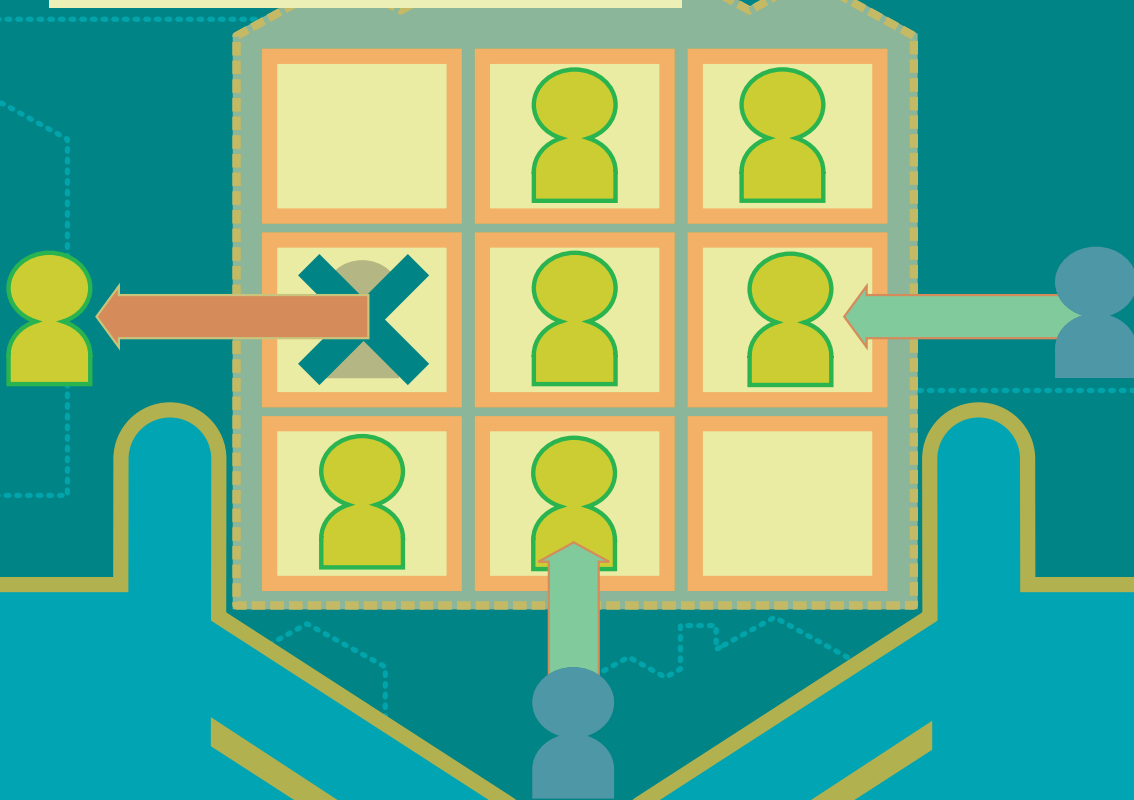


Critical Issues in Assisted Living

Who's In, Who's Out,
and Who's Providing the Care

State Summaries



National Senior Citizens Law Center
Eric M. Carlson, Esq.

May 2005
With Support from
The Harry and Jeanette Weinberg Foundation, Inc.

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National Senior Citizens Law Center

The National Senior Citizens Law Center advocates nationwide to promote the independence and well-being of low-income elderly individuals and persons with disabilities. See our website at <http://www.nsclc.org>.

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TABLE OF CONTENTS

- INTRODUCTION 5
- ALABAMA 7
- ALASKA 10
- ARIZONA 11
- ARKANSAS 13
- CALIFORNIA 15
- COLORADO 18
- CONNECTICUT 19
- DELAWARE 20
- DISTRICT OF COLUMBIA 22
- FLORIDA 23
- GEORGIA 26
- HAWAII 27
- IDAHO 28
- ILLINOIS 30
- INDIANA 32
- IOWA 34
- KANSAS 36
- KENTUCKY 37
- LOUISIANA 38
- MAINE 39
- MARYLAND 40
- MASSACHUSETTS 42
- MICHIGAN 43
- MINNESOTA 44
- MISSISSIPPI 45
- MISSOURI 46
- MONTANA 47
- NEBRASKA 49
- NEVADA 50
- NEW HAMPSHIRE 52
- NEW JERSEY 53
- NEW MEXICO 54
- NEW YORK 55
- NORTH CAROLINA 57
- NORTH DAKOTA 59
- OHIO 60
- OKLAHOMA 61
- OREGON 62
- PENNSYLVANIA 65
- RHODE ISLAND 66
- SOUTH CAROLINA 68
- SOUTH DAKOTA 69
- TENNESSEE 70
- TEXAS 71
- UTAH 73
- VERMONT 74
- VIRGINIA 75
- WASHINGTON 77
- WEST VIRGINIA 79
- WISCONSIN 81
- WYOMING 83

INTRODUCTION

These state-specific summaries are the foundation for the report “Critical Issues in Assisted Living: Who’s In, Who’s Out, and Who’s Providing the Care.”

These summaries are based on a review of the assisted living statutes and regulations of all 50 states, and the District of Columbia. The review examined the following six critical issues:

- (1) What health care conditions can be accommodated in an assisted living facility?
- (2) What obligation does a facility have to meet a particular health care need?
- (3) What health conditions can justify a resident being discharged against her will?
- (4) What training is required of facility staff members providing direct care?
- (5) What health care expertise is required for facility staff members?
- (6) What minimum number of direct-care staff members is required?

Draft copies of the appropriate state-specific summary were shared with individuals involved with assisted living within each state, in order to verify state-specific information to the extent possible. In-state reviewers made comments and corrections that were incorporated, as appropriate, into the final versions.

Assisted Living Facility—Resident Population

An assisted living facility is authorized (but not required) to provide oxygen therapy, laboratory tests (including blood glucose monitoring), and rehabilitation services. The following conditions can be accommodated only under specified conditions:

- A need for medical care or skilled nursing care—
 - if** the need is the result of an injury or acute condition, and the need ordinarily would be expected to last no longer than 90 days, or
 - if** the resident performs necessary care without help, or the resident can direct facility staff to provide the necessary care and the facility staff is capable of providing the required assistance.
- A need for administration of oral medications **if** the need is the result of an injury or acute condition, and the need ordinarily would be expected to last no longer than 90 days.
- A severe cognitive impairment, or a need for care beyond assistance with activities of daily living—
 - if** the resident performs necessary care without help, or the resident can direct facility staff to provide the necessary care and the facility staff is capable of providing the required assistance, or
 - if** the condition is temporary, or
 - if** the resident is receiving hospice care (see below).
- A terminal illness **if** the resident has been admitted to a properly licensed and certified hospice program because of a condition other than dementia.
- Dementia **if** the resident is restricted from leaving the facility.

A resident can be forced to leave a facility for any one of the following health-related reasons:

- The resident has health or safety needs beyond the facility's capability.
- The resident has a need for medical care or skilled nursing care, a need for care beyond assistance with activities of daily living, or a severe cognitive impairment, **unless** the resident performs necessary care without help, or the resident can direct facility staff to provide the necessary care and the facility staff is capable of providing the required assistance.
- The resident needs mechanical restraint or seclusion.

Assisted Living Facility—Staffing

Each staff member must have initial training and refresher training as necessary, including at least the following subject matter areas: state law and rules on assisted living facilities; identifying and reporting abuse, neglect and exploitation; special needs of the elderly, mentally ill, and mentally retarded; basic first aid; advance directives; protecting resident confidentiality; safety and nutritional needs of the elderly; resident fire and environmental safety; and identifying signs and symptoms of dementia. At all times, at least one on-duty staff member must have a current CPR certification. At all times, at least one on-duty staff member must have a current certification in automated external defibrillators (AEDs), if the facility is equipped with an AED.

A facility must ensure that sufficient staff members are on duty to meet the care needs of all residents at all times.

Specialty Care Assisted Living Facility—Resident Population

A specialty assisted living facility is authorized but not required to provide oxygen therapy and laboratory tests. A facility is authorized to accommodate the following conditions:

- Cognitive impairment that ordinarily would not be allowed in an assisted living facility.
- Diabetes.
- Terminal illness.
- A need for medical care or skilled nursing care, if the need is the result of an injury or acute condition, and the need ordinarily would be expected to last no longer than 90 days.

A resident can be forced to leave the facility for any one of the following health-related reasons:

- The resident needs hospitalization, medical, nursing, or other care beyond the facility's capabilities.
- The resident needs skilled nursing services for a condition expected to last for more than 90 days, unless the resident is receiving hospice care.
- The resident needs mechanical restraint or seclusion.

Specialty Care Assisted Living Facility—Staffing

Each staff member must have initial training and refresher training as necessary. A registered nurse must identify staff refresher training needs and shall provide or arrange for needed training. Prior to providing any resident care, all staff members must complete the DETA (Dementia Education and Training Act) Brain Series Training or equivalent training approved by the State Health Officer. In addition all staff must receive training in the following topics: state law and rules on assisted living facilities and specialty care assisted living facilities; identifying and reporting abuse, neglect and exploitation; basic first aid; advance directives; protecting resident confidentiality; safety and nutritional needs of the elderly; resident fire and environmental safety; understanding the aging mind; basic brain function; common neuropsychiatric disorders in the elderly; basic evaluation of the dementia patient; cognitive symptoms of dementia; psychiatric symptoms of dementia; behavioral problems associated with dementia; end of life issues in dementia; dementia other than Alzheimer's; research and dementia; nutrition and hydration needs of the resident with dementia to include feeding techniques; and safety needs of residents with dementia.

All staff must be able to demonstrate an understanding of the implications of caring for residents with agnosia, amnesia, aphasia and apraxia. All staff with resident contact must be able to demonstrate diversional methods and redirection. At all times, at least one on-duty staff member must have a current CPR certification. At all times, at least one on-duty staff member must have a current certification in automated external defibrillators (AEDs), if the facility is equipped with an AED.

Each employee must have at least six hours annually of continuing education.

Each facility must have a medical director who is a physician, and at least one registered nurse to assess residents. Each nurse employed by the facility must have completed the DETA Brain Series, the

Pharmacological Management of Dementia, and the Dementia Assessment Series provided by the Dementia Education and Training Act Program, or an equivalent training approved by the state.

A facility must ensure sufficient staff members are on duty to meet the care needs of all residents at all times. A facility must have at least two staff members on duty at all times. No facility is allowed to have fewer staff on duty than is specified in the following table:

<u>Staff Number</u>	<u>7 a.m.-3 p.m.</u>	<u>3 p.m.-11 p.m.</u>	<u>11 p.m.-7 a.m.</u>
2	1-16 Residents	1-16 Residents	1-16 Residents
3	17-24 Residents	17-36 Residents	17-48 Residents
4	25-32 Residents	37-48 Residents	49-64 Residents
5	33-40 Residents	49-60 Residents	65-80 Residents
6	41-48 Residents	61-72 Residents	81-96 Residents
7	49-56 Residents	73-84 Residents	97-112 Residents
8	57-64 Residents	85-96 Residents	113-128 Residents
9	65-72 Residents	97-108 Residents	129-144 Residents
10	73-80 Residents	109-120 Residents	145-160 Residents
11	81-88 residents	120-132 Residents	161-176 Residents
1 Add'l Staff	For each 8 residents, or any fraction thereof, by which the census exceeds 88.	For each 12 residents, or any fraction thereof, by which the census exceeds 132.	For each 16 residents, or any fraction thereof, by which the census exceeds 176.

Assisted Living Facility – Resident Population

An assisted living facility may provide nursing services only on a limited basis. Skilled nursing services may be provided for a period of no more than 45 days, as part of a plan to avoid transfer of the resident due to medical reasons. Also, a facility may provide intermittent nursing services if the resident does not require 24-hour nursing services. These nursing services may be provided by a nurse, or by a facility employee to whom authority has been delegated by a nurse.

With the facility's consent, the resident may arrange for the provision of skilled nursing care at the facility.

A facility may retain a terminally ill resident if the facility and the resident (or a representative) agree that the resident may remain in the facility, and the resident is under the care of a physician who certifies that the needs of the resident are being met in the facility.

A resident may be forced to leave the facility for any one of the following health-related reasons:

- Medical reasons.
- Emergency order by the resident's physician.
- The facility can no longer provide or arrange for services in accordance with the resident's needs.

Assisted Living Facility – Staffing

A direct-care staff member must work under the direct supervision of the administrator or an experienced care provider for not less than three complete work days before providing unsupervised care to a resident (unless the new staff member has significant experience in caring for the resident population).

At all times, at least one staff member must have a current certification in first aid and CPR.

Each direct-care staff member must participate in at least 12 hours of continuing education annually that is relevant to that staff member's primary job responsibilities and the ongoing care of residents.

A facility must employ the type and number of staff members necessary to meet resident needs and comply with law.

Assisted Living Facility – Resident Population

An assisted living facility may be licensed to provide one of three levels of service: supervisory care services, personal care services, or directed care services. In a facility licensed for supervisory care services, nursing services or health-related services may be provided by a licensed home health agency, a licensed hospice service agency, or a private duty nurse.

An assisted living facility may accept an individual suffering from a traumatic brain injury, if the placement is approved by the state on a case-by-case basis.

A resident can be forced to leave a facility for one of the following health-related reasons:

- Need for physical or chemical restraints.
- Need for behavioral health residential services.
- Need for services that the facility is not licensed to provide.
- Need for services that the facility is not able to provide.

If, however, the facility is licensed to provide personal care services or directed care services, the resident can be forced to leave the facility for one of the following health-related reasons:

- Resident's inability to direct self-care.
- Need for continuous nursing services, unless the resident is under the care of a licensed hospice agency, continuous nursing services are provided by a private duty nurse, or nursing care services are provided by a facility licensee who is a licensed nurse.
- Inability to get out of bed unassisted, unless the condition is the result of a short-term illness or injury, or the continued residency is authorized by a written agreement signed by the resident (or resident's representative) and the resident's physician approves of the continued residency.
- Stage 3 or 4 pressure sores, unless the continued residency is authorized by a written agreement signed by the resident (or resident's representative) and the resident's physician approves of the continued residency.

Assisted Living Facility – Staffing

All direct-care staff members must have training in first aid and CPR. If the facility provides supervisory care services, a direct-care staff member prior to employment must complete 20 hours of training, or the amount of time necessary to verify that he or she demonstrates competency in each of the following topics: promoting resident dignity, independence, self-determination, privacy, choice, resident rights, and ethics; communicating effectively with a resident, a representative and relatives, individuals who appear angry, depressed, or unresponsive; managing personal stress; preventing abuse, neglect, and exploitation and reporting requirements; controlling the spread of disease and infection; recordkeeping and documentation; following and implementing resident service plans; nutrition, hydration, and food services; assisting in the self-administration of medications; developing and providing social, recreational, and rehabilitative activities; and fire, safety, and emergency procedures.

If a facility is licensed to provide personal care services, a direct-care staff member must comply with training requirements in addition to those required of staff members providing only supervisory care services. Prior to employment a staff member must complete 30 hours of training, or the amount of time necessary to verify that he or she demonstrates competency in each of the following areas: the aging pro-

cess and medical conditions associated with aging or physical disabilities; assisting residents in activities of daily living and taking vital signs; and medications.

If a facility is licensed to provide directed care services, a direct-care staff member must meet training requirements on top of the requirements applicable to supervisory care services and personal care services. Prior to employment, a staff member must complete 12 hours of training, or the amount of time necessary to verify that he or she demonstrates competency in each of the following topics: Alzheimer's disease and related dementias; communicating with a resident who is unable to direct self-care; providing services, including problem solving, maximizing functioning, and life skills training for a resident who is unable to direct self-care; managing difficult behaviors in a resident who is unable to direct self-care; and developing and providing social, recreational, and rehabilitative activities for residents who are unable to direct self-care.

Training must be conducted by one of the following: a nurse, physician, physician assistant, or related medical professional with at least 2 years of health-related experience; an individual with at least a bachelor's degree in social work, gerontology, or closely-related field and at least 2 years of health-related experience; an instructor employed by an accredited junior college, college, university or health care institution to teach health-related courses; or an assisted living facility manager with at least 2 years experience serving as a manager in a residential care institution.

At least six hours of continuing education is required annually, with an additional two hours for providing personal care services, or an additional four hours in directed care services.

A facility shall ensure that there are sufficient staff members, consistent with the level of service the facility is licensed to provide, to provide services established in each resident's service plan, and to meet the needs of each resident including scheduled and unscheduled needs, general supervision, and the ability to intervene in a crisis 24 hours a day.

Assisted Living Facility – Resident Population

An assisted living facility may be licensed at either Level I or Level II. Level II facilities are allowed to admit or retain residents who have a need for nursing facility services or the equivalent.

An assisted living facility may retain a resident who is incompetent, or incapable of recognizing danger, summoning assistance or making care decisions, if adequate oversight is provided, the resident is represented by a guardian or agent, a service agreement and “compliance agreement” are signed by the resident’s guardian or agent, and the duration of stay under these conditions is not more than 90 days at one time, with not more than two 90-day periods in one 12-month period.

If a facility does not provide a service that a resident needs, the facility must contract with an outside service provider to furnish the necessary services, if the resident’s needs do not exceed the limits of the facility’s license. A facility must respond to changes in a resident’s need for services by revising the service plan portion of the resident’s admission agreement and, if necessary, by adjusting the facility’s staffing plan or contracting for services from other providers.

