



ASSISTED LIVING

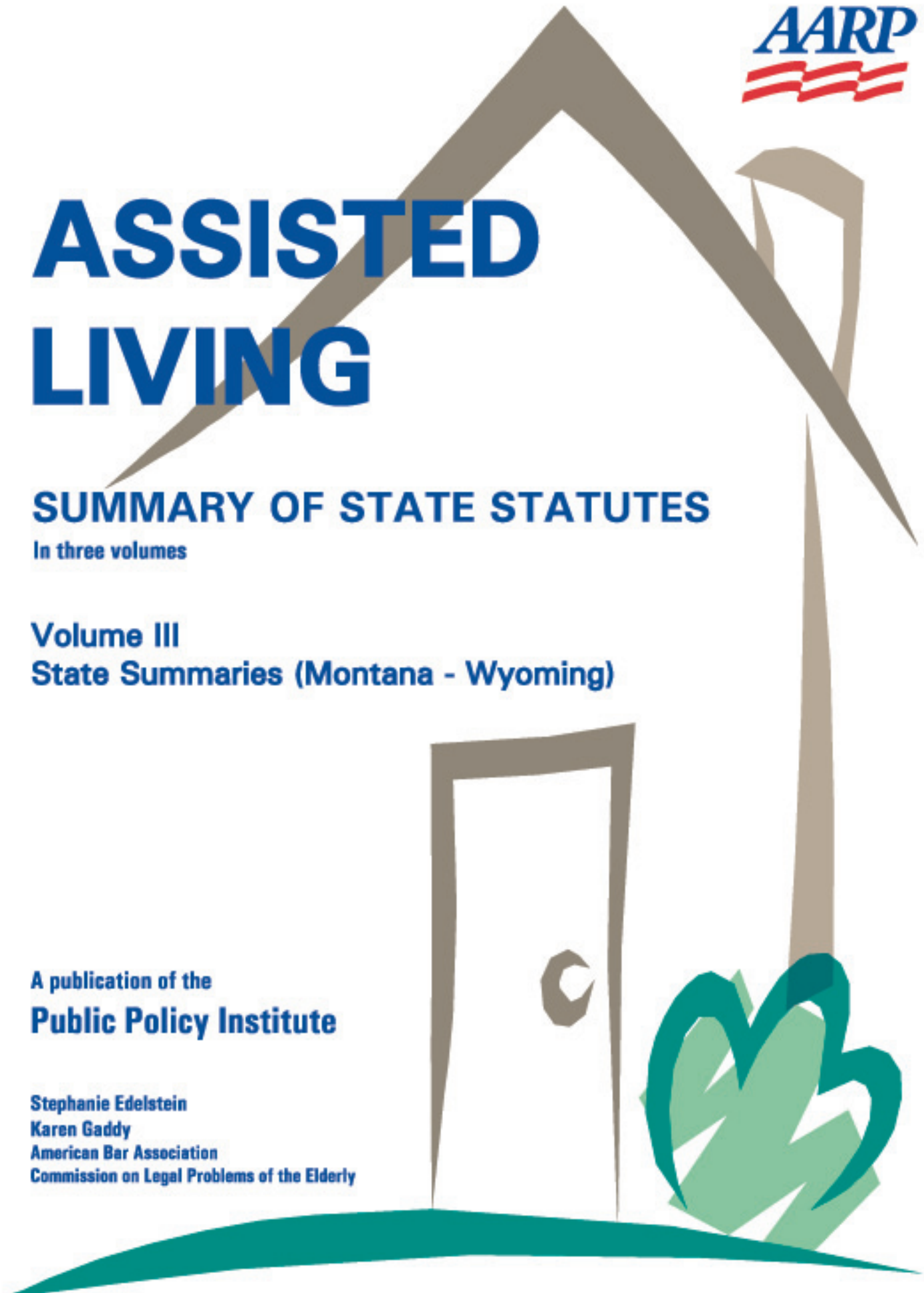
SUMMARY OF STATE STATUTES

In three volumes

Volume III
State Summaries (Montana - Wyoming)

A publication of the
Public Policy Institute

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Commission on Legal Problems of the Elderly



Section 3

ASSISTED LIVING: SUMMARY OF STATE STATUTES

STATE SUMMARIES

MONTANA - WYOMING

(Includes Puerto Rico and the Virgin Islands)

MONTANA

CLASSIFICATION “PERSONAL CARE FACILITY”
A facility in which personal care is provided for residents in either a category A facility or a category B facility as provided in 50-5-227.

AUTHORITY
STATUTE Mont. Code Ann. §§ 50-5-101 to –1107 (1993). *Hospitals & Related Facilities*.

REGULATION Mont. Admin. R. 16.32.902 to .922 (1995; Not published).

OVERSIGHT Department of Public Health & Human Services, Quality Assurance Division.
AGENCY

Does the state regulate the operation of assisted living facilities?
Yes, by statute.

LICENSURE A person may not operate a health care facility unless the facility is licensed by the Department. Licenses may be issued for a period of 1 to 3 years in duration. A license is valid only for the person and premises for which it was issued. A license may not be sold, assigned, or transferred.

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY **Does the statute include a statement of philosophy of assisted living?** Yes.
The legislature finds and declares that many residents of long-term care facilities are isolated from the community and lack the means to assert their rights.
The purpose of this part is to:

- Establish and recognize the fundamental civil and human rights to which residents of long-term care facilities are entitled; and
- Provide for the education of residents and staff regarding these rights.

ADMISSION **Does the state restrict who can be admitted?** Yes.
CRITERIA

RESTRICTIONS **HEALTH/MENTAL HEALTH**

- A. CHRONIC HEALTH CONDITION: No.
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: No.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: No.
- D. COGNITIVE IMPAIRMENT: No.

- RESTRICTIONS (CONT.)** E. MEDICAL OR NURSING CARE: **Yes.**
In need of skilled nursing care.

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: **Yes.**
Unable to self-administer medications.
- G. INCONTINENT: **Yes.**
Incontinent to the extent that bowel or bladder control is absent.
- H. BEDFAST: **Yes.**
Non-ambulatory or bedridden.

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: **No.**
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: **Yes.**
In need of medical, physical, or chemical restraint.

NEEDS EXCEED FACILITY LICENSURE: No.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: **No.**
- L. COURT DETERMINED INCOMPETENCE: **No.**
- M. OTHER ADDITIONAL: **No.**

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? **No.**

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? **Yes.**

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: **Yes.**
During a resident's stay in a long-term care facility, the resident retains the prerogative to exercise decision-making rights in all aspects of the resident's health care, including placement and treatment issues such as medication, special diets, or other medical regimens. The resident's authorized representative must be notified in a prompt manner of any significant accident, unexplained absence, or significant change in the resident's health status.
- B. FREEDOM FROM ABUSE & RESTRAINTS: **Yes.**
A resident has the right to be free from verbal, mental, and physical abuse, neglect, or financial exploitation. Facility staff shall report to the Department and the long-term care ombudsman any suspected incidents of abuse under the Montana Elder and Persons With Developmental Disabilities Abuse Prevention Act, Title 52, chapter 3, part 8.

PRIVACY/CONFIDENTIALITY

- C. PRIVACY: **Yes.**
Each resident has the right to privacy in the resident's room or portion of the room. If a

**ENUMERATED RIGHTS
(CONT.)**

resident is seeking privacy in the resident's room, staff members should make reasonable efforts to make their presence known when entering the room.

D. CONFIDENTIALITY: No.

GRIEVANCE

E. GRIEVANCE: Yes.

A resident has the right to present a grievance on the resident's own behalf or that of others to the facility or the resident advisory council.

