver will expire in September 2026.

Citations

South Dakota Department of Human Services, Long Term Services and Supports, Assisted Living. <https://dhs.sd.gov/en/ltss/assisted-living>

South Dakota Legislature, Legislative Research Council. (n.d.) Administrative Rules, Article 44:70: Assisted Living Centers. <https://sdlegislature.gov/Rules/Administrative/32256>

South Dakota Department of Health. (2019) Healthcare Providers, Health Facilities Licensure, Assisted Living Centers Staffing Exception. <https://doh.sd.gov/health-care-professionals/health-facility-licensure/facility-types/assisted-living-centers/staffing-exceptions/>

South Dakota Department of Health. (2019) Healthcare Providers, Health Facilities Licensure, Levels of Long-Term Care. <https://doh.sd.gov/topics/long-term-care/levels-of-long-term-care/>

South Dakota Department of Health. (n.d.) Nursing Home & Assisted Living Safety, <https://doh.sd.gov/topics/long-term-care/nursing-home-assisted-living-safety/>

South Dakota Department of Social Services. (2020) Medicaid Home and Community Based Services. <https://dss.sd.gov/medicaid/hcbs.aspx>