When health care services are needed on a short-term basis, a facility licensed at Level I must ensure that the resident receives those services under the direction of a licensed home health agency. A facility licensed at Level II must ensure that a resident receives health care under the direction of a registered nurse in accordance with the health care services plan portion of the admission agreement.

If a facility is licensed at Level I, a resident can be forced to leave the facility for one of the following health-related reasons:

- Need for 24-hour nursing services unless necessary care is provided by a licensed home health agency for a period of 60 days with one 30-day extension.
- Inability to get out of bed unassisted.
- Need for transfer assistance that the facility cannot provide with current staffing.
- Need for medication administration to be performed by the facility.
- Refusal by resident or resident’s representative to cooperate in an examination by a physician or advance practice nurse or licensed psychologist of his or her own choosing to determine the resident’s health or mental status for the purpose of establishing appropriateness for retention or termination.
- Need by resident for level of involvement in therapeutic programming that is greater than the level of care for which facility is licensed.

If a facility is licensed at Level II, a resident can be forced to move for one of the following health-related reasons:

- Need for 24-hour nursing services.
- Inability to get out of bed unassisted.
- Need for transfer assistance that the facility cannot provide with current staffing.
- Need for medication administration to be performed by the facility.

In either level of facility, a resident also can be forced to move under “[o]ther written conditions as may be mutually established between the resident or his or her responsible party and the assisted living facility at the time of admission or any time thereafter.”

If an otherwise disqualifying condition is expected to last more than 14 consecutive days, or is terminal, the resident nonetheless may be allowed to stay if a physician or nurse approves the continued stay, and an appropriate service agreement is entered into by the resident, facility, and physician/nurse.

Assisted Living Facility – Staffing

Within seven calendar days of hire, all direct-care staff members (including registry employees) must have training including at least the following topics: safety and emergency measures, abuse recognition and reporting, incident reporting; sanitation and food safety, resident health and related problems, an overview of job requirements, independent living principles, and resident rights. Within 30 calendar days of hire, all direct-care staff members (again including registry employees) must have training including at least the following topics: medication assistance or monitoring, communicable diseases, and dementia. Within 180 calendar days of hire, all direct-care staff members (including registry employees) must have training including at least the following areas: communication skills, and review of the aging process.

At least six hours of continuing education must be performed annually.

Certain requirements apply only to facilities (either Level I or Level II) that provide specialized care for residents with Alzheimer’s disease. Each direct-care staff member must complete at least 30 total hours of training in the following topics: one hour of the unit’s policies; three hours of etiology, philosophy and treatment of dementia; two hours on the stages of Alzheimer’s disease; four hours on behavior management; two hours on use of physical restraints, wandering, and egress control; two hours on medication management; four hours on communication skills; two hours on prevention of staff burnout; four hours on activity programming; three hours on activities of daily living and individual-centered care; and three hours on assessments and creation of service plans. Similar topics are specified for continuing education.

At Level II, the facility must employ or contract with at least one registered nurse, who must be available at all times. This nurse also may serve as facility administrator. The facility must employ or contract with licensed nurses for the provision of medical or direct care services to residents.

In a facility providing Level II care, at least one certified nurse aide must be working at all times. Direct care also may be provided by personal care aides who have attended and successfully completed the curriculum specified above.

A facility must have staff sufficient to meet residents’ needs. A facility providing Level I care must meet the following minimum standards. (A direct-care employee is countable even if he or she also is involved in housekeeping, laundry, or cooking.):

# Residents	Direct-Care Staff Required Per Shift		
	Day	Evening	Night
1-8	1	1	1
9-32	2	2	2
33-49	2	2	2
50-66	3	2	2
67-83	4	2	2
84-above	5	3	2

A facility providing Level II care must maintain at least the following staffing levels: one staff person per 15 residents from 7am to 8pm, and one staff person per 25 residents from 8 pm to 7 am.

Residential Care Facility for the Elderly—Resident Population

A residential care facility for the elderly must provide supervision and assistance with activities of daily living. A resident may receive health care in the facility from a home health agency. The facility and home health agency must enter into a protocol regarding their respective responsibilities.

An individual cannot be admitted or retained if he or she has any one of the following conditions:

- Active communicable tuberculosis.
- Need for 24-hour nursing care.
- Need for assistance with all activities of daily living.
- Stage 3 or 4 pressure sore.
- Gastrostomy.
- Nasogastric tube.
- Staph infection or other serious infection.
- Tracheostomy.

Also, an individual cannot be admitted or retained if the individual cannot turn himself or herself in bed, unless the facility has obtained the appropriate fire clearance, or unless the condition is considered temporary. The condition is automatically considered temporary if it is expected to last for no more than 14 days, although it also can be considered temporary if a physician certifies it as such, and the state determines that the resident's safety is adequately protected.

The following treatments can be accommodated in a facility if the care will be provided by the resident or by an appropriate health care professional:

- Oxygen administration.
- Intermittent positive pressure breathing therapy.
- Colostomy or ileostomy.
- Manual fecal impaction removal.
- Enema.
- Suppositories.
- Intramuscular, subcutaneous, or intradermal injections.

Bowel or bladder incontinence may be accommodated if the condition can be managed by any combination of resident self-care, a structured bowel or bladder retraining program, a program of scheduled routine toileting, or the use of incontinence care products. A resident may have an indwelling catheter if the resident is capable of caring for all aspects of the catheter except for insertion and irrigation, which are performed by an appropriate health care professional.

A resident with diabetes may be admitted or retained if the resident is able to perform his or her own glucose testing, and medication can be administered by the resident or by an appropriate health care professional.

A resident with a Stage 1 or 2 pressure sore or other healing wound can be accommodated if care is performed by, or under the supervision of, an appropriately skilled professional.

Facility staff may use an automated external defibrillator if facility staff members receive AED training in compliance with standards set by the American Heart Association or the American Red Cross. These staff members must demonstrate their proficiency at least quarterly.

Admission and retention limitations may be waived by the state if a new or existing facility resident receives care from a visiting hospice agency. The facility and hospice agency must execute an agreement regarding the resident's care plan. If the resident has a roommate, the roommate must agree to allow hospice caregivers into the shared room. The waiver issued by the state can cover current and future residents with a need for hospice services.

A facility can honor a do-not-resuscitate request only if the facility employs a nurse (or other licensed health care provider) who is present at the facility at the time of the medical emergency. If a terminally-ill resident is receiving services under a hospice waiver, and previously has made a do-not-resuscitate request, the facility in a medical emergency may call the hospice agency rather than 911. In all other situations, facility staff must call 911 and then present any do-not-resuscitate request to the paramedics when they arrive.

The state can order the relocation of a resident whose needs exceed what can be provided under the facility's license. Also, a resident may be forced to move by the facility if a reappraisal determines that the resident has a need not previously identified, and the facility and the person performing the reappraisal each believe that the facility is not appropriate for the resident.

Residential Care Facility for the Elderly – Staffing

Direct-care staff members must have at least ten hours of initial training, and at least four hours annually of continuing education. Training must include at least the aging process and physical limitations and special needs of the elderly; the importance and techniques of personal care services, including but not limited to, bathing, grooming, dressing, feeding, toileting, and universal precautions; resident rights; medication policies and procedures; psychosocial needs of the elderly, such as recreation, companionship, and independence; and recognizing signs and symptoms of dementia. Trainers either must have a health care license; have a relevant college degree and relevant experience; or be a facility administrator with at least two years of experience.

Also, direct-care staff members must be trained in first aid. If a facility is licensed for 16 or more residents, one or more staff members shall be designated as having primary responsibility for assuring that each resident receives needed first aid and needed emergency medical services, and for assisting residents as needed with self-administration of medications.

If a facility claims a specialization in the care of residents with Alzheimer's disease or related dementias, direct-care staff must receive additional training specific to the needs of residents with dementia—at least six hours initially, and at least eight hours annually of continuing education. Continuing education must be developed by, or in consultation with, individuals or organizations with expertise in dementia care. Trainers must meet specified education and experience requirements.

Facility staffing must be adequate to meet resident needs. State law sets certain minimum staffing levels for the night shift:

- Less than 16 residents..... One staff member on call at the facility
- 16 to 100 residents One staff member awake at the facility, and another staff member on call and capable of arriving within ten minutes.
- 101 to 200 residents One staff member awake at the facility, one staff member on call at the facility, and one staff member on call and capable of arriving within ten minutes.

Assisted Living Residence – Resident Population

A facility must provide at least the following services: personal services; protective oversight; social care due to impaired capacity to live independently; and regular supervision that shall be available on a 24-hour basis, but not to the extent that regular 24-hour medical or nursing care is required. Residents may administer oxygen, and staff must assist with oxygen administration as needed, when prescribed by a physician.

A facility is prohibited from retaining a resident under any one of the following situations:

- Need for a level of care or type of service which the facility does not provide or is unable to provide.
- Uncontrollable incontinence unless the resident or staff is capable of preventing such incontinence from becoming a health hazard.
- Inability to get out of bed unassisted, with a limited potential for improvement, unless a physician documents services required to meet health needs, ongoing monitoring to ensure that needs are met, and adequate, trained staff to meet the resident's needs.
- Need for medical or nursing services on a 24-hour basis.
- Need for restraints.
- Communicable disease or infection.
- Substance abuse problem.

A resident must be discharged when the facility cannot protect the resident from harming himself or others. A resident may be discharged when he or she fails to comply with the resident agreement.

Assisted Living Residence – Staffing

A staff member shall receive the following training as appropriate: orientation, training specific to the particular needs of the populations served, resident rights, first aid and injury response, care and services for the current residents, and the facility's medication administration program.

Training in emergency and fire escape plan procedures must be received within three days of hire, with review at least once every two months. Within one month of hire, a staff member must be trained in assessment skills, infection control, identifying and dealing with difficult situations and behaviors, resident rights, and health emergency response.

A facility must employ sufficient staff to ensure the provision of services necessary to meet the needs of the residents, considering the following factors: services to meet residents' needs, services to be provided under the care plan, and services to be provided under the resident agreement. A facility shall ensure that at least one staff member who has completed all necessary training is present in the facility.

Assisted Living Services Agency – Resident Population

An assisted living services agency is authorized to care for individuals who need rehabilitative therapy, nursing care or medical treatment.

“Assisted living services” includes nursing services. A registered nurse is responsible for admission, development of a client service program, assessments (completed as often as necessary, but not less frequently than every 120 days), coordination of services, referral to appropriate professionals or agencies, and planning for clients who will no longer receive or require assisted living services.

Eviction is authorized if a resident’s condition is no longer chronic or stable, or if the resident fails to meet goals of care (even though the resident continues to require assisted living services). The regulations state that the reasons for eviction are not limited to the reasons specified in the regulations.

Assisted Living Services Agency – Staffing

An assisted living aide must receive at least 75 hours of training and pass a competency examination. The training must include at least the following topics: communication skills; observation, reporting and documentation of resident status and the care or services furnished; reading and recording temperature, pulse and respiration; basic infection control procedures; basic elements of body function and changes in body function that must be reported to a supervisor; maintenance of a clean, safe and healthy environment; recognizing emergencies and knowledge of emergency procedures; physical, emotional, and developmental needs of the population served; personal hygiene and grooming techniques; safe transfer techniques; normal range of motion; and nutrition and fluid intake.

An assisted living aide must receive in-service training of at least six hours annually, with the training to include current information regarding specific service procedures, techniques and information related to the population being served.

Nursing services must be provided by licensed nurses. A licensed nurse must be on-site for at least 10 hours per week for each 10 or fewer full-time-equivalent aides.

The supervisor of assisted living services must be a registered nurse. A supervisor must be on-site for at least 20 hours per week for each 10 or fewer full-time-equivalent licensed nurses or aides.

In addition to the supervisor of assisted living services, at least one registered nurse must be on-call 24 hours per day.

Staffing must be adequate at all times to meet resident needs.

Assisted Living Facility – Resident Population

An assisted living facility provides a combination of supportive services, personalized assistance, and health care that is designed to respond to the needs of individuals who need help with activities of daily living and/or instrumental activities of daily living.

A facility must establish policies and procedures relating to medication, addressing a resident's self-administration, the facility's assistance with a resident's self-administration, medication management by a resident's family member, and administration of medication by a staff member.

Any facility which offers to provide specialized care for the memory impaired must disclose its policies and procedures regarding the care and treatment provided.

A new resident must undergo a standardized assessment performed by a registered nurse. At that time, the nurse reviews the resident's medication regime.

A facility cannot admit or retain a resident with any one of the following conditions:

- Requires care by nurse that is more than intermittent or for more than a limited period of time.
- Requires skilled monitoring, testing, and aggressive adjustment of medications and treatments where there is reasonable potential for acute episodes.
- Requires monitoring of a chronic medical condition that is not essentially stabilized through available medications and treatments.
- Bedridden for more than 14 days.
- Stage 3 or 4 pressure sores.
- Requires ventilator care.
- Requires treatment for a disease or condition which requires more than contact isolation.
- Has an unstable tracheostomy or a stable tracheostomy of less than 6 months' duration.
- Has unstable PEG tube.
- Requires an IV or central line (except, under certain conditions, a completely covered subcutaneously implanted venous port).
- Wanders such that the facility cannot provide adequate supervision or security.
- Is socially inappropriate so that facility cannot manage behavior.
- Needs care which exceeds that which the facility can provide.

These limitations do not apply to residents under the care of a hospice program. Also, for current residents, a facility can request that the state waive a limitation to allow for the resident's continued stay. A waiver request must contain documentation by a physician that the resident's condition is expected to improve within 90 days.

Assisted Living Facility — Staffing

Direct-care staff members must have an initial training including at least fire and life safety; infection control; basic food safety; basic first aid and the Heimlich maneuver; job responsibilities; health and psychosocial needs of the population being served; the resident assessment process; use of service agreements; resident rights; reporting abuse, neglect, mistreatment, and financial exploitation; the ombudsman program; and hospice services. Continuing education must consist of at least 12 hours annually.

If a staff member is to provide assistance with self-administration of medication, he or she must complete state-approved training.

Temporary staff from an agency must undergo an orientation of at least two hours before beginning work at the facility.

At all times, a facility at a minimum must have an awake staff person who is qualified to administer or assist with self-administration of medication, and who has knowledge of emergency procedures, basic first aid, CPR, and the Heimlich maneuver.

Staff must be adequate in number, training, and licensure to meet residents' needs, including any special needs due to dementia or a medical condition, illness or injury.

Assisted Living Residence – Resident Population

An assisted living residence provides assistance with activities of daily living, and must offer or coordinate certain services, including health services. A resident has the right of access to appropriate health and social services including social work services, home health care, nursing care, rehabilitative care, hospice care, and psychiatric care. An assisted living residence is allowed to admit individuals who have a need for services which can be provided by a third-party, as arranged by the facility or the resident.

A resident can be forced to move by the facility for any one of the following health-related conditions:

- Need for more than intermittent skilled nursing care.
- Need for treatment for Stage 3 or 4 pressure sores.
- Need for ventilator services.
- Need for treatment of active and infectious disease or condition.
- When adequate and appropriate services cannot be marshaled to support the resident safely.

Assisted Living Residence – Staffing

At all times, at least one staff member trained in CPR must be on-duty. Each direct-care employee must have at least 40 hours of training, including at least the following topics: care for bed-bound residents; use of a first aid kit; confidentiality of personal information; detecting and reporting suspected abuse or neglect; managing difficult or aggressive behavior; advanced body mechanics; communicating with individuals with communication deficits; recognizing dementia; caring for the cognitively impaired; recognizing changes in a resident's condition; and housekeeping, food handling, and meal preparation.

Each direct-care staff member must receive at least 12 hours of in-service training each year, including at least resident rights and cognitive impairments.

Medication aides (non-nurses who have authority to administer medication) must be trained in at least the following topics: cuing, coaching, and monitoring residents who self-administer medications with or without assistance; pharmacology; procedures and precautions in administering medication; types of medications; actions, interactions, and effects of medication; administration of medication in emergency or life-threatening circumstances; recordkeeping, storage, handling, and disposal requirements for medications; resident rights; monitoring of vital signs; and medication-related reference sources.

On-site medication review shall be performed by a registered nurse.

The facility must have a staffing plan that assures the safety and proper care of residents.

Assisted Living Facility – Resident Population

Each assisted living facility must hold a standard license, and may be additionally licensed for limited nursing services, extended congregate care, or limited mental health.

A standard facility is licensed to provide one or more personal care services. The facility may employ or contract with a nurse to administer medications, or to perform certain other tasks such as taking vital signs, giving prepackaged enemas ordered by a physician, or observing residents. An individual with HIV can be admitted if he or she otherwise would be eligible for admission.

In the limited nursing services category, a facility is licensed to provide any of the services authorized under a standard license, plus additional nursing services including, but not limited to, the following:

- Range of motion exercises.
- Cutting the toenails of diabetic residents or residents with a documented circulatory problem, with the written approval of resident's health care provider.
- Ear and eye irrigation.
- Urine dipstick test.
- Replacement of established self-maintained indwelling urinary catheter, or performance of an intermittent urinary catheterization.
- Digital stool removal.
- Routine dressing changes.
- Care of stage 2 pressure sores.
- Care for casts, braces and splints (not including care for head braces).