OTHER

F. ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.

- In case of involuntary transfer or discharge, a resident has the right to reasonable advance notice to ensure an orderly transfer or discharge. Reasonable advance notice requires at least 21-day written notification of any interfacility transfer or discharge except in cases of emergency or for medical reasons documented in the resident's medical record by the attending physician.
- If clothing is provided to the resident by the facility, it must be of reasonable fit.
- A resident has the right to reasonable safeguards for personal possessions brought to the facility. The facility shall provide a means for safeguarding the resident's small items of value in the resident's room or in another part of the facility where the resident must have reasonable access to the items.
- The resident has the right to have all losses or thefts of personal possessions promptly investigated by the facility. The results of the investigation must be reported to the affected resident.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.

Residents have the right to organize, maintain, and participate in resident advisory councils. The facility shall afford reasonable privacy and facility space for the meetings of the councils.

H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: No.

I. ACCESS AND VISITATION: Yes.

A resident has the right to ask a state agency or a resident advocate for assistance in resolving grievances, free from restraint, interference, or reprisal.

J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: No.

K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: No.

L. MANAGE PERSONAL FINANCIAL AFFAIRS: No.

M. OTHER ADDITIONAL: Yes.

- A resident or the resident's authorized representative must be informed by the facility at least 30 days in advance of any changes in the cost or availability of services, unless to do so is beyond the facility's control.
- Upon request, receive and examine an explanation of the resident's monthly bill.

**METHOD(S) OF
DISCLOSURE**

POSTED WITHIN FACILITY: Yes.

The administrator of the facility shall post in a conspicuous place visible to the public a copy of the facility's statement of residents' rights, presented in a format that can be read easily by the residents and by the public.

**METHOD(S) OF
DISCLOSURE (CONT.)****WITHIN RESIDENT'S CONTRACT:** No.**PROVIDED AS SEPARATE WRITING:** Yes.

The administrator of each long-term care facility shall ... provide each resident, at the time of his admission to the facility, a copy of the facility's statement of residents' rights, receipt of which the resident or his authorized representative shall acknowledge in writing.

ORAL EXPLANATION: No.**OTHER:** No.**TRANSFER &
DISCHARGE****Does the state set guidelines for involuntary transfer and/or discharge?** Yes.**REASON(S)**A. **BEHAVIOR:** No.B. **HEALTH STATUS:** Yes.
Medical reasons.C. **NONPAYMENT:** No.D. **NONCOMPLIANCE:** No.E. **FACILITY CEASES TO OPERATE:** No.F. **OTHER:** No.**RESIDENT NOTIFICATION**A. **TIMING/DISTRIBUTION:**

Twenty-one days notice except in case of emergency.

B. **CONTENT OF NOTIFICATION:** No.C. **RELOCATION ASSISTANCE:** No.**APPEAL RIGHTS**A. **WITHIN FACILITY:** No.B. **STATE AGENCY:** Yes.

The resident has 15 days after notification to appeal to the Department.

CONTRACT**Does the state require written contract?** No.**GRIEVANCE
PROCEDURE****Does state require the facility to have a grievance procedure for resident concerns?** Yes.**FACILITY DISCRETION:** Yes.

The facility shall establish written procedures for receiving, handling, and informing residents or the resident advisory council of the outcome of any grievance presented.

STATE MANDATEDA. **INTERNAL PROCEDURES:** No.B. **EXTERNAL PROCEDURES:** No.

***PRIVATE RIGHT
OF ACTION*** Does the state permit private right of action against the facility? No.

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? No.

DATA COLLECTION Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? No.

***SPECIAL CARE
ENVIRONMENTS*** Does the state have specific guidelines for special care environments? No.

NEBRASKA

CLASSIFICATION “ASSISTED LIVING FACILITY”

Any institution, facility, place, or building in which there are provided for a period exceeding twenty-four consecutive hours, through ownership, contract, or preferred provider arrangements, accommodation, board, and an array of services for assistance with or provision of personal care, activities of daily living, health maintenance activities, or other supportive services, as defined in section 71- 20,115, for four or more unrelated individuals who have been determined to need or want these services. Assisted living promotes resident self-direction and participation in decisions which emphasize independence, individuality, privacy, dignity, and residential surroundings. This definition does not include (a) those homes, apartments, or facilities providing casual care at irregular intervals and (b) those homes, apartments, or facilities in which a competent resident provides or contracts for his or her own personal or professional services if no more than twenty-five percent of the residents receive such services. A competent resident is someone who has the capability and capacity to make an informed decision.

AUTHORITY

STATUTE Neb. Rev. Stat. §§ 71-20,115 to 71-20,117 (1998). *Assisted Living Facilities*.

REGULATIONS Neb. Admin. R. & Regs. 175-4.001 et seq. (1999). *Regulations Governing Licensure of Assisted Living Facilities*.

OVERSIGHT AGENCY Department of Health and Human Services / Division of Licensing & Data Management.

Does the state regulate the operation of assisted living facilities?
Yes, by statute.

LICENSURE No facility or organization shall hold itself out as an assisted-living facility or as providing assisted-living services unless the facility or organization is licensed as an assisted-living facility under sections 71- 2017 to 71-2029. N.R.S. § 71-20, 116(1).

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? No.

ADMISSION CRITERIA Does the state restrict who can be admitted? Yes.

RESTRICTIONS HEALTH/MENTAL HEALTH

- A. CHRONIC HEALTH CONDITION: **No.**
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: **No.**
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: **No.**
- D. COGNITIVE IMPAIRMENT: **No.**
- E. MEDICAL OR NURSING CARE: **Yes.**
Complex nursing interventions.

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: **No.**
- G. INCONTINENT: **No.**
- H. BEDFAST: **No.**

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: **No.**
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: **No.**

NEEDS EXCEED FACILITY LICENSURE: No.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: **No.**
- L. COURT DETERMINED INCOMPETENCE: **No.**
- M. OTHER ADDITIONAL:

Condition is not stable or predictable unless:

- The resident, if the resident has sufficient mental ability to understand the situation and make a rational decision as to his or her needs or care and is not a minor, the resident's designee, and the resident's physician or the registered nurse agree that admission or retention of the resident is appropriate;
- The resident or designee is responsible for arranging for the resident's care through appropriate private duty personnel, a licensed home health agency, or a licensed hospice agency; and
- The resident's care does not compromise the facility operations or create a danger to others in the facility.

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? **No.**

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? **Yes.**

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: **Yes.**
- B. FREEDOM FROM ABUSE & RESTRAINTS: **Yes.**

ENUMERATED RIGHTS (CONT.)**PRIVACY/CONFIDENTIALITY**

- C. PRIVACY: **Yes.**
- D. CONFIDENTIALITY: **Yes.**

GRIEVANCE

- E. GRIEVANCE: **Yes.**

OTHER

- F. ACCOMMODATION OF INDIVIDUAL NEEDS: **Yes.**
The right to refuse to perform services for facility.
- G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **Yes.**
- H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: **Yes.**
- I. ACCESS AND VISITATION: **Yes.**
- J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: **No.**
- K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: **No.**
- L. MANAGE PERSONAL FINANCIAL AFFAIRS: **No.**
- M. OTHER ADDITIONAL: **No.**

METHOD(S) OF DISCLOSURE

- POSTED WITHIN FACILITY: **No.**
- WITHIN RESIDENT'S CONTRACT: **No.**
- PROVIDED AS SEPARATE WRITING: **Yes.**
- ORAL EXPLANATION: **No.**
- OTHER: **No.**

TRANSFER & DISCHARGE

Does the state set guidelines for involuntary transfer and/or discharge? **Yes.**

REASON(S)

- A. BEHAVIOR: **No.**
- B. HEALTH STATUS: **Yes.**
Condition is not stable.
- C. NONPAYMENT: **No.**
- D. NONCOMPLIANCE: **No.**
- E. FACILITY CEASES TO OPERATE: **No.**
- F. OTHER: **No.**

RESIDENT NOTIFICATION

- A. TIMING/DISTRIBUTION: **No.**
- B. CONTENT OF NOTIFICATION: **No.**
- C. RELOCATION ASSISTANCE: **No.**

- APPEAL RIGHTS**
- A. WITHIN FACILITY: **No.**
 - B. STATE AGENCY: **No.**

CONTRACT Does the state require a written contract? **Yes.**

**DISCLOSURES
REQUIRED IN THE
CONTRACT**

SERVICES & ASSOCIATED CHARGES

- A. SERVICES & ASSOCIATED CHARGES: **Yes.**
- B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: **Yes.**

RESIDENT RIGHTS: Yes.