In the extended congregate care category, a facility is licensed to provide any of the services under a standard license and limited nursing services license, plus any nursing service permitted within the scope of the nurse's license consistent with state assisted living residency requirements (see below) and the facility's written policies and procedures.

If the facility provides limited mental health services, an individual with a mental health diagnosis can be admitted if he or she is assessed as appropriate for residence in an assisted living facility.

An assisted living facility may provide special care for residents with Alzheimer's disease or related disorders if additional standards of operation are met.

The following health-related conditions are not allowed when considering the admission of an individual to a facility with a standard license, limited nursing license, or limited mental health license:

- Total dependence in activities of daily living.
- Need for two-person assistance with transferring.
- Need for medication administration (unless nurse will administer medication).
- Stage 3 or 4 pressure sores (stage 2 pressure sores can be accommodated only if they can show improvement within 30 days).
- Need for oral or nasopharyngeal suctioning.
- Need for assistance with tube feeding.
- Need for blood gas monitoring.

- Need for intermittent positive pressure breathing therapy.
- Skilled rehabilitation services.
- Need for 24-hour nursing supervision.

The continued residency criteria are identical, except that a resident may be bedridden for up to seven consecutive days, and terminally ill residents who no longer meet the criteria for continued residency may remain if the arrangement is mutually agreeable to the resident and the facility, and if the resident will receive care from a licensed hospice.

In a facility licensed to provide extended congregate care, the following conditions are not allowed at the time of admission:

- Need for two-person assistance with transferring.
- Stage 3 or 4 pressure sores.
- Need for oral or nasopharyngeal suctioning.
- Need for nasogastric tube feeding.
- Need for blood gas monitoring.
- Need for intermittent positive pressure breathing therapy.
- Skilled rehabilitation services.
- Need for 24-hour nursing supervision.

The continued residency criteria are identical, except that a resident may be bedridden for up to 14 consecutive days, and that discharge is authorized if the facility and the resident are unable to agree on a service plan, or the facility is unable to meet the resident's needs as identified in the service plan. Also, again, terminally ill residents who no longer meet the criteria for continued residency may remain if the arrangement is mutually agreeable to the resident and the facility, and if the resident will receive care from a licensed hospice.

Assisted Living Facility – Staffing

Direct-care staff other than nurses, certified nursing assistants, or home health aides must complete at least one hour of training in infection control, including universal precautions and facility sanitation procedures, before providing personal care to residents. An additional three hours of training on resident behavior and needs and assistance with activities of daily living must be completed within 30 days of employment. Unlicensed persons who assist with self-administered medications must complete a minimum 4 hours training prior to assuming this responsibility.

Direct-care staff must complete a minimum of one hour training on reporting major incidents and facility emergency procedures within 30 days of employment. Also within 30 days of employment, those who have not taken the core training program must complete a minimum one hour training on resident rights; recognizing and reporting resident abuse; and neglect and exploitation.

All staff must complete a continuing education course on HIV and AIDS biennially. Staff who prepare or serve food must complete a minimum one hour training covering safe food handling practices within 30 days of employment.

In an extended congregate care facility, all staff must complete at least two hours training on extended congregate care within six months of employment. In a facility providing limited mental health services, all staff must complete a minimum of six hours training within six months of employment.

A facility licensed for extended congregate care must provide, through staff or by contract, the services of a nurse who shall be available to provide nursing services as needed, participate in the development of resident service plans, and perform monthly nursing assessments.

In a facility providing special care for residents with Alzheimer’s disease or related disorders, staff that cares for residents with dementia must complete at least four hours of initial training within three months of employment, and must complete four hours of additional training within nine months of employment. Direct-care staff must complete four hours of continuing education annually.

A facility must ensure that at least one staff member with access to facility and resident records is within the facility at all times. Also, at least one staff member with first aid and CPR certification must be in the facility at all times. If a facility has 17 or more residents, at least one staff member must be awake at all hours.

A facility must meet variable levels of staffing depending on the number of residents, subject to the following minimum staff hours per week:

Number of Residents	Staff Hours Per Week
0-5	168
6-15	212
16-25	253
26-35	294
36-45	335
46-55	375
56-65	416
66-75	457
76-85	498
86-95	539

A facility must provide an additional 42 staff hours per week for each additional 20 residents over 95 residents. A facility may include an administrator or manager time in staff hours per week if the individual is involved in day-to-day activities and is listed on the staffing schedule.

If a facility provides limited nursing services, it must employ sufficient and qualified staff to meet the needs of residents requiring limited nursing services based on the number of residents and type of nursing service needed. A facility must employ or contract with a nurse(s) to provide services as needed by residents, in accordance with the Nurse Practice Act and the prevailing standard of practice.

If a facility provides extended congregate care, the facility must employ or contract with a nurse(s) to provide nursing services as needed, to participate in the development of resident service plans, and to perform monthly nursing assessments.

Personal Care Home – Resident Population

All residents must be ambulatory, and not require use of physical or chemical restraints, isolation or confinement.

A facility must provide or arrange to provide one or more personal services to meet individual residents' needs. A personal care home can provide assistance in arranging periodic or short-term medical, nursing, health or supportive services.

Relative to medication, a facility can provide assistance with administration of oral or topical medication, can administer epinephrine under an established medical protocol to residents with known anaphylactic reactions, and can administer insulin under established medical protocol by a staff person trained and qualified to administer the insulin to the resident.

If a facility claims a special expertise in the care of Alzheimer's disease or related dementias, the facility must provide a detailed explanation of the care provided.

A resident can be forced to move out under one of the following health-related conditions:

- Need for care that facility is not permitted to provide.
- Resident no longer ambulatory.
- Resident unable to get out of bed.
- Need for continuous medical or nursing care and treatment.

Personal Care Home – Staffing

Within 60 days of employment, all staff must have current certification in first aid (except currently licensed health care professionals), training in medical and social needs and characteristics of the resident population, and residents' rights, and must receive a copy of the Georgia Long-Term Care Abuse Reporting Act. All direct-care staff must satisfactorily complete at least 16 hours of continuing education each year. Staff designated by a resident's personal physician to assist in insulin injections must be trained and qualified to administer insulin to the individual resident.

A facility must ensure that a sufficient number of staff members are on duty at all times as needed to properly safeguard resident's health, safety and welfare of its residents. A facility must maintain at least the following staffing levels:

- one staff member per 15 residents during waking hours; and
- one staff member per 25 residents during non-waking hours.

At least one person who completed the training mandated in first 60 days of employment must be present in the facility at all times.

Assisted Living Facility – Resident Population

An assisted living facility provides health care services and personalized supportive services. Facility staff can administer medication. A registered nurse performs assessments and supervises nursing tasks.

A resident can be evicted for one of the following reasons:

- Imminent danger to self or others.
- Inability of facility to meet resident's needs with available support services.
- Documented, established pattern of resident failing to abide by agreements.

Assisted Living Facility – Staffing

All staff must be trained in CPR and first aid. All new employees must receive orientation on the philosophy, organization, practice and goals of assisted living, and all employees must complete a minimum of six hours in-service training annually.

A facility must ensure the availability of licensed nursing staff seven days a week to meet residents' care management and monitoring needs.

A facility must employ 24-hour on-site direct-care staff to meet the needs of its residents.

Assisted Living Facility for the Elderly – Resident Population

An assisted living facility is licensed at either Level I, II, or III, depending on whether it can provide (respectively) minimal, moderate, or extensive assistance.

A Level I facility provides room, board, supervision and only minimal assistance with medications or one or more activities of daily living. The personal assistance is nonmedical, consisting of assistance with mobility (although residents are independently mobile) or with self-preservation in an emergency, and moderate behavior assistance.

A Level II facility provides services that in three ways exceed the services provided by a Level I facility. A Level II facility can provide moderate (rather than minimal) assistance with medications and activities of daily living. Also, a Level II facility may provide minimal behavior management (rather than moderate behavior assistance), and residents in a Level II facility may be easily mobile with assistance (rather than independently mobile).

A Level III facility can provide extensive assistance with activities of daily living, training, and behavior management. Staff generally is awake around the clock.

An assisted living facility can provide limited nursing services if a nurse is onsite during the procedure.

If a facility houses a Level III resident who has a diagnosis of Alzheimer's disease or an equivalent dementia, the facility must provide specialized habilitation and behavior management services. The facility is termed a specialized care facility for Alzheimer's or dementia residents.

A resident can be forced to move from an assisted living facility for one of the following health-related reasons:

- Need for service that facility is not licensed to provide or arrange.
- Need for ongoing or 24-hour skilled nursing care, intermediate care, or care exceeding the legally licensed authority of the facility.
- Pressure sores, open wounds that are not healing, or draining wounds for which drainage cannot be contained.
- Needs exceeding level of fire safety provided by the facility.
- Needs not compatible with other residents.
- Inability of facility to provide appropriate care or sufficient numbers of appropriately skilled staff.

In a specialized care facility for Alzheimer's or dementia residents, the rules are different — a resident can be forced to move for one of the following health-related reasons:

- Inability of facility to assure safety of resident by appropriate combination of facility design and personnel.
- Need for more than periodic professional observation and evaluation.
- Sudden change in resident's condition indicating need for more secure environment.

Assisted Living Facility for the Elderly – Staffing

A facility must be operated and staffed by persons with the knowledge and experience required to provide safe and appropriate services to all residents. At least one staff member who has CPR certification and who has completed an approved first aid course must be within the facility at all times. New staff

members must complete at least eight hours of training before providing unsupervised personal assistance to residents. A minimum of eight hours continuing education is required per year.

In a specialized care facility for Alzheimer's or dementia residents, a new staff member must receive at least six additional hours of orientation training prior to unsupervised service, to include (but not limited to) Alzheimer's disease and dementia, symptoms and behaviors of memory-impaired people, adjustment to residency, inappropriate and problem behavior of residents and appropriate interventions, residents' activities of daily living, and stress reduction for personnel and residents. An additional two hours of training shall cover the provision of services to residents with Alzheimer's disease or dementia disorders.

A nurse must be on-site during nursing procedures offered as limited nursing services. Also, a facility must ensure that a licensed nurse visits the facility at least monthly to assess residents' responses to medications, ensure that medication orders are current with physician orders, assess the health status of each resident, recommend to the administrator any medication needs or health needs requiring follow up, assess progress on previous recommendations, assess ability of residents to self-medicate, and assess medication use and interactions.

A facility must employ sufficient personnel to assure the safety and proper care of residents based on the physical and mental condition of the residents, the size and layout of the facility, travel time to and distance from emergency and support services, capabilities and training of the staff, and resident needs, rather than on the numbers of residents.

Assisted Living Establishment – Resident Population

An assisted living establishment provides assistance with activities of daily living, as well as intermittent health-related services. Optional services include medication reminders, supervision of self-administered medication, and medication administration.

A facility can admit or retain individuals with quadriplegia, paraplegic or neuro-muscular diseases, if the facility provides for the special safety and service needs of those individuals. A resident may require assistance by more than one person if, once transferred, the resident can exit the building with minimal or no assistance in a wheelchair or motorized scooter.

If a facility has a program for residents with Alzheimer's disease or a related dementia, the facility must adopt measures to protect a resident who may wander, and who may need supervision and assistance when evacuating the building in an emergency.

A resident can be forced to move from a facility for any one of the following health-related reasons:

- Inability of facility to provide or secure appropriate services.
- Need for services that facility does not provide, for which it is not licensed, or for which it does not have appropriate numbers of skilled staff.
- Need for total assistance with two or more activities of daily living or assistance of more than one paid caregiver with any activity of daily living, except for quadriplegic, paraplegic or individual with neuro-muscular disease who is able to communicate needs, and whose needs facility can accommodate.
- Need for more than minimal assistance in an emergency, except for quadriplegic, paraplegic or individual with neuro-muscular disease who is able to communicate needs, and whose needs facility can accommodate.
- Need for IV therapy or feedings unless self-administered or administered by a qualified licensed health care professional.
- Need for gastrostomy feedings, sterile wound care, sliding scale insulin administration, routine insulin injections, or insertion of sterile irrigation and replacement of catheter except for routine catheter maintenance (except for quadriplegic, paraplegic or individual with neuro-muscular disease who is able to communicate needs, and whose needs the facility can accommodate) unless self-administered or administered by a licensed health care professional.
- Stage 3 or Stage 4 pressure sores.
- Need for five or more skilled nursing visits per week (for conditions other than pressure sores) for three consecutive weeks unless treatment is expected to extend beyond three weeks for rehabilitative purposes but nonetheless is certified as temporary by a physician.
- Inability to communicate needs, if no resident representative living in the facility has been appointed.
- Severe mental illness.
- Communicable, contagious or infectious disease unless facility can provide necessary infection control.

An exception to these eviction conditions is made for terminally-ill residents who qualify for hospice care and whose care is coordinated by a licensed hospice.

The following broader eviction criteria apply if the resident is cared for in a facility's program for Alzheimer's disease and dementia:

- Continued residency would be detrimental to the resident's or other residents' health, welfare or safety.
- Danger to self or others, if the facility is unable to use treatment modalities to eliminate danger.

Assisted Living Establishment – Staffing

All employees must complete an orientation within ten days of employment on the facility's philosophy and goals; promotion of resident dignity, independence, self-determination, privacy, choice and rights; confidentiality; hygiene and infection control; abuse and neglect prevention and reporting; and disaster procedures. All employees must complete training within 30 days of employment on the resident population, resident service plans, facility policies and procedures, job responsibilities and limitations, CPR and emergency procedures, and activities of daily living.

A facility must ensure that at least one direct-care staff person with current CPR certification is on duty at all times.

Each manager and direct-care staff member must complete a minimum of eight hours of annual continuing education in resident dignity, independence, self-determination, privacy, choice and resident rights; disaster procedures; hygiene and infection control; self-administration of medications; abuse and neglect prevention and reporting; and activities of daily living.

In a facility with a program for Alzheimer's disease and dementia, all staff must complete four hours of dementia-specific orientation, before beginning unsupervised work, on causes, progression and management of Alzheimer's disease and related dementia disorders; creating an environment to minimize challenging behavior; identifying and alleviating safety risks; successful communication techniques; and residents' rights. Direct-care staff must complete 16 hours of on-the-job training within the first 16 hours of employment after orientation, to include encouraging independence and assisting with ADLs; emergency and evacuation procedures for a dementia population; creating an environment that minimizes challenging behaviors; residents' rights and choice; working with families; addressing caregiver stress; and successful communication. Direct-care staff annually must complete 12 hours of continuing education on assessment and developing and implementing service plans; promoting resident dignity, independence, individuality, privacy and choice; planning and facilitating appropriate activities; communicating with families and other interested persons; resident rights and principles of self-determination; care of elderly with physical, cognitive, behavioral, and social disabilities; common psychotropic medications and their side effects; and local community resources.

A licensed health care professional must perform administration of medications. A physician, pharmacist or registered nurse must approve the medication policies and procedures of a facility that administers medication or supervises self-administration of medication.

A facility must arrange for consultation from a registered nurse if it does not employ a registered nurse.

A facility must ensure that the staff is sufficient in number with the qualifications, skills, education and experience to meet residents' 24-hour scheduled and unscheduled needs. At least one staff member shall be awake, on duty and on-site 24 hours a day.

If a facility has a program for Alzheimer's disease and dementia, a facility must be staffed at a minimum so that it provides 1.4 hours of service per resident per day. The facility must disclose to a resident or potential resident the facility's minimum and maximum staffing ratios.

Residential Care Facility – Resident Population

A facility provides assistance with activities of daily living, and can choose whether or not it will provide medication administration or residential nursing care, or both. If a facility provides residential nursing care, a licensed nurse must be involved in the identification and documentation of services to be provided.

If a facility is appropriately staffed, it may provide comprehensive nursing care to a medically stable resident for a medical condition that eventually will resolve itself.

A major mental illness can be accommodated, if the individual's mental health service provider determines that the individual's needs can be met, and if the facility can carry out the necessary comprehensive care plan. A terminally-ill resident can receive hospice services through a licensed provider of the resident's choice. Residents using oxygen must be instructed in safety measures.

A resident may be forced to move from the facility for any one of the following health-related reasons:

- Need for 24-hour comprehensive nursing care or oversight.
- Failure to contract with licensed provider of resident's choice for required comprehensive nursing care or oversight or rehabilitative therapies (need for less than 24-hour nursing care).
- Medical instability.
- Need for total assistance with any two or more of eating, toileting or transferring, unless resident is medically stable and facility can meet resident's needs.
- Inability of facility to meet resident's needs or provide for resident's welfare.

Residential Care Facility – Staffing

All staff must receive orientation to the facility by his or her department supervisor (or designee) on the needs of the resident populations; a review of the facility's policy manual and applicable procedures; instruction in first aid, emergency procedures, and fire and disaster preparedness, including evacuation procedures; and a review of ethical considerations and confidentiality in resident care and records. For direct-care staff, the orientation must include personal introduction to and instruction in the needs of each resident to whom the employee will be providing care.

Annual continuing education for all staff must include (but is not limited to) resident's rights; prevention and control of infection; fire prevention, safety, and accident prevention; the needs of specialized populations served; medication administration; and nursing care (when appropriate). Nursing personnel must complete at least eight hours continuing education per calendar year. Non-nursing personnel must complete at least four hours of continuing education per calendar year.

Additional requirements apply to facilities with dementia units. Direct-care staff must complete a minimum additional six hours of dementia-specific training within six months of hire, and three hours annually thereafter on meeting the needs/preferences of cognitively impaired residents and on the current care standards for residents with dementia.

In any residential care facility, a licensed nurse must participate in the identification and documentation of services to be provided, if either residential nursing services or administration of medication is needed. Medications must be administered either by licensed nursing personnel or qualified medication aides. A facility must employ or contract for the services of a consultant pharmacist.

A facility must ensure that at least one nursing staff member is on site at all times if 50 or more residents regularly receive residential nursing services or administration of medication, and that one additional nursing staff member is awake and on duty at all times for every additional 50 residents.

A facility must employ staff sufficient in number, qualification and training according to state laws to provide services and to meet residents' 24-hour scheduled and unscheduled needs. The number, qualification and training of staff will depend on specific needs of residents.

The facility must ensure that at least one staff member with current CPR and first aid certification must be awake and on-site at all times.

Housing with Services Establishments – Resident Population, and Staffing

A resident may have a need for at least one regularly scheduled health-related service or at least two regularly scheduled support services, either provided by or arranged by the facility.

Every housing with services establishment must file a disclosure statement with the state. No license is required although, in many instances, a housing with services establishment may require licensure as a residential care facility.

A resident may be forced to move from the facility for either of the following health-related reasons:

- Inability of resident and facility to assure emergency response consistent with local fire and safety rules.
- Inability of facility to assure that resident's physical, mental and psychosocial needs can be met.

Assisted Living Program – Resident Population

An assisted living program can provide health-related care, administration of medication, personal care, and assistance with activities of daily living.

In general, residents must not require nursing services. If the facility receives the necessary permission from the state, the facility may care for a resident who requires more than part-time or intermittent health-related care, or requires hospice care.

A resident may be forced to leave the facility for one of the following health-related reasons:

- Inability to get out of bed unassisted.
- Need for more than part-time or intermittent health-related care.
- Need for licensed nursing care for unstable medical condition.
- Need for daily medication injections, other than insulin injections, from a licensed nurse.
- Need for daily assessment or treatment of open wound or pressure sore.
- Unmanageable incontinence.
- Need for routine two-person assistance with mobility.
- Danger to self or others, including chronic wandering into danger.
- Active-stage contagious disease.
- Acute alcoholism, drug addiction, or mental illness.
- Meets transfer criteria set forth in occupancy agreement, beyond those criteria set forth in law.

Certification, rather than licensure, is required. Accreditation by a private accreditation agency is accepted as a substitute for certification.

Assisted Living Program – Staffing

For facilities providing dementia-specific programming, all staff members must complete a minimum of six hours dementia-specific training, to include (but not be limited to) an explanation of Alzheimer's disease and related disorders; the facility's philosophy and program; skills for communicating with residents and their families and friends; assistance with activities of daily living; the importance of service plan and social history information; working with challenging residents; simplifying, cueing and redirecting; staff support, and stress reduction. Continuing education of at least two hours of dementia-specific education annually is required.

There are no similar requirements for assisted living programs that do not provide dementia-specific programming. By comparison, persons providing direct care in an elder group home (three to five residents per facility) must meet the not-insignificant requirements for being trained as home health aides.

A physician, physician's assistant or registered nurse must develop the resident service plan in an assistant living program. If a facility administers prescription drugs or provides physician-directed or health-related care, a registered nurse must be provided to monitor residents, ensure that medication procedures are followed and that orders are brought current at least every 30 days, and to assess, document and make recommendations regarding the resident's condition.

A facility must ensure that sufficient trained staff are available at all times to fully meet residents' identified needs. A dementia-specific program shall have at least one staff person awake and on duty 24 hours a day in the proximate area to check on residents as indicated in residents' service plans.

Assisted Living Facility – Resident Population

An assisted living facility can care for individuals who need assistance with activities of daily living. Skilled nursing services may be provided to a resident on an intermittent or limited-term basis, or on a regular basis if the services are limited in scope.

A resident may be forced to leave the facility for one of the following health-related reasons:

- Inability of facility to provide for resident's welfare and needs.
- Danger to safety or health of other individuals in facility.
- Need for physical restraints.

The following conditions also justify a resident being forced to leave the facility, although each of these conditions can be accommodated if the negotiated service agreement between the resident and the facility includes necessary hospice or family support services or similar services available 24 hours a day.

- Resident's inability or unwillingness to participate in management of incontinence.
- Immobility requiring total assistance to exit building.
- On-going need for two-person transfer.
- Need for on-going 24-hour skilled nursing intervention or unmanageable behavior.
- Need for physical restraints.

Assisted Living Facility – Staffing

Unlicensed direct-care staff members who do not administer medication and who have not completed a training course approved by the state must complete 40 hours of training in basic resident care skills, and after 90 days of employment, must successfully complete an approved resident care and treatment course and examination. A certified medication aide (qualified to administer medication) must complete a state-approved 75-hour course in medication administration, pass a state test and complete a 10-hour continuing education program every two years.

All staff members of facilities that admit residents with dementia must receive in-service education on the treatment of behavioral symptoms.

All facility employees must receive regular continuing education to cover the principles of assisted living; fire prevention and safety; disaster procedures; accident prevention; resident rights; infection control; and prevention of abuse, neglect or exploitation of residents.

Nursing procedures not included in the nurse aide or medication aide curricula may be delegated to unlicensed direct-care staff by a licensed nurse. A facility must ensure that a licensed nurse is available on site or by telephone to provide immediate direction to medication aides and nurse aides to meet residents' unscheduled needs.

A facility must provide sufficient numbers of qualified staff to ensure that services and care are provided in accordance with negotiated service agreements.

Assisted Living Community—Resident Population

An assisted living community must provide assistance with (among other things) activities of daily living, instrumental activities of daily living (cooking, cleaning, shopping, etc.), and self-administration of medication. Additional services may be provided by an outside provider.

If a facility claims that it provides special care for residents with a medical diagnosis of Alzheimer's disease or a related disorder, the facility must maintain a manual on relevant policies.

A resident can be forced to leave the facility if he or she is nonambulatory, unless the condition is temporary and necessary services are being provided.

Assisted Living Community—Staffing

All staff and management must receive orientation and in-service education applicable to his or her duties, to cover client rights; community policies; adult first aid and CPR, adult abuse and neglect; Alzheimer's disease and other types of dementia; emergency procedures; the aging process; assistance with activities of daily living and instrumental activities of daily living; assistance with self-administration of medication; and topics related to special programming, staffing or training for clients with particular needs (if the facility markets itself as providing these).

A facility must ensure that a sufficient number of qualified staff are on duty to meet residents' 24-hour scheduled and unscheduled needs. One awake staff member shall be on-site at all times.

Adult Residential Care Home – Resident Population

An adult residential care home generally provides personal care and supervision. Medication assistance is limited to assisting residents with self-administration.

Additional care can be provided — including care arranged by the resident and provided through appropriate private duty personnel — if the resident (or resident representative) and the facility agree that the care arrangements are adequate. The facility must ensure that needed services are provided, even if they are provided by the resident’s family or by an outside provider under contract with the resident.

A resident can receive continuous nursing care if the need for the care is temporary – less than 90 days. Continuous nursing care also can be provided if the resident provides for private duty care or other home and community-based services and assumes full legal responsibility for the additional care, and that care does not interfere with facility operations or create a danger to others.

A resident can be forced to move from the facility for one of the following health-related reasons:

- Resident’s inability or unwillingness to provide and assume responsibility for continuous nursing care if resident’s physician certifies that such care is necessary.
- Danger to self or others.
- Resident consistently disrupts other residents, staff services, or the facility’s general peace and order.
- Inability of facility to provide services needed by resident.

Adult Residential Care Home – Staffing

All staff members must receive training in policies and procedures of the facility, emergency and evacuation procedures, residents’ rights, procedures for and legal requirements concerning the reporting of abuse and critical incidents, and instruction in the specific responsibilities of the job. Direct-care staff must be certified in adult first aid and must receive an additional five days of supervised training to cover, at a minimum, training in resident care services provided by the facility, infection control including blood-borne pathogens, and any specialized training needed to meet residents’ needs. These same topics must be covered in continuing education.

Documented training on policies and procedures for medication assistance is required for any employee who assists with self-administration of medications. The training must be repeated annually.

Any facility which claims a specialization in the care of residents with Alzheimer’s disease or related dementias must disclose detailed information regarding its services to residents and potential residents.

A facility must ensure sufficient direct-care staff members are on duty to meet residents’ 24-hour scheduled and unscheduled needs. A facility must have at least one staff member awake and on duty 24 hours a day, including any additional night-time staff as deemed necessary by the state.

Assisted Living Services—Resident Population

The care provided is classified either as Type I or Type II. Either type of care provides assistance with activities of daily living and instrumental activities of daily living, and administration of medication. The primary difference between the two types is that Type II care includes nursing services.

A facility or unit may be designated for Alzheimer's/Dementia Care Unit, if the facility satisfies requirements for admission standards, documentation, design, physical environment, therapeutic activity and pre-service training.

A resident may be forced to move from a facility if the facility is unable to meet the resident's needs as the facility's services are fundamentally designed.

Assisted Living Services—Staffing

Initial staff member training must include consumer rights, confidentiality, emergency procedures, infection control, assisted living philosophy on Alzheimer's and dementia care, and wandering and egress control. In an Alzheimer's/Dementia Care unit, a staff member additionally must complete a minimum of eight hours classroom orientation and eight hours clinical orientation, covering a general overview of Alzheimer's disease and related dementias, communication basics, creating a therapeutic environment, activity-focused care, dealing with difficult behavior, and family issues.

A state-approved training is required for staff members of certain larger facilities providing extensive nursing services. Unlicensed assistive personnel who administer medications/treatment must successfully complete a state-approved eight-hour refresher course biennially for recertification.

In Level II care, nursing services may be provided directly by, or under the supervision of, registered nurses or licensed practical nurses. Certified nursing assistants must work under the supervision of a registered professional nurse.

In most instances, staffing in assisted living is regulated only by the legal requirement that staff be adequate to meet resident needs. However, state law does set a staff ratio for certain larger facilities that house residents with nursing needs. In those facilities, the facility must have at least one employee for each 12 residents during the day shift, for each 18 residents during the swing shift, and for each 30 residents during the overnight shift.

Assisted Living Program – Resident Population

Facilities are licensed for either Level I, II, or III — low, moderate, or high, respectively.

A facility generally may admit or retain only a resident whose needs can be met under the level at which the facility is licensed. The limitations do not apply to a terminally-ill resident receiving hospice services. A continuing resident may be retained for up to 30 days, despite an increase in care needs beyond the facility's licensed capabilities, if the disqualifying condition is expected to abate within those 30 days.

In addition, the state may grant a waiver from these limitations, although a waiver cannot be granted at the time of initial admission for any of the following conditions:

- Need for more than intermittent nursing care.
- Treatment of Stage 3 or Stage 4 pressure sores.
- Ventilator services.
- Skilled monitoring, testing, and aggressive adjustment of medication and treatments if there is a fluctuating acute condition or risk thereof.
- Monitoring of a chronic medical condition that is not controllable through readily available medications and treatments.
- Treatment for an active reportable communicable disease.
- Treatment for a disease or condition which requires more than contact isolation.

In all three levels, a facility routinely provides assistance with activities of daily living and instrumental activities of daily living, along with health-related services. Facility staff can assist with the self-administration of medication. The staff must be able to provide uncomplicated interventions to address behavioral problems, and to provide occasional assistance in accessing social services.

In a Level II facility, in addition to the requirements applicable in Level I, the staff must be able to recognize and accurately describe and define a resident's health condition, and then to use that information to ensure access to necessary health services. The staff must be able to provide or ensure substantial support with some but not all activities of daily living, or minimal support with any number of activities of daily living.

Also in Level II, the staff must have the ability to provide and ensure assistance with taking medication, or to administer necessary medication and treatment. The staff must be able to manage frequent behaviors that are likely to disrupt or harm the resident or others. The staff must be able to provide ongoing assistance in accessing social and recreational services.

In Level III, in addition to the requirements applicable for Level II care, the staff must be able to provide or ensure ongoing access to the coordination of comprehensive health services and interventions. The staff must be able to monitor and provide or ensure ongoing therapeutic intervention or intensive supervision to manage chronic behaviors that are likely to disrupt or harm the resident or others. The staff must have the ability to monitor and manage a variety of psychological or psychiatric episodes.

A resident may be forced to leave a facility as authorized by terms and conditions of the admission agreement.

Assisted Living Program — Staffing

Initial and ongoing training includes fire and life safety, infection control, basic food safety, basic first aid, emergency disaster plans, and individual job requirements. CPR training must be provided to a sufficient number of staff to ensure that CPR is readily available 24 hours a day. Staff providing personal care services must also have knowledge in cuing, coaching and assisting with activities of daily living.

Facility staff is trained to administer medications; the initial training must consist of at least 20 hours. A clinical update or refresher course must be completed every two years. When medication administration has been delegated to an unlicensed staff person, the delegating registered nurse must conduct an on-site review at least once every 45 days.

A facility should employ its personnel based on a plan that identifies the type and number of staff required to provide for residents' individual needs.

Assisted Living Residence – Resident Population

An assisted living residence must provide room, board and assistance with activities of daily living. A facility also may assist with or supervise instrumental activities of daily living, and arrange ancillary services for health-related care. Medications may be self-administered or administered by a family member, a practitioner, or a nurse.

According to state statute, a facility generally must evict or refuse to admit any individual in need of skilled nursing care. Nonetheless, according to statute, a facility may accommodate residents who need skilled nursing care if:

- Care is for a short-term illness;
- Care is provided by a home health agency on a part-time, intermittent basis for not more than total of 90 days in any 12-month period or by a licensed hospice; and
- Home health agency does not train facility staff to provide the skilled nursing care.

This statute, however, is not enforced, because the Massachusetts Attorney General determined that the statute unfairly discriminated on the basis of medical condition. As a result, the state currently allows an assisted living residence to admit or retain a resident who needs skilled nursing care, as long as the skilled care is not provided by the staff of the assisted living residence.

Assisted Living Residence – Staffing

All direct-care staff members must demonstrate competence in assisting with activities of daily living and self-administered medication management.

All staff members must complete at least seven hours of orientation prior to active employment, covering topics including at least the philosophy of independent living in an assisted living residence; the Resident Bill of Rights; elder abuse, neglect and financial exploitation; safety and emergency measures; communicable diseases; infection control and universal precautions; communication skills; the aging process; dementia/cognitive impairment (at least two hours); resident health and related problems; specific job requirements; sanitation and food safety; and self-administered medication management (at least one hour for direct-care staff members). Managers and service coordinators must complete at least an additional two hours of dementia care training.

Direct-care staff must complete at least an additional 54 hours of training and must demonstrate competence before providing services. This training must include at least personal hygiene; self-administered medication management; elimination; nutrition; human growth and development; family dynamics; grief, loss, death and dying; mobility; maintenance of a clean, safe and healthy environment; home safety; and assistance with appliances.

All staff members must complete at least ten hours of in-service training each year, with at least one hour on dementia and cognitive impairment. Direct-care staff must complete at least one additional hour of training on self-administered medication management.

Each facility must provide sufficient 24 hour on-site staff capability to give timely assistance to residents and to respond to urgent or emergency needs.

Home for the Aged — Resident Population

A home for the aged provides necessary assistance with personal care. A facility may be exempt from licensing if it provides services to not more than seven residents per month on a yearly average

A resident may stay in the facility regardless of medical condition if the resident, resident's family, resident's physician, and facility agree on continued stay, and if the facility commits to assuring that the resident receives the necessary additional services.

A facility may provide hospice care if it is licensed as a hospice or hospice residence, so long as it does not charge or receive fees or third-party reimbursement for that care.

Any resident may be forced to leave the facility if he or she shows signs of serious mental disturbances or requires nursing care on a 24-hour basis, or for his or her own welfare.

There are no special requirements or restrictions for the care of residents with Alzheimer's disease or related dementia.

Home for the Aged — Staffing

Staffing must be adequate to meet resident needs. Minimum staffing requirements are as follows:

- 19 to 100 residents – 2 staff members, awake and fully dressed.
- 101 to 180 residents – 3 staff members, awake and fully dressed.
- 181 to 260 residents – 4 staff members, awake and fully dressed.
- Each additional 80 residents – 1 additional staff member, awake and fully dressed.

Housing with Services Establishment—Resident Population

A housing with services establishment must offer, provide or arrange to provide one or more regularly scheduled health-related services or two or more regularly scheduled supportive services. Additional services may be provided by an assisted living home care provider, which is a separate agency.

The contract with the resident must include, among other things, the “criteria used by the establishment to determine who may continue to reside in the elderly housing with services establishment.”

A facility may accommodate residents with a diagnosis of probable Alzheimer’s disease or a related disorder if the facility has a special Alzheimer’s Disease or Related Disorders Special Care Unit.

Housing with Services Establishment—Staffing

Facility staff members in an Alzheimer’s Disease or Related Disorders Special Care Unit must receive training on topics including Alzheimer’s disease and related disorders; assistance with activities of daily living; problem solving with challenging behaviors; and communication skills.

Most relevant staffing requirements apply to assisted living home care providers. An assisted living home care provider may choose whether to offer nursing services, and whether to provide nursing services through unlicensed personnel (with authority delegated from nurses).