CONTRACT MODIFICATION: No.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: No.

OTHER

- A. GRIEVANCE PROCEDURE: **No.**
- B. MEDICATION POLICY: **No.**
- C. RESIDENT NEEDS ASSESSMENT: **No.**
- D. SERVICES NOT AVAILABLE: **No.**
- E. STAFF: **No.**
- F. REFUND POLICY: **No.**
- G. OTHER ADDITIONAL: **Yes.**
Terms of continued residency.

PROVISIONS PROHIBITED None specified.

GRIEVANCE PROCEDURE Does the state require the facility to have a grievance procedure for resident concerns? **No.**

FACILITY DISCRETION: No.

STATE MANDATED

- A. INTERNAL PROCEDURES: **No.**
- B. EXTERNAL PROCEDURES: **No.**

PRIVATE RIGHT OF ACTION Does the state permit private right of action against the facility? **No.**

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? **No.**

DATA COLLECTION Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? **No.**

SPECIAL CARE ENVIRONMENTS Does the state have specific guidelines for special care environments? Yes.

Statute provides guidelines for facilities (nursing facilities, residential care facilities, or assisted-living facilities) that secure, segregate, or provide a special program or special unit for residents with Alzheimer's disease, dementia, or related disorder and that advertise, market, or otherwise promote it providing specialized Alzheimer's disease, dementia, or related disorder care services.

PLANNING: No.

STAFFING/STAFF TRAINING: No.

ENVIRONMENT: No.

ACTIVITIES: No.

DISCLOSURE: Yes.

Written disclosure (facility form) to the state licensing agency and consumers (prior to care agreement) of the facility's:

- Overall philosophy and mission.
- Process and criteria for placement, transfer, and discharge.
- Process for assessment and establishment / implementation of care plan.
- Staff training and continuing education.
- Physical environment and design features.
- Frequency and type of resident activities.
- Family involvement and the availability of family support programs.
- Fees for care and any additional charges.

OTHER: No.

NEVADA

CLASSIFICATION “RESIDENTIAL FACILITY FOR GROUPS”

An establishment that furnishes food, shelter, assistance and limited supervision to:

- Any aged, infirm, mentally retarded or handicapped person; or
- Four or more females during pregnancy or after delivery.

The term does not include:

- An establishment which provides care only during the day;
- A natural person who provides care for no more than two persons in his own home;
- A natural person who provides care for one or more persons related to him within the third degree of consanguinity or affinity; or
- A facility funded by the Welfare Division or the Mental Hygiene and Mental Retardation Division of the Department of Human Resources.

Also

“RESIDENTIAL FACILITY”

A facility operated 24 hours per day in which one or more persons receiving care, treatment or services ordinarily remain for 24 hours a day.

“FACILITY FOR THE DEPENDENT”

A facility for the treatment of abuse of alcohol or drugs, facility for the care of adults during the day or residential facility for groups.

“RESIDENTIAL FACILITY WHICH PROVIDES CARE TO PERSONS WITH ALZHEIMER’S DISEASE”

A residential facility that provides care and protective supervision for three or more persons with Alzheimer’s disease or a related disease, including, without limitation, senile dementia, organic brain syndrome or other cognitive impairment.

AUTHORITY

STATUTE Nev. Rev. Stat. §§ 449.700 – .730; *Medical & Other Related Facilities*.

REGULATIONS Nev. Admin. Code §§ 449.156 – .276; *Residential Facility for Groups*.

**OVERSIGHT
AGENCY**

Department of Human Services, Division of Health, Bureau of Regulatory Health Services.

Does the state regulate the operation of assisted living facilities?

Yes.

LICENSURE

No person, state, or local government or agency thereof may operate or maintain in this state any medical facility or facility for the dependent without first obtaining a license therefore as provided in NRS 449.001 to 449.240, inclusive.

LICENSURE (CONT.) A residential facility for groups must not be operated except under the supervision of an administrator of a residential facility for groups licensed pursuant to the provisions of chapter 654 of NRS.

A residential facility may be licensed as more than one type of residential facility if the facility provides evidence satisfactory to the Bureau that it complies with the requirements for each type of facility and can demonstrate that the residents will be protected and receive necessary care and services.

REGISTRATION No.

CERTIFICATION A certificate of insurance must be furnished to the Division as evidence that the contract pursuant to paragraph (c) of subsection 1 is in force and a license must not be issued until that certificate is furnished. Each contract of insurance must contain an endorsement providing for a 30-day notice to the Bureau before the effective date of a cancellation or non-renewal of the policy.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? No.

ADMISSION CRITERIA Does the state restrict who can be admitted? Yes.

RESTRICTIONS HEALTH/MENTAL HEALTH

A. CHRONIC HEALTH CONDITION:

Requires the use of oxygen; unless resident:

- Is mentally and physically capable of operating the equipment that provides the oxygen; or
- Is capable of determining his need for oxygen and administering the oxygen to himself with assistance.

Requires the use of intermittent positive pressure breathing equipment; unless:

- The resident is mentally and physically capable of operating and disinfecting the equipment and is capable of determining when its use is required; or
- The equipment is operated by a medical professional who has been trained to operate the equipment.

Has a colostomy or ileostomy; unless:

- The resident is mentally and physically capable of properly caring for his colostomy or ileostomy, with or without assistance, and the resident's physician has stated in writing that the colostomy or ileostomy is completely healed; or
- The care for the colostomy or ileostomy is provided by a medical professional who is trained to provide that care.

Requires the manual removal of fecal impactions or the use of enemas or suppositories; unless:

- The resident is able to provide the care for himself;
- The resident administers care according to the orders of a physician with the assistance of a caregiver; or

RESTRICTIONS (CONT.)

- Care is administered by a medical professional who has been trained to provide that care
- Requires the use of an indwelling catheter; unless:
 - The resident is physically and mentally capable of caring for all aspects of the condition, with or without the assistance of a caregiver;
 - Irrigation of the catheter is performed in accordance with the physician's orders by a medical professional who has been trained to provide that care; and
 - The catheter is inserted and removed only in accordance with the orders of a physician by a medical professional that has been trained to insert and remove a catheter.
- Has contractures; unless the contractures do not adversely affect the ability of the resident to perform normal bodily functions and:
 - The resident is able to care for the contractures without assistance; or
 - Supervision in caring for the contractures is provided by a medical professional who is trained to provide such supervision.
- Has diabetes; unless the resident is capable of performing his own glucose testing with blood or urine specimens and:
 - The resident is capable of administering his medication orally or by injection;
 - The resident's medication is administered by a medical professional who has been trained to administer the medication; or
 - If the resident's medication is administered orally, the medication is administered by a caregiver trained in the administration of that medication.