Direct-care staff must be trained in topics including recognizing and handling emergencies and using emergency services; reporting maltreatment of vulnerable minors or adults; communication skills; observing, reporting, and documenting client status and the care or services provided; basic infection control; maintaining a clean, safe, and healthy environment; basic elements of body functioning and changes in body function that must be reported to an appropriate health care professional; and physical, emotional, and developmental needs of clients, and ways to work with clients who have problems in these areas, including respect for the client, the client’s property, and the client’s family. Training in many of these topics must be conducted by a registered nurse. Each direct-care staff member must demonstrate competency in each of the required topics.

Some tasks required nurse supervision. This supervision must take place within 14 days after the initiation of the relevant task, and at least once every 62 days thereafter.

Personal Care Home – Resident Population

Mississippi licenses personal care homes as “residential living” or “assisted living.” A facility licensed for residential living can house residents who require personal care services or mental health services. A facility licensed for assisted living must provide personal care and supplemental services that must include, but are not limited to, medical services and emergency response services. An assisted living facility may provide medication administration services if a licensed nurse is present to administer prescription medications for those residents who cannot self-administer.

In either type of facility, a resident must be discharged if the resident requires:

- physical restraints;
- nasopharyngeal and/or tracheotomy suctioning;
- gastric feedings;
- intravenous fluids, medications, or feedings;
- an indwelling urinary catheter;
- sterile wound care;
- or treatment of pressure sores or exfoliative dermatitis.

Also, eviction is required in a facility licensed for residential living if the facility is unable to meet the resident’s needs. In a facility licensed for assisted living, eviction also is required if a resident is nonambulatory.

Nonetheless, either type of facility may accommodate residents who otherwise would need nursing facility care, if the resident consents in writing and if continued residence is approved by a licensed physician. However, no more than 10 percent of the facility population may remain under this exception.

Either type of facility may establish a separate Alzheimer’s Disease/Dementia Care Unit. Additional quality of care standards apply. In such a facility, eviction standards are set by the individual facility.

Personal Care Homes – Staffing

Either type of facility must provide training quarterly on topics and issues related to the population it serves.

In a facility licensed for assisted living, a licensed nurse must be present for at least eight hours per day.

In a facility licensed for residential living, a licensed physician or nurse must be present to supervise scheduled drug administration. If a facility is licensed for assisted living, a licensed nurse must be present to administer medication.

During day shifts, a facility of either type must have at least one direct-care staff member for each 15 residents. During evening shifts, the staff/resident ratio must be at least one to 25.

In an Alzheimer’s Disease/Dementia Care Unit, certain mandatory topics are specified in state law for initial orientation and quarterly continuing education. At least two staff members must be on duty at all times and a licensed nurse must be present on all shifts. At least three hours of nursing care (provided by nurse or nurse aide) must be provided for each resident every day.

Residential Care Facility – Resident Population

A facility may be licensed as residential care facility I or residential care facility II. Each type of facility must provide room, board, protective oversight, and medication administration. A level II facility, in addition, must assist with personal care, and supervise physician-directed health care.

In either type of facility, medication must be administered by either a physician, nurse, certified medication technician, or medication aide. Physician-prescribed diets may be provided only if monitored by the physician.

A level II facility may accommodate residents who have been diagnosed with Alzheimer's disease or a related dementia and are *physically capable* of negotiating a normal path to safety using assistive devices or aides but are *mentally incapable* of doing so, if specialized regulations are satisfied.

In either type of facility, a resident may be forced to move from the facility if the resident needs nursing facility care, needs care that the facility cannot provide, or is incapable mentally and physically of negotiating a normal path to safety, using assistive devices or aids when necessary.

With physician approval, either type of facility may allow temporarily – up to 45 days – the continued residence of a resident not capable of exiting the facility unassisted in case of an emergency.

Residential Living Facility – Staffing

In either type of employment, a staff member must receive an orientation of at least one hour. In addition, a direct-care staff member in a level II facility must receive at least 24 hours of initial training, 12 hours of which must relate to the care of residents with dementia.

In a level II facility, staff must complete at least four hours of in-service training each quarter.

A facility of either type must have adequate personnel on duty at all times for the proper care of residents and upkeep of the facility. At a minimum, each level I facility must have at least one employee for every 40 residents. In a level II facility, the minimum staff-to-resident ratio is one to 15 during the day shift, one to 20 during the evening shift, and one to 25 during the night shift. If a resident is mentally incapable of negotiating a pathway to safety, he or she counts as three residents for the purpose of these ratios.

Assisted Living Facility – Resident Population

Any assisted living facility must provide or arrange for 24-hour, on-site supervision by staff; personal services; assistance with self-medication and the arranging of health-related services; and assistance with activities of daily living as provided for in the facility admission agreement, as long as that assistance does not require a licensed health care professional or nurse. Also, any assisted living facility must provide, arrange or allow a resident to obtain third-party provider medication administration services, and/or skilled nursing care or services for temporary, short-term, acute illnesses, up to 30 consecutive days for one episode or a total of 120 days in one year.

An assisted living facility may be licensed in Category A, Category B, and/or Category C. A Category A facility (or unit) may admit residents who require administration of medications; are consistently and totally dependent in three or fewer activities of daily living due to cognitive or physical impairment; or consent to use of safety devices.

In general, Categories B and C are designed to accommodate residents who cannot be admitted or retained in a Category A unit. A Category B unit may admit residents who require skilled nursing or other services for more than 30 days for an incident or more than 120 days a year, if specified in the admission agreement and provided or arranged by either the facility or the resident; are consistently and totally dependent in four or more activities of daily living; may consent to use of safety devices; or require the use of indwelling catheters. A Category C unit may admit residents who have severe cognitive impairment that renders the resident incapable of expressing needs or of making basic care decisions; are at risk for leaving the facility without regard for personal safety; or may consent to use of safety devices.

No facility may have more than five residents needing Category B care.

In Category A and B facilities, a resident may be forced to move from the facility under any of the following conditions:

- Resident's needs exceed the level of services the facility provides;
- Resident, due to severe cognitive decline, is not able to respond to verbal instructions, recognize danger, make basic care decisions, express needs, or summon assistance (except as permitted by rule for Category B); or
- Resident has medical condition for which treatment cannot be appropriately developed in the assisted living environment.

A Category A facility may not retain a Category A resident who

- Requires physical or chemical restraint or confinement in locked quarters;
- Has Stage 3 or 4 pressure sores;
- Has a gastrostomy or jejunostomy tube;
- Requires continuous skilled nursing;
- Is consistently and totally dependent in four or more activities of daily living as result of a cognitive or physical impairment and cannot accomplish activities of daily living even with assistance; or
- Is unable to express needs or make basic care decisions due to severe cognitive impairment.

Assisted Living Facility – Staffing

In Category A and Category B facilities, staff member orientation topics must include applicable policies and procedures; services provided by the facility; the Montana Elder and Persons with Developmental Disabilities Abuse Prevention Act; and the Montana Long-Term Care Resident Bill of Rights Act. Ongoing training topics must include training to perform the services established in each resident service plan; the Heimlich maneuver and basic first aid; and maintenance of skin integrity and prevention of pressure sores. If a facility offers CPR, at least one person per shift must hold a current CPR certificate.

A Category B facility must employ or contract with an RN to provide or supervise nursing services. Non-professional direct-care staff must receive in-house training under the direct supervision of a registered nurse or a supervising nursing service. Staff members must work under direct supervision until trained and properly oriented. If a facility accommodates persons with severe cognitive impairment, additional training must be given on the facility's philosophy and approaches for persons with severe cognitive impairment; the skills necessary to care for residents who are unable to perform activities of daily living, personal care or health care planning, and who may exemplify behavior problems or wandering tendencies; and bowel and bladder care.

The Montana Board of Nursing has authorized future use of medication aides in assisted living facilities.

Each facility must have a sufficient number of qualified staff on duty 24 hours a day to meet the scheduled and unscheduled needs of each resident and to respond in emergency situations.

Assisted-Living Facility – Resident Population

An assisted living facility must provide shelter, food and care to individuals who require or request those services due to age, illness or physical disability. A resident must move from a facility if he or she requires complex nursing interventions or has a condition that is not stable or predictable, unless the resident arranges to have necessary care provided by private duty personnel or by a home health or hospice agency.

Certain requirements – applying to disclosure and certain other matters – apply only to those facilities claiming an expertise in the care of individuals with Alzheimer’s disease or a related dementia.

Assisted-Living Facility – Staffing

Staff members must receive orientation on topics including resident rights; resident service agreements; emergency procedures; physical and mental special care needs; abuse, neglect and misappropriation of money or property of a resident and reporting procedures; and disaster preparedness. Also, staff must receive at least 12 hours of ongoing training per year on topics appropriate to the staff member’s job duties.

Medication may be administered by a licensed health care professional or a medication aide.

A facility must maintain a sufficient number of staff with the required training and skills to meet the resident population’s requirements for personal care, assistance with activities of daily living, health maintenance, supervision and other supportive services. At least one staff person must be on the premises at all times as necessary to meet the needs of the residents as required in the resident service agreements.

Residential Facility for Groups – Resident Population

A residential facility for groups provides food, shelter, assistance and limited supervision to aged, infirm, mentally retarded or handicapped residents.

In general, a facility is not allowed to admit or retain a resident with any one of the following conditions:

- Inability to get out of bed;
- Need for restraints or confinement in locked quarters;
- Need for skilled nursing or other medical supervision on 24-hour basis;
- Need for care that facility is unable to provide, as determined by facility administrator or state;
- Need for gastrostomy care;
- Staphylococcus or other serious infection;
- Unmanageable bowel or bladder incontinence; or
- Any other non-exempt serious medical condition.

Nonetheless, a facility may accommodate residents who use wheelchairs or walkers if the facility is appropriately equipped and provides assistance at all exits and steps. Also, a facility may accommodate residents with the following special needs if the facility monitors and assists residents as needed and, if necessary, the resident receives appropriate treatment by a medical professional:

- Need for oxygen;
- Use of intermittent positive pressure breathing machine;
- Colostomy or ileostomy;
- Need for manual removal of fecal impactions, or use of enemas or suppositories;
- Indwelling catheter;
- Manageable bowel or bladder incontinence;
- Contractures;
- Diabetes;
- Regular intramuscular, subcutaneous or intradermal injections;
- Tracheostomy or open wound requiring treatment by medical professional; or
- Risk of developing or presence of pressure ulcer.

A facility may accommodate ill or injured residents who are expected to recover within 14 days. Also, a facility may provide hospice care for terminally-ill residents, including those residents who are unable to get out of bed or who require skilled nursing or other medical care on a 24-hour basis.

A facility may assist a resident with controlled substances or dangerous drugs if (among other conditions) the staff member administering the medication has completed state-approved training and passed an examination.

A facility may admit or retain a resident who requires protective supervision only if

- Resident is able to follow instructions;
- Resident is able to make needs known to caregivers; and
- Facility direct-care staff members can meet resident's needs and protect other residents.

Additional standards apply to facilities providing care to residents with Alzheimer's disease or similar dementias. Such a facility can admit or retain residents who require confinement in locked quarters.

Residential Facility for Groups – Staffing

Direct-care staff members must have appropriate knowledge, skills and abilities to meet residents' needs. Each direct-care staff member annually must complete at least eight hours of in-service training on providing for residents' needs.

Direct-care staff members in a residential facility caring for residents with Alzheimer's disease or a related dementia must complete at least eight hours of orientation within three months of employment. This training must include providing care to residents with Alzheimer's disease or a related dementia, and providing support to family members.

A facility must ensure a sufficient number of direct-care staff members to conduct activities and to provide care and protective supervision. At least one direct-care staff member must be present if one or more residents are present. In a facility with more than 20 residents, at least one staff member must be awake and on duty at all times. One additional staff member must be available to provide care within 10 minutes of notification.

In a facility caring for residents with Alzheimer's disease or a related dementia, at least one staff member must be awake and on duty at all times.

NEW HAMPSHIRE

Residential Care Home Facility – Resident Population

[Note: New Hampshire is in the process of developing regulations for the licensure of assisted living facilities. The state regulations for residential care home facilities technically have expired, although the state continues to issue and renew licenses for residential care home facilities.]

A residential care home facility provides home-like living arrangements; supervision; social or medical care or treatment by appropriately trained or licensed individuals; assistance with activities of daily living; and protective care. Social and health services may be provided directly by the facility or through contract with an outside provider.

A facility may admit residents who are eligible for admission to a nursing facility, if the facility can provide the required services and supports. These facilities are licensed as supported residential care facilities. Around-the-clock nursing supervision is allowed only on a temporary basis during a resident's recovery period.

Similarly, a facility may provide hospice care for terminally-ill residents who have less than one year to live.

A resident may be forced to move from a residential care home facility for medical reasons, for the resident's welfare, or if the resident is incapable of self-evacuation.

Residential Care Home Facility - Staffing

Staff members must receive training during orientation and annually as determined by the administrator to meet resident needs.

Nursing services (if any) must be provided by a registered nurse or licensed practical nurse.

Sufficient staff must be on-site 24 hours a day to meet residents' scheduled or unpredictable needs.

Assisted Living Residence – Resident Population

An assisted living residence must provide or coordinate the following services as needed, based on an initial assessment conducted by a registered nurse:

- Assistance with personal care;
- Supervision of and assistance with self-administration of medications or administration of medications according to a physician's orders by trained, supervised personnel as needed;
- Nursing services, including nursing services for residents who require formal long-term care;
- Health care services as appropriate;
- Assistance with transportation to and from health care services; and
- Pharmaceutical services and special diets as ordered by a physician.

A facility may provide care for residents with psychiatric disorders and may offer hospice care.

A facility must specify in its admission agreement whether a resident with the following condition(s) will be retained:

- Need for around-the-clock nursing supervision;
- Inability to get out of bed for more than 14 consecutive days;
- Consistent total dependence in four or more activities of daily living;
- Severe cognitive decline and inability to respond to cueing and simple directions;
- Stage 3 or Stage 4 pressure sores or multiple Stage 2 pressure sores;
- Need for assistance with transfer from three or more staff members; or
- Medically unstable condition and/or special health problems that cannot be appropriately addressed in the environment.

Assisted Living Residence – Staffing

All health care services must be directed by a registered professional nurse, who may delegate limited medication administration duties to a personal care assistant who has successfully completed a medication administration course and an examination.

All direct-care staff must complete orientation at the time of employment and must complete annual in-service training on topics to include, at a minimum, provision of services and assistance in accordance with concepts of assisted living; care of residents with cognitive and physical impairment and dementia; emergency plans and procedures; and infection prevention and control.

Each personal care assistant must have completed a state-approved nurse aide training course or homemaker-home health aide training program; each requires over 75 hours of training. In addition, personal care assistants must complete at least 20 hours of continuing education every two years on assisted living concepts and topics, including physical impairment and dementia. Personal care assistants who administer medications must complete an additional 10 hours of ongoing continuing education on medication administration and topics of current drug use relevant to the elderly.

A facility must employ a sufficient number of staff to provide basic care and resident assistance and supervision based on each resident's needs. A facility must staff a minimum of one awake personal care assistant and one additional staff member at all times. At least one registered professional nurse must be on-call or capable of being reached by telephone.

Adult Residential Care Facility – Resident Population

An adult residential care facility provides or contracts to provide programming, room and board, assistance with activities of daily living, and general supervision.

Therapeutic diets and prescribed supplements must be provided if ordered in writing by a physician. Facility staff may assist with medications with the written consent of the resident or resident’s guardian.

A resident must move from the facility if the facility is unable to provide care appropriate for the resident or if the resident requires continuous nursing care including, but not limited to, the following conditions:

- Ventilator dependency;
- Stage 3 or 4 pressure sores;
- Intravenous therapy or injections directly into the vein;
- Serious airborne infectious disease in a communicable state;
- Need for nasogastric or gastric tubes;
- Need for tracheostomy care; or
- Physician certification that placement is no longer appropriate.

Adult Residential Care Facility – Staffing

Direct-care staff must have adequate education, training, or experience to provide for residents’ needs. Staff must complete an initial orientation and on-going training at least annually on topics to include: fire safety; first aid; safe food handling practices; confidentiality of records and resident information; infection control; resident rights; reporting requirements for abuse, neglect and exploitation; transportation safety; and quality care based on current resident needs.

All staff assisting with medications must have completed an approved assistance with medication training program or be licensed by the state to administer medications (*e.g.*, nursing license).

At least one direct-care staff person must be on duty and awake for every 15 residents during waking hours. During resident sleeping hours, facilities must maintain at least the following staff-resident ratios:

- 15 or fewer residents one direct-care staff person awake at all times
- 16 to 60 residents one direct-care staff person awake at all times, and one additional staff person immediately available on the premises
- 61 to 120 residents 2 direct-care staff persons awake at all times, and one additional staff person immediately available on the premises
- More than 120 residents 3 direct-care staff persons awake at all times, and one additional staff person immediately available on the premises for each additional 40 residents or fraction thereof

Assisted Living Residence – Resident Population

An assisted living residence provides or arranges for on-site monitoring along with personal care services and/or home care services. An assisted living residence must hold a license as either an adult home or an enriched housing program. The primary difference between an adult home and an enriched housing program is that in enriched housing a resident has an independent housing unit.

If a facility holds an enhanced assisted living certificate, the facility may retain (but not admit) a resident with one or more of the following conditions:

- Chairfast and unable to transfer, or requiring the physical assistance of another person to transfer.
- Requires physical assistance in order to walk.
- Requires physical assistance in order to climb or descend stairs.
- Dependent on medical equipment and requiring more than intermittent or occasional assistance from medical personnel.
- Chronic unmanaged urinary or bowel incontinence.

The admission agreement must include, among other things, the criteria used by the facility to determine who may be admitted or retained at the facility.

To obtain an enhanced assisted living certificate, a facility must submit a plan to the state setting forth how residents' additional needs will be met. Such a plan must include, among other things, a written description of services, staffing levels, and staff education and training. To provide enhanced assisted living, a facility may hire staff directly or contract with a home care services agency. State approval is required for a facility to provide enhanced assisted living.

A resident can remain in an enhanced assisted living program only if the facility, the resident's physician and (if applicable) the resident's home care agency each agree that the resident's needs can be met at the facility.

If a resident needs around-the clock skilled nursing care, he or she generally must be discharged from an enhanced assisted living program. An exception can be made if each of the following conditions is met:

- Resident hires appropriate nursing, medical or hospice staff to care for his or her increased needs.
- Resident's physician and home care services agency each determine that, with the provision of such additional nursing, medical or hospice care, the resident can be safely cared for in the facility.
- Facility agrees to retain the resident and to coordinate the care provided by the facility and the additional nursing, medical or hospice staff.

If a facility markets itself as serving individuals with special needs, including, but not limited to, individuals with dementia or cognitive impairments, the facility must submit a special needs plan to the state, setting forth how residents' special needs will be met. Such a plan must include, among other things, a written description of specialized services, staffing levels, staff education and training, work experience, professional affiliations or special characteristics relevant to serving persons with special needs, and any environmental modifications that have been made. The state will develop standards to judge whether a

facility is capable of providing special care, and state approval is required for a facility to claim a specialization.

Absent approval to offer enhanced assisted living, an adult home or enriched housing program cannot retain a resident with any of the following conditions:

- Requires services that cannot be provided under facility’s license.
- Requires continual medical or nursing care.
- Requires health or mental health services which are not available or cannot be provided safely by local service providers.
- Interferes with facility’s orderly operation.
- Has unstable medical condition requiring continual skilled observation.
- Refuses or unable to comply with prescribed treatment program.
- Chronically bedfast.
- Chronically chairfast and unable to transfer without help.
- Requires physical assistance of another person to walk, or climb or descend stairs.
- Has chronic unmanaged urinary or bowel incontinence.
- Suffers from communicable disease or health condition.
- Dependent on medical equipment (unless equipment can be maintained by resident or approved community resources).

Assisted Living Residence — Staffing

Staff members in adult homes and enriched housing programs complete an orientation and subsequent continuing education that includes at least the needs of the resident population, resident rights, facility rules, and staff responsibilities. In an enriched housing program, personal care staff must complete a state-approved training program.

In both adult homes and enriched housing programs, staff must be sufficient to meet resident needs. In an adult home, each resident must receive a weekly minimum of 3.75 hours of personal care. At all times, an adult home must meet the following minimums:

# of Residents	Staff Required
40-40	1
80-80	2
150-150	3
200-200	4

An additional staff person is required for each additional 60 residents.

In an enriched housing program, a resident must receive a minimum of six hours weekly of personal care.

Assisted Living Residence – Resident Population

An assisted living residence may be licensed as an adult care home or a multiunit assisted housing with services facility. The primary difference between the two types is that an adult care home generally provides services itself while, in the multiunit assisted housing with services facility, services frequently are provided by an outside provider such as a home care or hospice agency.

This summary generally focuses on the rules applicable to an adult care home.

An adult care home must provide a minimum of one meal a day, housekeeping services and 24-hour scheduled and unscheduled personal care services directly or under written agreement with licensed home care or hospice agencies.

An adult care home also must provide occasional or incidental medical care, such as the rotation of residents confined to bed, and the application of heating pads. A facility may provide medication administration by designated, trained staff, or may allow self-administration of medications by competent and physically able residents.

An adult care home may provide hospice care if statutory requirements are met, and may provide supervision to persons with cognitive impairments.

If a facility chooses to offer a special care unit, for persons with Alzheimer's disease or a related dementia, separate policies and procedures must be set up for this unit.

With the participation of a licensed health professional, the following care can be provided, or the following conditions can be accommodated:

- Bowel and bladder training to regain continence;
- Urinary catheter bag;
- Chest physiotherapy or postural drainage;
- Well-established colostomy or ileostomy;
- Inhalation medicine by machine;
- Medication administration through gastrostomy feeding tube;
- Medication administration through injection;
- Oxygen administration and monitoring;
- Oral suctioning;
- Care of well-established tracheostomy;
- Continuous positive air pressure devices;
- Prescribed heat therapy;
- Pressure sores up to and including Stage 2; and
- Swallowing problems.

An adult care home cannot accommodate a resident with any of the following conditions unless a physician certifies that the condition can be accommodated on a temporary basis:

- Ventilator dependency;
- Need for continuous licensed nursing care;
- Certification by physician that placement is no longer appropriate;
- Inability of facility to meet resident's health needs; and
- Determination by state that facility cannot meet resident's needs.

A facility may force a resident to move for medical reasons or for the resident's welfare or health.

Assisted Living Residence –Staffing

At least one staff member who has completed CPR training must be at an adult care home at all times.

Direct-care staff members in adult care homes must complete at least 80 hours of training and must be evaluated in the following areas: observation and documentation; basic nursing skills (including health-related tasks); personal care skills; cognitive, behavioral, and social care; basic restorative services; and resident rights. In addition, medication aides must complete at least six hours of continuing education on medication administration.

In a special care unit for residents with Alzheimer's disease or a related dementia, additional dementia-specific training must be provided: six hours of orientation on residents' nature and needs, 20 hours of training specific to the population within six months of employment, and 12 hours continuing education annually, of which six hours must be dementia-specific.

A facility must provide competent medication administration staff.

At least one staff member must be in the facility at all times when a resident is present, and responsible staff must be on duty at all times to assist with activities of daily living, allow freedom of movement, supervise smoking, aid in emergency evacuation, and respond immediately in case of accident.

The day and swing shifts must provide the greater of 0.4 hours of aide duty per resident, or eight hours of aide duty for each 20 residents plus three hours of aide duty time total for any additional residents. The night shift must ensure at least eight hours of aide duty per 30 or fewer residents. Higher standards apply to an Alzheimer's special care unit: a minimum during the day and swing shifts of one staff person for up to eight residents and one hour of staff time for each additional resident for first and second shifts and, during the night shift, one staff person for up to 10 residents and one hour of staff time for each additional resident.

NORTH DAKOTA

Assisted Living Facility—Resident Population

An assisted living facility must provide or coordinate individualized support services to meet resident needs while maintaining resident independence to the greatest extent possible. Support services must include assistance with activities of daily living, and supervision of medication administration and nutrition.

A facility may provide health services to prevent disease, to promote, maintain or restore health, or to minimize the effects of illness or disability.

Assisted Living Facility—Staffing

Medication can be administered by non-nurses who have completed the training required by state law.

Residential Care Facility – Resident Population

A residential care facility houses individuals who require supervision and personal care services. On a routine basis, a facility may provide the following skilled nursing care: supervision of special diets, application of dressings, and medication administration. Other skilled nursing care may be provided on a part-time, intermittent basis for not more than a total of 120 days in a twelve-month period. These skilled nursing services include irrigations, catheterizations, objective observation of changes in the resident's condition, and special procedures contributing to rehabilitation.

A facility may have a designated unit specializing in the care of residents with Alzheimer's disease or related dementias.

A resident must be able to self-administer medication, unless medication is administered by a home health agency, hospice care program, or a member of the staff of the residential care facility who is qualified to perform medication administration.

A facility may not admit or retain a resident if the resident requires skilled nursing care that exceeds what can be provided under the facility license or if, more generally, the resident's needs cannot be met at the facility.

Residential Care Facility – Staffing

All staff members providing personal care must have training in first aid, and in how to meet resident needs. If the facility cares for residents with increased emotional needs or with behavioral problems, staff members must receive training in caring for such residents.

A staff member may administer medication only if the staff member is a nurse or a physician. A nurse must coordinate the overall nursing care of each resident who receives applications of dressings.

At a minimum, at least one qualified staff member must be on duty at all times. If only one qualified staff member is on duty, another qualified staff member must be on call.

Overall, staffing must be adequate to meet resident needs. Nursing staff must be adequate to provide skilled nursing care as necessary.

Assisted Living Center – Resident Population

An assisted living center may house residents who require assistance with transfers, ambulation, or activities of daily living; nursing supervision; medication assistance, and intermittent or unscheduled nursing care. Intermittent nursing care and home health aide services may be provided by a home health agency.

A facility may be licensed to provide specialized services to residents with Alzheimer’s disease or a related dementia.

A facility may not house any resident who needs care that the facility is not licensed to provide or is not capable of providing. State law specifically provides that transfer or discharge is required if a facility cannot meet a resident’s needs for privacy or dignity.

Assisted Living Center – Staffing

A facility’s direct-care staff must be trained in first aid and CPR. Staff members providing socialization, activity, and exercise services must be qualified by training. Facilities offering specialized units must ensure that staff members are trained to meet residents’ specialized needs.

Unlicensed facility staff members can administer medication only after completing a state-approved training program.

Facility staffing must be adequate to provide the services specified in each resident’s admission agreement, and to administer medication to meet resident needs. At least one staff member must be on duty and awake at all times.

Assisted Living Facility – Resident Population

An assisted living facility provides individual living units. A residential care facility, by contrast, may have shared units.

An assisted living facility offers or coordinates a range of services to meet residents' needs, including some health care needs. Resident care includes assistance with mobility (including one-person transfers), bathing/personal hygiene, dressing/grooming, eating, and bowel and bladder management (including incontinence management).

An assisted living facility must employ or contract with a registered nurse, who provides health care assessment and periodic resident monitoring, as appropriate, along with delegation of nursing tasks to unlicensed staff members as allowed by state law. A facility can provide intermittent nursing services for residents whose medical needs are stable and predictable.

An assisted living facility (as well as a residential care facility) may license an Alzheimer's care unit to provide specialized care for residents with Alzheimer's disease or a related dementia.

There are certain health-related situations that allow—but do not require—a facility to force a resident to move from the facility. The facility must give written notice of 14 to 30 days to force a resident to leave under any one of the following conditions:

- Facility staff has determined that the resident's needs exceed the facility's level of service, after the resident has returned to the facility following treatment off-site for a sudden change in condition requiring medical or psychiatric treatment.
- Facility is unable to safely evacuate resident in case of an emergency.
- Resident requires around-the-clock nursing supervision.

For the conditions listed below, however, notice of at least 30 days is required:

- Resident's need for assistance with activities of daily living exceeds facility's ability to provide such assistance.
- Resident, due to severe cognitive decline, is not able to respond to verbal instructions, recognize danger, make basic care decisions, express need or summon assistance.

Assisted Living Facility — Staffing

Initial training must include at least the principles of assisted living; changes associated with the aging process, including dementia; resident rights, including confidentiality; performing assistance with activities of daily living; resident service plans; emergency procedures; responding to behavior issues; infection control; and observation and reporting skills. At least one staff member on each shift must be trained in first aide, CPR, and the Heimlich maneuver.

In an Alzheimer's care unit, the training topics must include a description of Alzheimer's disease and other dementias; the facility's philosophy of care for residents with Alzheimer's disease and other dementias; the facility's policies and procedures for relevant care issues; and techniques for handling common behavior problems. In-service training must be provided at least quarterly, and must cover specified topics relevant to the care of residents with Alzheimer's disease or another dementia.

As discussed above, the facility must employ a registered nurse to provide (among other things) assessment and monitoring.

Staff must be adequate to meet each resident's 24-hour scheduled and unscheduled needs, and to respond in emergency situations.

Residential Care Facility – Resident Population

A residential facility is classified as Class I or II. A Class I license is for facilities that house residents who need only assistance with activities of daily living. A Class II license is required if a resident needs full assistance in at least one activity of daily living, or has an increase in medical acuity. Accordingly, a Class II facility must either provide for nursing care or arrange for nursing tasks to be delegated to the staff by a registered nurse, pursuant to state law.

A Class I facility can retain – but not admit – a resident who needs full assistance with an activity of daily living, if the facility demonstrates that it can provide appropriate care, and the fire evacuation standards can be met.

Subcutaneous injections may be self-administered, or administered by a nurse, trained staff member, or a relative of the resident.

A residential care facility (as well as an assisted living facility) may license an Alzheimer's care unit to provide specialized care for residents with Alzheimer's disease or a related dementia.

A resident can be forced to move from the facility for any one of the following health-related reasons:

- Medical reasons.
- Behavior which substantially interferes with other residents.
- Resident's care needs exceed facility's ability or classification.
- Facility cannot accomplish resident evacuation in accordance with state law.

Residential Care Facility – Staffing

An initial training must consist of at least 6 hours, and must include at least a review of residential care philosophy, a review of residents' unique needs, use of care plans, delegation of tasks from nurses to non-nurses, fire evacuation, and universal precautions to prevent infections. All direct-care staff must be trained in the Heimlich maneuver; CPR and basic first aid are recommended but not required.

At least 12 hours of continuing education must be completed annually.

Nursing tasks may be delegated by a registered nurse to direct-care staff as safe, per specified criteria. A Class II facility must employ or contract with a registered nurse, who provides health care assessment and periodic resident monitoring, as appropriate, along with delegation of nursing tasks to unlicensed staff members as allowed by state law.

A Class I facility must meet the following staffing minimums:

7 a.m. - 9 p.m.

- 6-15 residents 1 staff member
- 16-30 residents 2 staff members
- 31-60 residents 3 staff members
- 1 additional staff member for each 20 residents

9 p.m. – 7 a.m.

- 6-30 residents 1 staff member
- 31-50 residents 1 staff member
- 51-100 residents 1 staff member on duty, with back-up staff on site for evacuation

The following minimums apply to Class II facilities:

7 a.m. – 9 p.m.

- 6-16 residents 1 staff member
- 17-30 residents 2 staff members
- 31-60 residents 3 staff members
- 1 additional staff member for each 20 residents

9 p.m. – 7 a.m.

- 6-30 residents 1 staff member
- 31-50 residents 1 staff member on duty, with back-up staff on site for evacuation.
- 51-100 residents 2 staff members

Personal Care Home – Resident Population

Personal care homes are designed for individuals who require assistance with activities of daily living, but who do not require nursing home care. A facility can provide assistance with a resident's self-administration of medication. Also, medication can be administered by a licensed health care professional or (more likely) by a direct-care staff member who has completed a state-approved training course for medication administration.

Hospice services may be provided by a licensed hospice.

A facility can force a resident to move if the facility “determines that [the] resident’s functional level has advanced or declined so that the resident’s needs cannot be met in the [facility].” If the resident disagrees, “consultation with an appropriate assessment agency or the resident’s physician shall be made to determine if the resident needs a higher level of care.”

A facility also can force a resident to leave “if meeting the resident’s needs would require a fundamental alteration in the [facility’s] program or building site, or would create an undue financial or programmatic burden on the [facility].”

A resident “has the right to use both the home’s procedures and external procedures, if any, to appeal involuntary discharge.”

Personal Care Home – Staffing

Direct-care staff members may be as young as 16, although a staff member younger than 18 may not perform tasks related to medication administration, and must be supervised when performing tasks relating to incontinence care, bathing, or dressing.

For each 50 residents, the facility at all times must have at least one on-duty direct-care staff member who is trained in first aid and CPR.

Prior to employment, each direct-care employee must receive an orientation to fire safety and emergency preparedness. Within 40 scheduled working hours, the employee must be trained in resident rights, emergency medical plans, and mandatory reporting of abuse. A direct-care employee may not perform unsupervised assistance with activities of daily living until the employee completes a state-approved training course and passes the corresponding test. The training course must include at least activities of daily living, personal hygiene, care of residents with dementia, the aging process, assessments, nutrition, recreation, gerontology, universal precautions to avoid infections, and care for residents with limited mobility.

Direct-care staff persons must receive at least 12 hours of continuing education annually. This continuing education must include at least medication self-administration, care of residents with dementia, infection control, and residents’ personal care needs. Additional training requirements apply to direct-care staff employed in a facility or unit licensed to provide specialized care to residents with dementia.

Staff must be adequate in numbers to meet residents’ needs. At a minimum, each mobile resident must receive an average of one hour of personal care services per day, and an average of at least two hours of personal care services per day must be provided to each immobile resident or resident with special needs. At least one direct-care staff member must be awake at night if the facility has at least 16 residents, or if at least one resident is immobile.

Assisted Living Residence – Resident Population

Licensure for assisted living residences has subclassifications based on a resident's ability to protect himself or herself in the case of a fire, and to self-administer medication. The fire-related classifications are called F1 and F2 licensure, and are based on the facility's construction and design. A facility licensed as F1 is appropriate for residents who are not capable of self-preservation in case of a fire, while a facility licensed as F2 is appropriate for residents who are capable of self-preservation. The medication-related classifications are called M1 and M2 licensure, and are based on facility staffing. A facility licensed as M1 is appropriate for residents who cannot self-administer medication, while a facility licensed as M2 is appropriate for residents who need no more than assistance in the self-administration of medication.

In addition, dementia care licensure is required if at least one resident has dementia to an extent that safety or inappropriate social behavior becomes a concern.

A facility must provide each potential resident with written disclosure that includes (but is not limited to) the facility's licensure level, admission and discharge criteria, and available services.