B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: **No.**

C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: **No.**

D. COGNITIVE IMPAIRMENT: **No.**

E. MEDICAL OR NURSING CARE: **Yes.**

A person who requires regular intramuscular, subcutaneous or intradermal injections must not be admitted to a residential facility or be permitted to remain as a resident of the facility unless the injections are administered by the resident or by a medical professional who has been trained to administer those injections or requires skilled nursing or other medical supervision on a 24-hour basis.

FUNCTIONAL ABILITY

F. UNABLE TO DIRECT SELF CARE: **No.**

G. INCONTINENT:

Unmanageable condition of bowel or bladder incontinence or manageable condition of bowel or bladder incontinence; unless the condition can be managed by

- The resident without the assistance of any other person;
- Requiring the resident to participate in a structured bowel or bladder retraining program to assist the resident in restoring a normal pattern of continence;
- A program which includes scheduled toileting at regular intervals; or
- Requiring the resident to use products that keep him clean and dry at all times.

H. BEDFAST: **Yes.**

Is bedfast.

BEHAVIORAL/SOCIAL

I. DANGER TO SELF OR OTHERS: **No.**

RESTRICTIONS (CONT.)

- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: **Yes.**
Requires restraint; requires confinement in locked quarters.

NEEDS EXCEED FACILITY LICENSURE: No.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: **No.**

- L. COURT DETERMINED INCOMPETENCE: **No.**

- M. OTHER ADDITIONAL:

A person who requires protective supervision; unless:

- The resident is able to follow instructions;
- The resident is able to make his needs known to the caregivers employed by the facility;
- The resident can be protected from harming himself and other persons; and
- The caregivers employed by the facility can meet the needs of the resident.

If a person who requires protective supervision is unable to follow instructions or has difficulty making his needs known to the employees of the facility, the person may be admitted to the facility or be permitted to remain as a resident of the facility if the facility complies with the provisions of NAC 449.2754 and 449.2756.

The resident has a tracheostomy or an open wound that requires treatment by a medical professional; unless:

- The wound is in the process of healing or the tracheostomy is stable or can be cared for by the resident without assistance;
- The care is provided by or under the supervision of a medical professional who has been trained to provide that care; or
- The wound is the result of surgical intervention and care is provided as directed by the surgeon.

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? **No.**

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? **Yes.**

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE:

The resident may:

- Receive information concerning any other medical or educational facility or facility for the dependent associated with the facility at which resident is a patient which relates to resident's care.
- Obtain information concerning the professional qualifications or associations of the persons who are treating resident.
- Receive the name of the person responsible for coordinating resident's care in the facility.
- Be advised if the facility in which resident is a patient proposes to perform experiments on patients which affect resident's own care or treatment.

**ENUMERATED RIGHTS
(CONT.)**

- Receive from physician a complete and current description of diagnosis, plan for treatment, and prognosis in terms which resident is able to understand. If it is not medically advisable to give this information to the patient, the physician shall:
 - Provide the information to an appropriate person responsible for the patient; and
 - Inform that person that he shall not disclose the information to the patient.
- Receive from physician the information necessary for resident to give informed consent to a procedure or treatment. Except in an emergency, this information must not be limited to a specific procedure or treatment and must include:
 - A description of the significant medical risks involved;
 - Any information on alternatives to the treatment or procedure if resident requests that information;
 - The name of the person responsible for the procedure or treatment; and
 - The costs likely to be incurred for the treatment or procedure and any alternative treatment or procedure.
- Examine the bill for care and receive an explanation of the bill, whether or not resident is personally responsible for payment of the bill.
- Refuse treatment to the extent permitted by law and to be informed of the consequences of that refusal.
- Refuse to participate in any medical experiments conducted at the facility.
- Receive continuous care from the facility. The patient must be informed: (a) of appointments for treatment and the names of the persons available at the facility for those treatments; and (b) by physician or an authorized representative of the physician of resident's need for continuing care.

B. FREEDOM FROM ABUSE & RESTRAINTS: **No.**

PRIVACY/CONFIDENTIALITY

C. PRIVACY: **Yes.**

Retain privacy concerning program of medical care. Discussions of a patient's care, consultation with other persons concerning the patient, examinations or treatments, and all communications and records concerning the patient, except as otherwise provided in NRS 108.640 and 449.705 and chapter 629 of NRS, are confidential. The patient must consent to the presence of any person who is not directly involved with his or her care during any examination, consultation or treatment.

D. CONFIDENTIALITY: **No.**

GRIEVANCE

E. GRIEVANCE: **No.**

OTHER

F. ACCOMMODATION OF INDIVIDUAL NEEDS: **Yes.**

Have any reasonable request for services reasonably satisfied by the facility considering its ability to do so and receive considerate and respectful care.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **No.**

H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: **No.**

I. ACCESS AND VISITATION: **No.**

J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: **No.**

- ENUMERATED RIGHTS (CONT.)**
- K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: **Yes.**
Know the facility's regulations concerning resident's conduct at the facility.
- L. MANAGE PERSONAL FINANCIAL AFFAIRS: **No.**
- M. OTHER ADDITIONAL: **No.**

- METHOD(S) OF DISCLOSURE**
- POSTED WITHIN FACILITY: **No.**
- WITHIN RESIDENT'S CONTRACT: **No.**
- PROVIDED AS SEPARATE WRITING: **No.**
- ORAL EXPLANATION: **No.**
- OTHER:
- Every medical facility and facility for the dependent shall inform each patient or legal representative, upon admission to the facility, of the patient's rights as listed in NRS 449.700, 449.710 and 449.720.

TRANSFER & DISCHARGE Does the state set guidelines for involuntary transfer and/or discharge? **Yes.**

- REASON(S)**
- A. BEHAVIOR: **Yes.**
If the resident or any of his or her visitors are engaging in behavior which is a threat to the mental or physical health or safety of the resident or other persons in the facility, the facility may issue a notice to quit to the resident. If the resident or his or her visitors do not comply with the notice to quit, the resident may be discharged from the facility without his or her approval pursuant to subsection 2.
- B. HEALTH STATUS: **Yes.**
- The Administrator of the facility or the Bureau determines that the facility is unable to provide the necessary care for the resident.
 - Unmanageable condition of bowel or bladder incontinence.
 - Manageable condition of bowel or bladder incontinence unless the condition can be managed by:
 - The resident without the assistance of any other person;
 - Requiring the resident to participate in a structured bowel or bladder retraining program to assist the resident in restoring a normal pattern of continence;
 - A program which includes scheduled toileting at regular intervals; or
 - Requiring the resident to use products that keep him clean and dry at all times.
 - Requires the use of oxygen; unless resident:
 - Is mentally and physically capable of operating the equipment that provides the oxygen; or
 - Is capable of determining his need for oxygen and administering the oxygen to himself with assistance.
 - Requires the use of intermittent positive pressure breathing equipment; unless:
 - The resident is mentally and physically capable of operating and disinfecting the equipment and is capable of determining when its use is required; or
 - The equipment is operated by a medical professional who has been trained to operate the equipment.

REASON(S) (CONT.)