Unlicensed staff members are permitted to assist residents in the self-administration of medications, but are not allowed to administer medication. Appropriately licensed staff members may store and administer medications and monitor health indicators including blood pressures, adverse reactions, and glucose levels.

Daily skilled nursing care or therapy can be provided in an assisted living residence to an established resident in two circumstances – when a terminally-ill resident is receiving services from a hospice agency, or when the nursing care or therapy is provided for no more than 21 days for a condition resulting from a temporary illness or injury.

At the resident's own expense, he or she may arrange for services not available through the facility, as long as the resident remains in compliance with the admission agreement and applicable state law.

A resident can be forced to move from a facility for any one of the following health-related reasons:

- Need for medical or skilled nursing care, including daily professional observation and evaluation, as provided in a health care facility.
- Resident's condition is disqualifying under the relevant licensure category (F2 or M2).
- Resident is bed-bound or in need of assistance of more than one person for ambulation.
- Resident refuses assistance with medications, and facility reasonably believes that resident cannot safely possess and control medications without danger to self or others.

Assisted Living Residence – Staffing

All direct care employees must receive 12 hours of initial training, including at least fire and emergency procedures; recognition and reporting of abuse, neglect, and mistreatment; assisted living philosophy; resident rights; confidentiality; basic sanitation and infection control; food service; medical emergency procedures; basic knowledge of aging-related behaviors; personal assistance; assistance with medications; safety of residents; record-keeping; service plans; reporting; and (where appropriate) basic knowledge of cultural differences. Continuing education must be provided as appropriate, and must include the same topics required in the initial training.

Direct-care staff members in a dementia special care facility or unit must receive an additional 12 hours of initial training, including at least understanding various dementias; communicating effectively with dementia residents; and managing behaviors. Continuing education also must include these dementia-related topics.

An assisted living residence must be visited by a registered nurse at least once every 30 days. In facilities with at least one full-time-equivalent nurse, nurse review must be completed at least once every 90 days.

In a facility licensed for dementia special care, a registered nurse must be on staff and available for consultation at all times. The nurse must have appropriate training and/or experience with dementia to manage and supervise all resident dementia-related health and behavioral issues.

At all times, a facility must have at least one awake staff member and (it may be the same person) at least one staff member with CPR training.

Staffing must be sufficient to provide the necessary care and services to attain or maintain the highest practicable physical, mental and psychosocial well being of the residents, according to the appropriate level of licensing.

SOUTH CAROLINA

Community Residential Care Facility – Resident Population

A community residential care facility provides or coordinates personal care services. Residents must receive appropriate assistance with activities of daily living. Medication (to include oxygen) can be administered upon a physician's order.

Nursing care may be furnished to residents in need of short-term intermittent nursing care while convalescing from illness or injury, provided the nursing services are not furnished by facility staff members.

A resident is forced to move from the facility if his or her needs cannot be met there or (more specifically) if the resident needs hospitalization, nursing facility care, or the continuous daily attention of a facility staff licensed nurse.

Community Residential Care Facility – Staffing

A newly-hired staff member must be given an orientation to acquaint him or her with the facility's organization and environment, and with the job's specific duties and responsibilities. Within 24 hours of the first day of employment, he or she must receive training on fire response and emergency preparedness.

Prior to resident contact and at a frequency determined by the facility, but at least annually, an employee must receive training in at least basic first aid, procedures for checking and recording vital signs, care of persons with contagious or communicable diseases, medication management, care of persons specific to the physical/mental condition being cared for in the facility, use of restraints in accordance with regulations, OSHA standards regarding blood-borne pathogens, confidentiality of resident information, and (for designated staff members) CPR.

Facility staff members may administer routine medications, acting in a surrogate family role, provided these staff members have been trained to perform these tasks. Facility staff members may administer injections of medications only in instances where medications are required for diabetes and conditions associated with anaphylactic reactions. A staff licensed nurse may administer influenza and vitamin B-12 injections and perform tuberculin skin tests. Although facility staff members may monitor blood sugar levels under certain circumstances, the provision of sliding scale insulin injections by facility staff members is prohibited.

Staff must be adequate in number and qualification to meet residents' needs. During peak hours, at least one staff member must be present for each eight residents. During non-peak (nighttime) hours, the minimum ratio is one staff member for each 30 residents. At least one staff member must be awake at all times in a facility with more than eight residents, or with at least one resident unable to evacuate unassisted in an emergency. The state has authority to set higher minimum staffing levels if resident needs warrant such higher minimums.

A facility may provide a unit or program specializing in the care of residents with Alzheimer's disease or a related dementia. Such a facility must disclose to potential residents how the care provided is especially applicable to or suitable for persons with Alzheimer's disease. The disclosure information must include criteria for admission, transfer, and discharge; care planning; staffing patterns; staff training; physical environment; resident and participant activities; the family's role in care; and unique costs to the resident associated with specialized service delivery.

SOUTH DAKOTA

Assisted Living Center – Resident Population

If a facility has cognitively impaired residents, it must be approved for medication administration.

Skilled nursing services or rehabilitation services provided to a resident must be limited to less than 8 hours daily and 28 hours weekly.

A resident can be forced to move from the facility if the resident requires more than intermittent nursing care or rehabilitation services, or if the facility cannot meet the resident's needs.

Assisted Living Center – Staffing

All staff members must complete an orientation along with continuing education. The continuing education annually must include at least fire prevention and response, emergency procedures and preparedness, infection control and prevention, accident prevention and safety procedures, proper use of restraints, resident rights, confidentiality of resident information, incidents and diseases subject to mandatory reporting and the facility's reporting mechanism, care of residents with unique needs, and residents' nutrition and hydration needs. If the facility has cognitively impaired residents, each staff member within one month of initial employment must complete training on the care of residents with unique needs.

A facility that administers medication must employ or contract with a licensed nurse to review and document residents' care and condition at least weekly.

If unlicensed staff members are to administer medication, they must be trained by a registered nurse or registered pharmacist. The unlicensed staff members must receive ongoing resident-specific training for medication administration, and annual training in all aspects of medication administration occurring at the facility.

If at least one resident depends on supplemental oxygen, staff must be trained in oxygen safety and proper oxygen administration.

A facility must employ or contract with a dietician if at least one resident requires a therapeutic diet.

At least one staff person must be on duty at all times although, if the facility has ten or fewer beds, that staff member may be asleep if certain fire code standards are met. Each resident at a minimum must receive 48 minutes of direct care daily. The facility must have documentation that assures that residents' individual needs are identified and addressed.

Assisted-Care Living Facility – Resident Population

An assisted-care living facility may provide assistance with activities of daily living, assistance with the self-administration of medication, and medication administration (by an appropriately-licensed professional). Part-time or intermittent nursing services may be provided at the facility by a home care organization.

In general, a facility may not admit nor permit continued stay if a resident has any one of the following conditions:

- In latter stages of Alzheimer’s disease or a related dementia.
- Requires nasopharyngeal or tracheotomy aspiration.
- Requires initial phases of a regimen involving administration of medical gases.
- Requires a nasogastric tube.
- Requires arterial blood gas monitoring.
- Requires gastrostomy feedings.
- Is not able to communicate needs.
- Requires intravenous or daily intramuscular injections or intravenous feedings.
- Requires insertion, sterile irrigation and replacement of catheters, except for routine maintenance of Foley catheters.
- Requires sterile wound care.
- Requires treatment of extensive Stage 3 or stage 4 pressure ulcers or exfoliative dermatitis.
- Requires four or more skilled nursing visits per week.

Regardless, a resident can be retained for a 21-day period and (upon state approval) a 21-day extension, if the resident requires intravenous or daily intramuscular injections or intravenous feedings; insertion, sterile irrigation and replacement of catheters, except for routine maintenance of Foley catheters; or sterile wound care. Also, the resident is allowed to provide self-care, indefinitely, if he or she has a documented history of providing self-care successfully in nasopharyngeal suctioning, care of a gastrostomy or of a catheter that is the resident’s sole physical means of eliminating waste, or oxygen administration.

More generally, state statute requires that a resident “be transferred to a licensed hospital or licensed nursing home when, in the opinion of the resident’s treating physician, such services available to such resident in the assisted-care living facility as aforesaid no longer are adequate for the care of the resident.”

Assisted-Care Living Facility—Staffing

The relevant regulation states that “direct-care staff must be at least eighteen (18) years of age and able to comply with these rules.” The facility is required to “[h]ave a licensed nurse available as needed.”

Staff must be adequate to meet resident needs.

Assisted Living Facility – Resident Population

An assisted living facility generally is licensed to provide (among other things) assistance with activities of daily living, skin care, medication administration, and temporary services by health care professionals. Health care professionals may provide services within the professional's scope of practice, but not on an ongoing basis comparable to nursing facility care. Residents may contract to have home health services delivered.

Texas licenses different types of assisted living facilities. In a Type A facility, a resident must not require routine attendance during nighttime hours, and must be capable of evacuating the facility unassisted in case of an emergency. A Type B facility, on the other hand, may admit or retain a resident who requires routine attendance during nighttime hours, or who is unable to evacuate the facility unassisted. A resident may not be permanently bedfast, but may require assistance in transferring to or from a wheelchair. A Type E facility is similar to a Type A facility in the type of residents that can be accommodated, although a Type E facility only may provide medication supervision and general supervision of residents' welfare, and may not provide substantial assistance with activities of daily living.

A facility may apply to the state for a waiver to avoid transferring a resident that the state has deemed inappropriately placed. Also, more expansively, a resident can remain in a facility regardless of medical condition if the state receives written consent from the resident (or a family member), and the resident's physician submits a written assessment that indicates that the placement is adequate. The facility must obtain a waiver from the state of applicable laws relating to emergency evacuation.

A Type B facility may be specially certified for care of residents with Alzheimer's disease or a related dementia.

A facility must disclose its scope of services to prospective residents on a standardized form developed by the state.

A resident may be forced to leave the facility if (among other reasons) the resident requires the services of facility employees who are licensed nurses on a daily or regular basis; or the resident's needs cannot be met by the assisted living facility, or by services secured by the resident.

Assisted Living Facility – Staffing

All staff members must have an orientation of at least four hours, including at least reporting of abuse and neglect; confidentiality of resident information; universal precautions; conditions about which the facility manager should be notified; resident rights; and emergency and evacuation procedures. Direct-care staff members must complete an additional 16 hours of training, covering the provision of assistance with activities of daily living; residents' health conditions and how they may affect the provision of care; safety measures to prevent accidents and injuries; emergency first aid procedures, such as the Heimlich maneuver and actions to take when a resident falls, suffers a laceration, or experiences a sudden change in physical or mental status; managing disruptive behavior; and behavior management, including prevention of aggressive behavior and de-escalation techniques, or fall prevention, or alternatives to restraints.

Direct-care staff (including nurses, nurse aides, and medication aides) must complete at least six hours annually of continuing education. At least one hour must cover behavior management. Other topics are suggested by state regulation.

In a facility specially certified for Alzheimer's disease care, the four-hour staff member orientation must include specified topics related to Alzheimer's disease. The subsequent 16 hours of training for direct-care staff must include providing assistance with the activities of daily living; emergency and evacuation procedures specific to the dementia population; managing dysfunctional behavior; and behavior management, including prevention of aggressive behavior and de-escalation techniques, or fall prevention, or alternatives to restraints. Continuing education must consist of at least 12 hours annually; again, suggested topics are listed in state regulation.

Medication may be administered by medication aides certified under state law. A medication aide must have been employed by the facility for at least 90 days, and must complete successfully a specified course and examination. A medication aide must be supervised directly by a licensed nurse on duty or on call.

Staff must be sufficient to meet resident needs. In a Type B facility, and in a large Type A or E facility, a staff member must be awake and immediately available at all times.

Assisted Living Facility—Resident Population

An assisted living facility is licensed either as Type I or Type II. A Type I facility provides assistance with activities of daily living. All residents must be capable of leaving the facility independently in case of an emergency. A Type I facility may provide nursing care according to facility policy.

A Type II facility provides personal and health care services to residents who may be “semi-independent.” A Type II facility may accept or retain residents who require significant assistance in more than two activities of daily living, provided that the resident’s needs are met. A Type II facility with an approved secure unit (preventing residents from leaving) may admit residents with a diagnosis of Alzheimer’s disease or a related dementia if the resident is able to exit the facility with limited assistance from one person.

Neither a Type I facility nor a Type II facility may provide skilled nursing care, although either must assist residents in obtaining required services.

Family members may administer medications from a package set up by a licensed practitioner or licensed pharmacist which identifies the medication and time to administer. If a family member assists with medication administration, the family member must sign a waiver indicating that he or she agrees to assume the responsibility to fill prescriptions, administer medication, and document that the medication has been administered.

A resident is required to move from either type of facility if the facility cannot provide required services, if the resident requires inpatient hospital or long-term nursing care, or if the resident has active tuberculosis or another chronic communicable disease that cannot be treated in the facility or on an outpatient basis.

In addition, in a Type I facility, a resident is required to move if the resident requires significant assistance during night sleeping hours, requires significant assistance with two or more activities of daily living, or would need assistance to exit the facility in an emergency.

Assisted Living Facility—Staffing

Initial orientation for staff must include at least the job description; ethics, confidentiality, and residents’ rights; fire and disaster plan; policy and procedures; and reporting responsibility for abuse, neglect and exploitation. In-service training must include topics that are relevant to the employee’s duties.

Personnel providing personal care to residents in a Type II facility must be certified nurse aides or complete a state-certified nurse aide program within four months of the date of hire. At least one certified nurse aide must be on duty at all times.

A Type I facility must employ or contract with a registered nurse to provide or delegate medication administration. A Type II facility must employ or contract with a registered nurse to provide or supervise nursing services including assessments, health monitoring, and routine nurse tasks, including those tasks that may be delegated to unlicensed facility staff members.

A Type II facility with an approved secure unit must have at all times at least one staff member with documented training in Alzheimer’s disease and dementia.

Qualified competent personnel shall be on the premises 24 hours a day to meet residents’ needs. At all times there must be at least one staff person on duty who has training in basic first aid, the Heimlich maneuver, CPR, and emergency procedures.

Assisted Living Residence—Resident Population

An assisted living residence provides supportive services and health services. A facility may provide nursing services. A resident who has an identified acute or chronic medical problem or who is deemed to need nursing overview or supervision must be under a physician's general supervision.

Resident needs are measured through a state-developed assessment protocol. Under the protocol, an individual cannot be admitted or retained if he or she has an excessive need for assistance with activities of daily living, a cognitive impairment of greater than moderate severity, or behavioral symptoms that do not respond to intervention.

Although the following conditions theoretically are grounds for discharge, they can be accommodated if the resident's needs can be met either by the facility or by an appropriately licensed outside provider:

- Need for ventilator or respirator.
- Stage III or IV pressure sores.
- Need for nasopharyngeal, oral or tracheal suctioning.
- Need for two-person assistance to transfer from bed or chair or to ambulate.

Similarly, a resident with a terminal illness may remain in the facility if the resident's needs can be met by the facility or an appropriately licensed outside provider. A facility cannot retain any resident who requires the medical, surgical or nursing care provided by a general or special hospital.

The regulations set forth an expectation that residents will be permitted to age in place and not be required to leave a facility involuntarily. The facility cannot initiate a discharge because a resident's choice might pose a risk, if the resident is competent and the choice is informed and poses a danger or risk only to the resident. Otherwise, an involuntary discharge of a resident may occur only when (as relevant here):

- Resident presents a serious threat to self that cannot be resolved through care planning and the resident is incapable of engaging in a negotiated risk agreement;
- Resident refuses to abide by the terms of the admission agreement; or
- Facility no longer can meet resident's level of care needs, as determined by the state-developed assessment protocol.

Assisted Living Residence — Staffing

Initial training for direct-care staff must include the philosophy and principles of assisted living, and how to communicate with persons with Alzheimer's disease or a related dementia. Staff must complete at least 12 hours annually of continuing education, which must include at least resident rights; fire safety and emergency evacuation; resident emergency response procedures, such as the Heimlich maneuver and first aid; policies and procedures regarding mandatory reporting of abuse, neglect and exploitation; respectful and effective interaction with residents; infection control measures; and general supervision and care of residents.

A facility must provide medication management under the supervision of a licensed nurse. Unlicensed staff may administer medication when a registered nurse conducts assessment, delegates responsibility, and teaches designated staff the proper techniques. Training of unlicensed medication aides must include at least the basis for distinguishing between "assistance with self-administration" versus "administration"; resident's rights, including the right to refuse medications; proper techniques; common symptoms and side effects; and facility policies and procedures for assistance with medications.

Staff must be sufficient to provide necessary care. If a facility has more than 15 residents, at least one responsible staff member must be awake and on duty at all times.

Assisted Living Facility – Resident Population

An assisted living facility provides or coordinates personal and health care services. A facility is licensed either for residential living care, or residential living and assisted living care. Residential living care provides services for residents who require only minimal assistance with activities of daily living (including medication administration). Assisted living care provides services for residents who require at least a moderate level of assistance with activities of daily living, and who may have aggressive or disruptive personalities.

State law also sets forth some additional standards applicable to assisted living care provided to residents with serious cognitive impairments, and to special care units for such residents.

If a facility provides assisted living care, the facility must assure that residents receive necessary restorative care and habilitative services. As needed, a facility must arrange for specialized rehabilitative services to be provided by qualified personnel.