- Has a colostomy or ileostomy; unless:
 - The resident is mentally and physically capable of properly caring for his colostomy or ileostomy, with or without assistance, and the resident's physician has stated in writing that the colostomy or ileostomy is completely healed; or
 - The care for the colostomy or ileostomy is provided by a medical professional who is trained to provide that care.
- Requires the manual removal of fecal impactions or the use of enemas or suppositories; unless:
 - The resident is able to provide the care for himself;
 - The resident administers care according to the orders of a physician with the assistance of a caregiver; or
 - Care is administered by a medical professional who has been trained to provide that care.
- Requires the use of an indwelling catheter; unless:
 - The resident is physically and mentally capable of caring for all aspects of the condition, with or without the assistance of a caregiver;
 - Irrigation of the catheter is performed in accordance with the physician's orders by a medical professional who has been trained to provide that care; and
 - The catheter is inserted and removed only in accordance with the orders of a physician by a medical professional that has been trained to insert and remove a catheter.
- Has contractures; unless the contractures do not adversely affect the ability of the resident to perform normal bodily functions and:
 - The resident is able to care for the contractures without assistance; or
 - Supervision in caring for the contractures is provided by a medical professional who is trained to provide such supervision.
- Has diabetes; unless the resident is capable of performing his own glucose testing with blood or urine specimens and:
 - The resident is capable of administering his medication orally or by injection;
 - The resident's medication is administered by a medical professional who has been trained to administer the medication; or
 - If the resident's medication is administered orally, the medication is administered by a caregiver trained in the administration of that medication.
- A person who requires protective supervision; unless:
 - The resident is able to follow instructions;
 - The resident is able to make his needs known to the caregivers employed by the facility;
 - The resident can be protected from harming himself and other persons; and
 - The caregivers employed by the facility can meet the needs of the resident.
- If a person who requires protective supervision is unable to follow instructions or has difficulty making his or her needs known to the employees of the facility, the person may be admitted to the facility or be permitted to remain as a resident of the facility if the facility complies with the provisions of NAC 449.2754 and 449.2756.
- Has a tracheostomy or an open wound that requires treatment by a medical professional; unless:
 - The wound is in the process of healing or the tracheostomy is stable or can be cared for by the resident without assistance;

REASON(S) (CONT.)

- The care is provided by or under the supervision of a medical professional who has been trained to provide that care; or
- The wound is the result of surgical intervention and care is provided as directed by the surgeon.

C. **NONPAYMENT: Yes.**

Resident fails to pay bill within 5 days after it is due.

D. **NONCOMPLIANCE: Yes.**

Resident fails to comply with the rules or policies of the facility or any other portion of the agreement signed by the resident pursuant to NAC 449.2704.

E. **FACILITY CEASES TO OPERATE: No.**

F. **OTHER: No.**

RESIDENT NOTIFICATION

A. **TIMING/DISTRIBUTION:**

Written notice.

B. **CONTENT OF NOTIFICATION: Not specified.**

C. **RELOCATION ASSISTANCE: No.**

APPEAL RIGHTS

A. **WITHIN FACILITY: No.**

B. **STATE AGENCY: No.**

CONTRACT

Does the state require a written contract? Yes.

An agreement signed by the Administrator of the residential facility and the resident.

**DISCLOSURES
REQUIRED IN THE
CONTRACT****SERVICES & ASSOCIATED CHARGES**

A. **SERVICES & ASSOCIATED CHARGES: Yes.**

Services included in the basic rate and the basic rate for the services provided by the facility; schedule for payment.

B. **ADDITIONAL SERVICES & ASSOCIATED CHARGES: Yes.**

Charges for optional services which are not included in the basic rate.

RESIDENT RIGHTS: No.

CONTRACT MODIFICATION: No.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: No.

OTHER

A. **GRIEVANCE PROCEDURE: No.**

B. **MEDICATION POLICY: No.**

C. **RESIDENT NEEDS ASSESSMENT: No.**

D. **SERVICES NOT AVAILABLE: No.**

E. **STAFF: No.**

F. **REFUND POLICY: Yes.**

Facility's policy on refunds of amounts paid but not used.

DISCLOSURES REQUIRED IN THE CONTRACT (CONT.)	G. OTHER ADDITIONAL: No.
PROVISIONS PROHIBITED	None specified.
GRIEVANCE PROCEDURE	Does the state require the facility to have a grievance procedure for resident concerns? Yes.
	FACILITY DISCRETION: Yes. The administrator of a residential facility shall provide a procedure to respond immediately to grievances, incidents, and complaints.
	STATE MANDATED
	A. INTERNAL PROCEDURES: Yes. The procedure must include a method for ensuring that the Administrator or a person designated by the Administrator is notified of the grievance, incident, or complaint. The administrator or a person designated by the Administrator shall personally investigate the matter. A resident who files a grievance or complaint or reports an incident pursuant to this subsection must be notified of the action taken in response to the grievance, complaint, or report or be given a reason why no action needs to be taken.
	B. EXTERNAL PROCEDURES: No.
PRIVATE RIGHT OF ACTION	Does the state permit private right of action against the facility? No.
NEGOTIATED RISK	Does the statute include reference to negotiated risk agreement? No.
DATA COLLECTION	Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? No.
SPECIAL CARE ENVIRONMENTS	Does the state have specific guidelines for special care environments? Yes. Statute provides that guidelines are provided for residential facilities for persons with Alzheimer's disease and other special needs (hospice care, females during pregnancy, elderly or disabled persons, mentally retarded adults, mentally ill, chronic illness).
	PLANNING: No.
	STAFFING/STAFF TRAINING: Yes. 24-hour awake staffing, facility administrator with 3 years experience or education/training equivalent, and 8 hours of staff care training.

***SPECIAL CARE
ENVIRONMENTS
(CONT.)*****ENVIRONMENT:** Yes.

Fenced grounds and swimming pool, locked gates, alarmed exit doors, and dangerous items and toxic substances made inaccessible to residents.

ACTIVITIES: Yes.

Weekly gross motor skill enhancement, sensory ability enhancement, social, and outdoor activities.

DISCLOSURE: Yes.

Written disclosure (facility form) to the licensing agency, consumers, and facility staff of the facility's:

- Policies and procedures for providing care;
- Established interaction groups;
- Basic services;
- Resident activities;
- Management of behavior/medication problems;
- Family involvement;
- Wandering prevention and response; and
- Admission/discharge criteria.

OTHER: Yes.

- Special endorsement on license that authorizes operation.
- May admit/retain residents requiring confinement in locked quarters.

NEW HAMPSHIRE

CLASSIFICATION "SUPPORTED RESIDENTIAL CARE FACILITY"

Defined under He-P 805.02(ap) as "a residential care facility as described in R.S.A. § 151:2(e)(2)."

"... private homes or other structures built or adapted for the purpose of providing residential care, offering services beyond room and board to 2 or more individuals who may or may not be elderly or suffering from illness, injury, deformity, infirmity, or other permanent or temporary physical or mental disability. Such facilities shall include those:

- Offering residents homelike living arrangements and social or health services including, but not limited to, providing supervision, medical monitoring, assistance in daily living, protective care or monitoring, and supervision of medications; or
- Offering residents social, health, or medical services including, but not limited to, medical or nursing supervision, medical care or treatment, in addition to any services included under subparagraph (1). Such homes or facilities shall include, but not be limited to, nursing homes, sheltered care facilities, rest homes, residential care facilities, board and care homes, or any other location, however named, whether owned publicly or privately or operated for profit or not.

AUTHORITY

STATUTE N.H. Rev. Stat. Ann. §§ 151:1 et seq. (1995). *Residential Care & Health Facility Licensing.*

REGULATIONS N.H. Code Admin. R. He-P §§ 805.01 et seq. (not published). *Supported Residential Care Facilities.*

OVERSIGHT AGENCY

Division of Health and Human Services.

Does the state regulate the operation of assisted living facilities?

Yes, by statute.

LICENSURE Residential care facilities "shall not be established, conducted, or maintained without acquiring a license."

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? No.

**ADMISSION
CRITERIA** Does the state restrict who can be admitted? Yes.
Under He-P 805.05.

RESTRICTIONS HEALTH/MENTAL HEALTH

- A. CHRONIC HEALTH CONDITION: **No.**
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: **No.**
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: **No.**
- D. COGNITIVE IMPAIRMENT: **No.**
- E. MEDICAL OR NURSING CARE: **Yes.**
Requires 24-hour nursing care on a continuing basis or requiring consultation or direct therapeutic services or administration of medication.

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: **Yes.**
If not mobile or able to self evacuate or unable to initiate and accomplish some ADL.
- G. INCONTINENT: **No.**
- H. BEDFAST: **Yes.**

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: **No.**
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: **No.**

NEEDS EXCEED FACILITY LICENSURE: Yes.

If requires service beyond ability of facility to provide.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: **No.**
- L. COURT DETERMINED INCOMPETENCE: **No.**
- M. OTHER ADDITIONAL: **No.**

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? **No.**

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? **Yes.**
Under R.S.A. § 151:21.

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: **Yes.**
The right to be fully informed of his or her medical condition.
- B. FREEDOM FROM ABUSE & RESTRAINTS: **Yes.**
The right to be free from abuse.

PRIVACY/CONFIDENTIALITY

- C. PRIVACY: **Yes.**
The freedom to communicate with others, to receive unopened mail, to privacy in visitations, and to share a room with spouse, if married.

**ENUMERATED RIGHTS
(CONT.)**

- D. **CONFIDENTIALITY: Yes.**
The right to have resident's record confidentially.

GRIEVANCE

- E. **GRIEVANCE: Yes.**
The right to present grievances to the staff or to the agency without interference.

OTHER

- F. **ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.**
The right to:
- Be treated with respect and dignity;
 - Refuse to perform services for the facility;
 - Not be discriminated against on the basis of race, color, religion, national origin, sex, age, handicap, marital status, sexual preference, or source of payment; and
 - Not be retaliated against for exercising his or her rights.
- G. **PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.**
The freedom to participate in social, religious, or community activities.
- H. **EXAMINATION OF SURVEY AND INSPECTION RESULTS: No.**
- I. **ACCESS AND VISITATION: Yes.**
The right to retain and use own clothing and possessions as long as there is enough space, and it does not infringe on other resident rights.
- J. **SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: No.**
- K. **NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: Yes.**
Informed of his or her rights prior to admission.
- L. **MANAGE PERSONAL FINANCIAL AFFAIRS: Yes.**
The right to manage own finances.
- M. **OTHER ADDITIONAL: Yes.**
Informed of the services available and their respective costs.

**METHOD(S) OF
DISCLOSURE**

- POSTED WITHIN FACILITY: Yes.**
Posted at a public place.

WITHIN RESIDENT'S CONTRACT: No.

PROVIDED AS SEPARATE WRITING: Yes.
Provided to each patient ... in writing before or at admission, except for emergency admission.

ORAL EXPLANATION: Yes.
Provided to each patient orally ... before or at admission, except for emergency admission.

OTHER: No.

**TRANSFER &
DISCHARGE**

Does the state set guidelines for involuntary transfer and/or discharge? Yes, by statute and regulation.

REASON(S) A. **BEHAVIOR: No.**

- REASON(S) (CONT.)**
- B. HEALTH STATUS: Yes.
Medical reasons.
 - C. NONPAYMENT: Yes.
Nonpayment for the resident's stay.
 - D. NONCOMPLIANCE: Yes.
Documented noncompliance with facility's rules included in the admission agreement.
 - E. FACILITY CEASES TO OPERATE: Yes.
Facility ceases to operate.
 - F. OTHER: Yes.
For patient's welfare or that of other patients.

- RESIDENT NOTIFICATION**
- A. TIMING/DISTRIBUTION:
30-day advance notice except in cases of medical or safety emergency prior notification is not required.
 - B. CONTENT OF NOTIFICATION: Yes.
Reason for the proposed transfer, transfer date, and disclosure of the resident's right to appeal.
 - C. RELOCATION ASSISTANCE: No.

- APEAL RIGHTS**
- A. WITHIN FACILITY: No.
 - B. STATE AGENCY: Yes.
Resident has the right to file an appeal in superior court.

CONTRACT Does the state require a written contract? Yes.
An admission agreement under R.S.A. § 151: and He-P 805.05(c)(4).

- DISCLOSURES
REQUIRED IN THE
CONTRACT**
- SERVICES & ASSOCIATED CHARGES**
- A. SERVICES & ASSOCIATED CHARGES: Yes.
List of services to be provided (this is the only item required for persons admitted for short-term residential care).
 - B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: Yes.
Additional services available.
- RESIDENT RIGHTS: Yes.**
Facility rules for residents.
- CONTRACT MODIFICATION: No.**
- TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: Yes.**
Grounds for termination of agreement and involuntary transfer procedure.
- OTHER**
- A. GRIEVANCE PROCEDURE: No.
 - B. MEDICATION POLICY: No.

- DISCLOSURES
REQUIRED IN THE
CONTRACT (CONT.)**
- C. RESIDENT NEEDS ASSESSMENT: No.
 - D. SERVICES NOT AVAILABLE: No.
 - E. STAFF: No.
 - F. REFUND POLICY: No.
 - G. OTHER ADDITIONAL: Yes.
Bed-hold policy.

PROVISIONS PROHIBITED None specified.

**GRIEVANCE
PROCEDURE** Does the state require the facility to have a grievance procedure for resident concerns? Yes, by statute.

FACILITY DISCRETION: No.

STATE MANDATED

- A. INTERNAL PROCEDURES: No.
- B. EXTERNAL PROCEDURES: Yes.
The facility must "conspicuously post in an area of its offices accessible to patients, employees, and visitors ... a description of compliant procedures established under this subdivision, provided by the Commissioner, and the name, address, and telephone number of a person authorized by the Commissioner to receive complaints."

**PRIVATE RIGHT
OF ACTION** Does the state permit private right of action against the facility? Yes, by statute.
"Any person aggrieved by a facility's failure to abide by the provisions of this subdivision may seek equitable relief from the Superior Court, which shall have original jurisdiction over all proceedings under this subdivision."

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? No.

DATA COLLECTION Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? No.

**SPECIAL CARE
ENVIRONMENTS** Does the state have specific guidelines for special care environments? No.

NEW JERSEY

- CLASSIFICATION** “RESIDENTIAL HEALTH CARE FACILITY”
Any facility, whether in single or multiple dwellings, whether public or private, whether incorporated or unincorporated, whether for profit or nonprofit, operated at the direction of or under the management of an individual or individuals, corporation, partnership, society, or association, which furnishes food and shelter to four or more persons 18 years of age or older who are unrelated to the proprietor, and which provides dietary services, recreational activities, supervision of self-administration of medications, supervision of and assistance in activities of daily living and assistance in obtaining health services to any one or more of such persons, excluding, however, any community residence for the developmentally disabled as defined in section 2 of P.L.1977, c. 448 (C. 30:11B-2), any facility or living arrangement operated by, or under contract with, any state department or agency, upon the written authorization of the Commissioner of the Department of Health, and any privately operated establishment licensed under chapter 11 of Title 30 of the Revised Statutes.
- AUTHORITY**
STATUTE NJ Stat. Ann. §§ 30:11A-1 to -14 (West 1999); *Residential Health Care Facilities*.
- REGULATIONS** NJ Admin. Code tit. 8, §§ 43-1.1 to -2.2 (West 1999); *Standards for Licensure of Residential Health Care Facilities*.
- PROPOSED NEW RULES** N.J.A.C. 8:43-1, 2.2 through 2.9, and 3 through 16; Proposed recodification with amendment:
PENDING N.J.A.C. 8:43-2.2 as 2.1.
- OVERSIGHT** Department of Health & Senior Services / Division of Health Facilities Evaluation & Licensing.
AGENCY
- Does the state regulate the operation of assisted living facilities?**
Yes.
- LICENSURE** The issuance of a certificate of approval pursuant to this act [FN1] shall not preclude a subsequent determination by the Department that the establishment so approved is subject to licensing and other requirements of § 11 of Title 30 of the Revised Statutes, and shall not exempt such establishment from any requirements or penalties resulting from such determination, nor from any requirements or penalties imposed by any other law of this State.
- REGISTRATION** No.
- CERTIFICATION** Residential health care facilities as defined in section 1, [FN1] shall operate within this state pursuant to certificate of approval first had and obtained for that purpose from the Department of Health. No such certificate of approval shall be issued unless the Commissioner shall be satisfied that the institution in question is adequately prepared to furnish facilities, care, and service complying with standards, relating thereto, except that temporary permits, valid for a period not exceeding 6 months and not subject to renewal, may be issued under the

CERTIFICATION (CONT.) circumstances specified in section 6 of this Act. [FN2] Boarding and rooming houses shall not be construed to be within the provisions of this Act.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? Yes.