Hospice care may be provided in an assisted living facility. A do-not resuscitate order from a physician may be carried out only if a licensed nurse or CPR-certified employee is available to implement the order.

State law specifies that a resident may not be retained if the facility cannot provide or secure appropriate care, or if the facility is not licensed for the provision of the necessary care. Also, a facility may not admit or retain residents with any one of the following health-related conditions:

- Ventilator dependency.
- Stage III and IV pressure sores (except Stage III sores determined by physician to be healing).
- Airborne infectious disease in a communicable state, requiring isolation or special precautions.
- Nasogastric tubes.
- Need for continuous licensed nursing care seven days per week, 24 hours per day.
- Certification by physician that placement no longer is appropriate.
- Unless resident's independent physician determines otherwise, need for maximum physical assistance (defined as total dependence in four or more activities of daily living), if resident's condition meets Medicaid standards for payment for nursing home care.

Also, in general, a facility cannot admit or retain a resident who needs intravenous therapy, injections into a vein, or the care of gastric tubes, although a resident can stay in the facility if the necessary services are provided by a physician, nurse, or home care agency or, in the case of the gastric tube, the resident independently can perform the necessary tasks.

Assisted Living Facility – Staffing

All personnel must receive training in the facility’s emergency policies; use of the first aid kit; confidentiality; resident rights; procedures for detecting and reporting suspected abuse, neglect or exploitation of residents; techniques for assisting residents in overcoming transfer trauma; and the specific duties and requirements for their positions. All direct-care staff must be trained to have general knowledge in the care of aged, infirm or disabled adults with due consideration for their individual capabilities and needs.

Continuing education must consist of at least eight hours annually. If the facility houses residents with mental impairments, at least two of the required eight hours must focus on the care of residents with mental impairments.

If a facility is licensed for assisted living care, direct-care staff at a minimum must complete a state-approved training program. The training must be conducted by a licensed health care professional. The content of the training must be consistent with a state-developed training program, and the total hours of the training must be approved by the state. Continuing education must consist of at least 12 hours annually, focusing on the care of a resident who is mentally or physically impaired, as appropriate to the facility’s resident population.

If a facility licensed for assisted living care has residents with serious cognitive impairments, staff must receive training that includes at least an explanation of cognitive impairment, resident care techniques, behavior management, communication skills, activity planning, and safety considerations. If a facility maintains a special care unit for residents with serious cognitive impairments, direct-care staff must receive at least 16 hours of training during the first year. This training must include at least information about cognitive impairment; communicating with residents; managing dysfunctional behavior; identifying and alleviating safety risks; assessing resident needs; understanding and implementing service plans; resident care techniques for persons with physical, cognitive, behavioral, and social disabilities; creating a therapeutic environment; promoting resident dignity, independence, individuality, privacy and choice; and common behavioral problems and behavior management techniques.

At all times a facility must have on duty a staff member with current certification for first aid and CPR. Medication can be administered by licensed nurses, or by non-licensed employees who are appropriately registered with the state. Registration requires completion of a state-approved training program, including passage of a competency evaluation. Each facility licensed for assisted living care must retain a licensed health care professional— either by direct employment or on a contractual basis — to provide health care oversight.

When a resident receives health care from licensed staff of a home care agency, the facility staff may receive training from the home care agency staff in appropriate treatment monitoring techniques.

Each facility must have adequate staff to provide services to promote the physical, mental and psychosocial well-being of each resident. If a facility provides care for residents with serious cognitive impairments, the facility must have at least two direct-care staff members present and awake at all times.

Boarding Home – Resident Population

A Boarding Home can be licensed in any one of four different models. In the most limited model, the facility is required only to accept general responsibility for residents' health and safety. In each of the other three models, the facility also is required to accept responsibility for resident's health and safety, but must also provide (respectively) nursing services, assistance with activities of daily living, or nursing services **and** assistance with activities of daily living.

A Boarding Home is not required to provide assistance with activities of daily living. Also, if a facility provides assistance with activities of daily living, that assistance need not exceed occasional stand-by assistance or occasional physical assistance.

On the other hand, individuals appropriate for nursing facility admission can instead be admitted into a Boarding Home, if registered nurses are available at the Boarding Home. A facility generally cannot admit or retain an individual who requires the frequent presence of and evaluation by a registered nurse, unless the individual is receiving hospice care or has a short-term illness that is expected to be resolved within fourteen days.

Either directly or indirectly (through a third party), a facility may provide domiciliary care services (assistance with activities of daily living, etc.), health support services (blood glucose testing, etc.), and intermittent nursing services. These intermittent nursing services include medication administration, health care treatments, diabetic management, nonroutine ostomy care, and tube feeding. Nursing services can be provided either by a nurse or by an unlicensed employee with authority delegated from a nurse.

Significantly, a facility has broad discretion whether, and to what extent, to provide domiciliary care services, health support services, and intermittent nursing services. Disclosure of the facility's services must be made to the state, residents, and interested consumers, on a standardized form developed by the state. The form must indicate that a resident has a right independently to arrange for outside services. If a facility subsequently elects to reduce its scope of services in a way that will cause the eviction of at least one resident, the facility must provide 90-day written notice to all residents. Also, a facility must provide residents with prompt written notice whenever the facility chooses to expand its scope of services.

When a resident's care needs exceed a facility's disclosed scope of services, the licensee may exceed that scope by making a reasonable accommodation. Providing such an accommodation may or may not mean that the facility is capable of or required to provide the same scope of care to other residents. The disclosure form, according to state law, "shall not be construed as an implied or express contract between the [facility] and the resident." [Author's Note: This is a very troubling provision. If a disclosure statement is to be meaningful, the facility must be obligated to comply with it.]

A facility must allow a resident to receive services from a home health agency, hospice agency, home care agency, or any other licensed health care provider. At its discretion, a facility may allow a resident to receive services from any other third-party provider, licensed or not. The facility must establish policies that describe any requirements applicable to services provided by a third-party service provider.

A facility is not responsible for supervising a third-party service provider. Regarding a third-party service provider, the facility's duty of care is limited to observation of the resident for changes in overall functioning, notification to relevant persons when there are observed changes in the resident's overall functioning or condition, and appropriately responding to obtain needed assistance when there are observable or reported changes in the resident's physical or mental functioning.

A facility may permit a resident's family member to administer medications or treatments or to provide medication or treatment assistance to the resident. A facility must disclose to the state, residents, and prospective residents whether the facility permits family members to perform these tasks. If a family member performs any of these tasks, the family member must submit a written plan that describes who will perform the tasks and how they will be performed. Once a task has been taken over by a family member, the facility's duty of care is limited to observation of the resident for changes in overall functioning; notification to relevant persons when there are observed changes in the resident's overall functioning or condition, or when the facility is aware that the written plan is not being implemented; and appropriately responding to obtain needed assistance when there are observable or reported changes in the resident's physical or mental functioning.

A resident may be forced to move from the facility if the resident's needs cannot be met in the facility.

Boarding Home — Staffing

Staff member training must include at least interpersonal and problem solving skills; resident rights, dignity, and independence; protection of resident health and safety; and performance of personal care tasks while incorporating resident preferences. Fundamentals of Caregiving is a 28-hour required course. The state designs the curriculum and approves trainers. A staff member cannot work without supervision until first passing a competency test.

Continuing education must be provided annually on relevant topics.

If a facility serves residents with special needs (*e.g.*, dementia, developmental disabilities, mental illness), specialized training must be provided. For facilities caring for residents with dementia, the training must include dementia, depression, and delirium; resident-based caregiving; dementia caregiving principles; communicating with people who have dementia; sexuality and dementia; re-thinking "problem" behaviors; hallucinations and delusions; helping with activities of daily living; and working with family and friends. Again, a competency test must be completed successfully. Continuing education must include at least six hours annually related to dementia.

Non-nurses can perform nursing tasks delegated from a nurse. The training curriculum is developed by the state. At least ten hours annually of continuing education must be performed.

At least one caregiver on duty at all times must be trained in first aid and CPR.

The facility staff must be adequate in training and number to meet resident needs.

Assisted Living Residence – Resident Population

West Virginia licenses both Assisted Living Residences and Residential Care Communities. The primary difference between the two is that a Residential Care Community is comprised of individual apartments. Also an Assisted Living Residence, but not a Residential Care Community, can be specially licensed for the care of residents with Alzheimer’s disease or a related dementia. Otherwise, as discussed below, there is much similarity between the standards applicable to Assisted Living Residences and those applicable to Residential Care Communities.

In an Assisted Living Residence, residents may receive services from a certified home health agency or a licensed hospice agency. Generally, a resident must not need any more than limited and intermittent nursing care. A facility may choose to operate a specialized unit for residents with a diagnosis of Alzheimer’s disease or a related dementia.

In an Assisted Living Residence, nursing care and services must be overseen by a registered nurse.

When a resident requires oxygen, the facility must make sure that a portable generator is available for out-of-room activities and in case of emergency.

In a facility or unit specializing in the care of residents with Alzheimer’s disease or a related dementia, a registered nurse or other appropriate health professional must conduct monthly evaluations of those residents receiving behavior-modifying medications.

A resident can be required to leave the facility if he or she requires ongoing or extensive nursing care or — more generally — a level of services that the facility is not licensed to provide or simply does not provide.

Assisted Living Residence – Staffing

Prior to working unsupervised, employees must receive training in at least emergency procedures and disaster plans, facility policies and procedures, resident rights, confidentiality, abuse prevention and reporting requirements, the role of the long-term care ombudsman, complaint procedures, specialty care based on individualized resident needs and service plans, care of residents with dementia, provision of group and individual resident activities, and infection control.

Annual continuing education must include at least resident rights, confidentiality, abuse prevention and reporting requirements, care of residents with dementia, provision of resident activities, infection control; and fire safety and evacuation plans.

Non-nurses may administer medication if they complete state-developed training and pass the corresponding examination.

Direct-care staff members in a facility or unit specializing in Alzheimer’s disease or a related dementia must complete a minimum of 30 hours of training. The training must include the facility’s philosophy and resident care policies; the nature, stages, and treatment of Alzheimer’s disease and related dementias; positive therapeutic interventions and activities; communication techniques; behavior management; medication management; therapeutic environmental modifications; individualized comprehensive assessments and care plans; the role of the family and their need for support; staff burnout prevention; and abuse prevention.

In an Assisted Living Residence, nursing care and services must be overseen by a nurse. In a facility or unit specializing in the care of residents with Alzheimer’s disease or a related dementia, a registered

nurse or other appropriate health care professional must conduct a monthly evaluation of all residents receiving behavior-modifying medications.

Staff in an Assisted Living Residence must be adequate to meet resident needs. At least one staff member must be present and awake at all times. In addition, for the day shift, the facility must employ at least one additional direct-care staff member for each 10 residents identified to have two or more functional care needs. For the swing shifts and the night shift, the corresponding ratio is 1 to 15, and 1 to 18, respectively.

At all times, the facility must have at least one on-duty staff member with training in first aid and CPR.

In a facility or unit specializing in the care of residents with Alzheimer's disease or a related dementia, staff must be employed in sufficient numbers to meet the physical, mental and psychosocial needs and to promote the highest practicable level of well-being of each resident. On average, a specialized facility or unit must provide each resident with at least 2.25 hours of direct care time each day. If a specialized facility or unit has six or more residents, at least two direct-care staff members must be on duty at all times. A licensed nurse must be available on-site if any resident requires nursing procedures.

Residential Care Community – Resident Population

Generally residents must be capable of leaving the facility unassisted during an emergency. An exception is made for a resident when the condition is expected to last no more than 90 days, assuming that the resident does not need any more than limited or intermittent nursing care.

Residents may receive services from a licensed hospice.

When a resident requires oxygen, the facility must make sure that a portable generator is available for out-of-room activities and in case of emergency.

Nursing care and services must be overseen by a registered nurse.

A resident can be required to leave the facility if he or she requires ongoing or extensive nursing care or — more generally — a level of services that the facility is not licensed to provide or simply does not provide.

Residential Care Community – Staffing

Facility employees must receive initial training that includes at least rights and responsibilities of residents including protection of resident privacy and confidentiality; complaint procedures; procedures and agencies available in instances of abuse, neglect and mistreatment; the care of aged, infirm or disabled adults with consideration for individual capabilities and needs; personal assistance procedures as needed for resident care; specific duties and responsibilities of the residential staff for assisting current residents; CPR, as applicable, and first aid; and infection control.

Annual continuing education must include at least resident rights and confidentiality; abuse, neglect, mistreatment and procedures to prevent the occurrence of those incidents; emergency care of residents and emergency plans; responsibilities of the residential staff for assisting residents; and infection control.

Nursing care and services must be overseen by a registered nurse.

Staff must be sufficient in numbers to meet resident needs. If a facility houses residents who need either nursing services or nighttime supervision, at least one staff member must be awake in the facility at all times. If a facility has more than one story, the facility must have at least one awake staff member per story.

Assisted living services can be provided in either a community-based residential facility or a residential care apartment complex. The most obvious difference between the two categories is that residents live in independent apartments in the residential care apartment complex.

Community-Based Residential Facility – Resident Population

In a community-based residential facility, a resident generally can receive no more than three hours of nursing care per week, unless the nursing care is needed for less than 90 days. The state may waive this limitation if the resident's condition is stable or treatable, and the necessary services can be provided.

Medication can be administered by a licensed staff member, or by an unlicensed staff member through authority delegated from a licensed staff member.

If a resident cannot exit unassisted in an emergency, he or she can only reside in a facility licensed as Class C. Such facilities are required to have higher nighttime staffing levels and increased fire protection, such as sprinkler systems.

A resident can be forced to leave the facility for any one of the following health-related reasons:

- Resident confined to bed, unless condition is temporary.
- Resident has needs incompatible with other residents.
- Resident's care needs exceed what can be provided under facility's license.
- Resident needs more than 3 hours of nursing care per week, for a period exceeding 90 days.
- Resident requires 24-hour supervision by a nurse.
- Resident has chronic personal care needs that cannot be met by facility or by community agency.

The state may grant a waiver or variance to allow a facility to accommodate a condition that otherwise would be prohibited.

Community-Based Residential Facility – Staffing

All resident care staff must receive 45 hours of initial state-approved training. The training must cover resident rights, assessments, service plans, recognizing and responding to challenging behaviors, infection prevention, fire safety, and first aid. The training also must include material on the facility's residents, such as the residents' physical, social and mental health needs, medications used, and necessary services.

Any non-medically licensed staff member who will manage or administer medications must complete 8 additional hours of training in the management and administration of medications. The medication must be packaged in unit dose form.

Each employee must complete at least 12 hours of continuing education annually.

Staffing levels must be adequate to meet resident needs. In a Class C facility, during the nighttime, the facility must have at least one direct-care staff person for each 20 residents who are unable to exit unassisted in the case of an emergency.

Residential Care Apartment Complex – Resident Population

Residents reside in individual apartments. The facility provides assistance with activities of daily living, health monitoring, and medication administration. Each resident must require no more than 28 hours of service per week; the 28-hour limitation does not apply to hospitality and housekeeping services.

Medication can be administered by a licensed staff member, or by an unlicensed staff member through authority delegated from a licensed staff member.

A resident can be forced to move out of the facility for any one of the following health-related conditions:

- Resident's needs cannot be met at the level of service that facilities are required to make available.
- Resident requires care exceeding 28 hours per week.
- Resident's condition requires immediate availability of nurse 24 hours a day.
- Resident is adjudicated incompetent.
- Resident refuses to cooperate in examination by physician of own choosing to determine resident's health or mental status.

Residential Care Apartment Complex – Staffing

All facility staff must have training in first aid, fire safety, emergency procedures, and resident rights. In addition, direct-care staff must have documented training or experience in the aging process, the purpose and philosophy of assisted living, and the staff member's specified duties.

Staff levels must be adequate to meet resident needs.

Assisted Living Facility – Resident Population

An assisted living facility provides both personal care and limited nursing care. Required services are relatively limited in scope. For example, a facility is only required to provide limited assistance with dressing, and infrequent assistance with mobility. A facility is required to be able to perform minor non-sterile dressing changes and to care for Stage I pressure sores. A facility also must be able to provide necessary services to a resident who cares for his or her own catheter or ostomy, or to a resident who cares for his or her own incontinence.

The following services cannot be provided by an assisted living facility:

- Continuous assistance with transfer and mobility.
- Care of residents who are unable to feed themselves.
- Care of residents who need total assistance with bathing and dressing.
- Care of residents who require catheter/ostomy care.
- Continuous oxygen administration and monitoring.
- Care for residents who wander excessively.
- Incontinence care.
- Wound care requiring sterile dressing changes.
- Care of Stage II, III, and IV pressure sores.

However, such services may be provided by an outside agency or entity.

A resident may be forced to move from a facility if the resident's care needs exceed the care that can be provided at an assisted living facility or if, more generally, the facility cannot meet the resident's needs.

Assisted Living Facility – Staffing

At least one nurse or certified nurse aide must be on duty on every shift. If a facility does not employ a registered nurse, the facility must contract with a registered nurse to do initial assessments, periodic reviews, and service plans, and to revise the same as needed.

Each new employee must receive education regarding resident rights, evacuation and emergency procedures, and resident care generally.

Staffing level must be sufficient to meet resident needs.

**Critical Issues in Assisted Living: Who's In, Who's Out
and Who's Providing the Care--State Summaries**

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