"The State Department of Health shall adopt, promulgate and enforce such rules, regulations and standards with respect to the residential health care facilities to be approved hereunder as it may deem necessary to assure that: persons living in such facilities are afforded the opportunity to live with as much independence, autonomy and interaction with the surrounding community as they are capable of; such persons are afforded minimum standard of sanitation, housekeeping, heat, light, air, food, lodging, care, service and fire safety which also preserve and promote a homelike atmosphere appropriate to such facilities; such persons are not deprived of any constitutional, civil or legal right solely by reason of their living in such facilities; and that employees of public and private agencies have reasonable access to such facilities and other citizens have reasonable access upon receiving the consent of the resident to be visited by them; but nothing in this chapter nor any rule or regulation promulgated hereunder shall be construed to mean that any residential health care facility may advertise, hold itself out or operate as a nursing home ..."

Moreover, N.J.A.C. § 8:43-1.2 states:

"Residential health care facilities provide sheltered care and services, in a homelike setting, to residents who do not require skilled nursing care, in order to assist residents to maintain personal interest and dignity as well as to protect their health and safety. The aim of this chapter is to establish minimum rules with which a residential health care facility must comply in order to be licensed to operate in New Jersey."

ADMISSION CRITERIA Does the state restrict who can be admitted? Yes.
Proposed N.J.A.C. § 8:43-4.12(c).

RESTRICTIONS HEALTH/MENTAL HEALTH

- A. CHRONIC HEALTH CONDITION: No.
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: Yes.
Communicable disease.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: No.
- D. COGNITIVE IMPAIRMENT: No.
- E. MEDICAL OR NURSING CARE: Yes.
In need of skilled nursing care.

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: Yes.
Not mobile under his or her own power with or without assistive devices.

RESTRICTIONS (CONT.) G. INCONTINENT: **Yes.**
Incontinent suspected; unless applicant has received a medical and nursing evaluation to determine whether the facility can provide an appropriate level of services to the resident.

H. BEDFAST: **No.**

BEHAVIORAL/SOCIAL

I. DANGER TO SELF OR OTHERS: **No.**

J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: **No.**

NEEDS EXCEED FACILITY LICENSURE: Yes.

Needs exceed level of care provided by the facility.

OTHER

K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: **No.**

L. COURT DETERMINED INCOMPETENCE: **No.**

M. OTHER ADDITIONAL: **No.**

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? **No.**

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? **No.**
It is, however, addressed in proposed N.J.A.C §§ 8:43-4.9(a)(3), -14.1, and -14.2.

ENUMERATED RIGHTS **FREEDOM**

A. FREEDOM OF CHOICE: **Yes.**

Is allowed to retain the services of his or her personal physician at his or her own expense or under a third-party payment system; is assured of assistance in obtaining medical care; may refuse medication and treatment, after being informed of the effects of such actions; and may refuse to participate in research projects (but if the resident chooses to participate, his or her informed written consent shall be obtained).

B. FREEDOM FROM ABUSE & RESTRAINTS: **Yes.**

Is free from mental and physical abuse, free from exploitation, in accordance with N.J.S.A. 52:27G-7.1, and free from chemical and physical restraints. Drugs and other medication shall not be used for punishment, for convenience of facility personnel, or in quantities that interfere with a resident's living activities.

PRIVACY/CONFIDENTIALITY

C. PRIVACY: **Yes.**

- Is treated with consideration, respect, and full recognition of his or her dignity, individuality, and right to privacy, including, but not limited to, privacy concerning his or her treatment and condition and the care of his or her personal needs. Privacy of the resident's body shall be maintained during, but not be limited to, toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance.
- May associate and communicate privately with persons of his or her choice, may have reasonable opportunities for private and intimate physical and social interaction with

**ENUMERATED RIGHTS
(CONT.)**

other people, may join with other residents or individuals within or outside the facility to work for improvements in resident care, may send and receive personal mail unopened, and upon his or her request, shall be given assistance in the reading and writing of correspondence.

- Is allowed unaccompanied access to telephones, in the facility, at a reasonable hour, both to make and to receive confidential calls, and has the right to a private telephone at his or her expense. If the facility provides telephones which are coin-operated, the resident shall be charged no more than the actual cost of the call, except that an access fee no greater than the charge for a local call on a coin-operated telephone may be charged.

D. **CONFIDENTIALITY: Yes.**

Is assured confidential treatment of his or her personal and health and social records and has the opportunity to examine such records. The written consent of the resident shall be obtained for release of his or her records to any individual outside the facility, except in the case of the resident's transfer to another health care facility, or as required by law or third-party payor.

GRIEVANCEE. **GRIEVANCE: Yes.**

Is encouraged and assisted, throughout the period of stay, to exercise rights as a resident and as a citizen, and to this end may voice grievance on behalf of himself or herself or others, initiate action for damages or other relief for deprivations or infringements of the right to treatment and care established by any applicable statute, rule, regulation, or contract, and recommend changes in policies and services to facility personnel and/or to outside representatives of the resident's choice, free from restraint, interference, coercions, discrimination, or reprisal.

The administrator shall provide all residents and/or next of kin and/or sponsors and/or guardians with the following names, addresses, and telephone numbers where complaints may be lodged. These telephone numbers shall be conspicuously posted in the facility at every public telephone and on all bulletin boards used for posting public notices. The facility shall also conspicuously post the name, address, and telephone number of the county welfare agency and the county office on aging.

OTHERF. **ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.**

- Is, except in the case of an emergency, transferred or discharged only for medical reasons or for his or her welfare or that of other residents upon the written order of the resident's physician, who shall document the reason for the transfer or discharge in the resident's record, or for nonpayment for the resident's stay, or for repeated violations of the facility's written rules and regulations after being advised of them in writing, if required by the Department, or to comply with clearly expressed and documented resident choice, or in conformance with the New Jersey Advance Directives for Health Care Act, N.J.S.A. 26:2H-53 et seq., as specified in N.J.A.C. 8:43-4.16.
- If a transfer or discharge on a non-emergency basis is requested by the facility, the resident or, in the case of an adjudicated mentally incompetent resident, the next of kin and/or sponsor and/or guardian, shall be given at least a 30-day advance notice in writing of such transfer or discharge.

**ENUMERATED RIGHTS
(CONT.)**

- Is allowed to leave the facility. If the resident's absence is medically contraindicated, the physician or other appropriate person(s) shall be notified in the event that the resident leaves the facility.
 - Is not required to go to bed and has the right to be outside his or her bedroom.
 - Is assured of exercising civil and religious liberties, including the right to independent personal decisions. No religious beliefs or practices, or any attendance at religious services, shall be imposed upon any resident or facility. Knowledge of available choices shall not be infringed upon and the facility shall encourage and assist in the exercise of these rights. Arrangements shall be made, at the resident's expense, for attendance at religious services of his or her choice when requested.
 - Is not deprived of any constitutional, civil, and/or legal rights solely by reason of admission to the facility. Such rights shall include, but not be limited to, the right to gainful employment, to move to a different living arrangement, to wear his or her own clothing, and to determine his or her own dress, hair style, and other personal choices according to individual preference.
 - Is allowed to discharge himself or herself from the facility upon presentation of a written notice to the administration and, in the case of an adjudicated mentally incompetent resident, upon the written consent of his or her next of kin and/or sponsor and/or guardian.
 - Is not required to perform services for the facility. If the resident volunteers to perform services for the facility, the resident shall receive supervision.
- G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **Yes.**
- May participate in facility activities, and meet with, and participate in activities of, social, religious, and community groups at his or her discretion; and has the opportunity for physical exercise and the opportunity to be outdoors.
 - Is not the object of discrimination with respect to participation in recreational activities, meals, social or other functions. The resident's participation may be restricted or prohibited if recommended by the resident's physician in the resident's record, and consented to by the resident.
- H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: **No.**
- I. ACCESS AND VISITATION: **Yes.**
- Is allowed to keep and use his or her personal property, including at least clothing and personal possessions used on a daily basis, unless this would be unsafe, impractical, or an infringement on the rights of other residents. The residential health care facility must provide reasonable protection of the resident's personal possessions from theft, loss, and misplacement.
 - The facility shall, with the consent of the resident being visited, permit visitors, legal services representatives, employees of the Department of the Public Advocate, employees and volunteers of the Office of the Ombudsman for the Institutionalized Elderly in the Department of Community Affairs, representatives of governmental welfare and social agencies, and all governmental representatives full and free access at a reasonable hour to the facility in order to visit with, and make personal, social and legal services available to all residents.
 - May retain and use personal property in his or her immediate living quarters, so as to maintain individuality and personal dignity, except where the facility can demonstrate

**ENUMERATED RIGHTS
(CONT.)**

that such would be unsafe, impractical to do so, infringes upon the rights of others, and that mere convenience is not the facility's motive to restrict this right. If the resident has property on deposit with the facility, he or she shall have daily access to such property during specific periods established by the facility, and at a reasonable hour.

- Has the right to unrestricted communication, including personal visitation with any person of his or her choice during visiting hours, which must be set at reasonable times and for no less than 12 hours per day. The facility shall develop policies specifying times when visits are allowed and shall conspicuously post its visiting hours.
- The facility shall develop policies and procedures so that the resident is allowed visits from his or her next of kin and/or sponsor and/or guardian at any time, if ill. Members of the clergy shall be notified by the facility at the resident's request, and shall be admitted at the request of the resident and/or next of kin and/or sponsor and/or guardian at any time. Privacy shall be ensured for visits with his or her family, friends, clergy, social workers, attorney, counselor, advocates, or for professional or business purposes.

J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: No.

K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: Yes.

Each resident is informed of these rights, as evidenced by his or her written acknowledgment, and is given a statement of these rights and the facility's rules and regulations, and an explanation of the resident's responsibility to adhere to all regulations of the facility and to respect the personal rights and private property of other residents.

L. MANAGE PERSONAL FINANCIAL AFFAIRS: Yes.

Is allowed, or his or her next of kin and/or sponsor and/or guardian and/or conservator, as defined in N.J.S.A. 3B:13A-1 through 13A-36, P.L. 1983, c.192, is allowed, to manage the resident's personal financial affairs, or is given at least a quarterly written statement of financial transactions made on his or her behalf, should the facility accept his or her written delegation of this responsibility.

M. OTHER ADDITIONAL: Yes.

Is informed, and is given a written statement prior to or at the time of admission and during stay, as documented in the resident's record, of services available in the facility and of all charges.

**METHOD(S) OF
DISCLOSURE**

POSTED WITHIN FACILITY: Yes.

The facility shall conspicuously post a notice of ... information [on policies and procedures regarding residents' rights are] available in the facility during normal business hours, to residents and the public.

WITHIN RESIDENT'S CONTRACT: No.

PROVIDED AS SEPARATE WRITING: Yes.

Policies and procedures [regarding the rights and responsibilities of residents] and a copy of N.J.S.A. § 55:13B-17 shall be given to residents and their next of kin and/or sponsors and/or guardians ...

ORAL EXPLANATION: No.

OTHER: No.

TRANSFER & DISCHARGE Does the state set guidelines for involuntary transfer and/or discharge? Yes.

- REASON(S)***
- A. BEHAVIOR: Yes.
The resident poses a danger to himself or herself or others.
 - B. HEALTH STATUS: Yes.
The ... facility is not capable of providing proper care to the resident.
 - C. NONPAYMENT: Yes.
Nonpayment for the resident's stay.
 - D. NONCOMPLIANCE: Yes.
Repeated violations of the facility's written rules and regulations after being advised of them in writing, if required by the Department.
 - E. FACILITY CEASES TO OPERATE: No.
 - F. OTHER: Yes.
Only upon grounds contained in the facility's policies and procedures [of which] the resident has been notified and informed of ... in advance of admission.

- RESIDENT NOTIFICATION***
- A. TIMING/DISTRIBUTION:
30-day prior written notification to resident and/or his or her family, guardian, designated responsible person, and county welfare agencies. In an emergency situation, as stated in N.J.A.C. 8:43-4.12(e), for the protection of the life and safety of the resident or others, the facility may discharge the resident without a 30-day notice.
 - B. CONTENT OF NOTIFICATION: No.
 - C. RELOCATION ASSISTANCE: No.

- APPEAL RIGHTS***
- A. WITHIN FACILITY: Yes.
In writing to the administrator.
 - B. STATE AGENCY: Yes.
The administrator shall provide all residents and/or next of kin and/or sponsors and/or guardians with the following names, addresses, and telephone numbers where complaints may be lodged.

CONTRACT Does the state require a written contract?
An admission agreement shall be maintained in the facility, in accordance with facility policies.

DISCLOSURES REQUIRED IN THE CONTRACT Listed in proposed N.J.A.C. § 8:43-4.12(a).
SERVICES & ASSOCIATED CHARGES

- A. SERVICES & ASSOCIATED CHARGES: Yes.
Services provided and fee schedule.
- B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: No.

**DISCLOSURES
REQUIRED IN THE
CONTRACT (CONT.)****RESIDENT RIGHTS: Yes.**

Resident rights.

CONTRACT MODIFICATION: No.**TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: Yes.**

Criteria for discharge.

OTHERA. **GRIEVANCE PROCEDURE: No.**B. **MEDICATION POLICY: No.**C. **RESIDENT NEEDS ASSESSMENT: No.**D. **SERVICES NOT AVAILABLE: No.**E. **STAFF: No.**F. **REFUND POLICY: No.**G. **OTHER ADDITIONAL: Yes.**

Criteria for admission and business hours.

PROVISIONS PROHIBITED None specified.**GRIEVANCE
PROCEDURE****Does the state require the facility to have a grievance procedure for resident concerns? No.****FACILITY DISCRETION: No.****STATE MANDATED**A. **INTERNAL PROCEDURES: No.**B. **EXTERNAL PROCEDURES: No.****PRIVATE RIGHT
OF ACTION****Does the state permit private right of action against the facility? Yes.**

"The resident is encouraged and assisted, throughout the period of stay, to exercise rights as a resident and as a citizen, and to this end may ...initiate action for damages or other relief for deprivations or infringements of the right to treatment and care established by any applicable statute, rule, regulation, or contract ..."

NEGOTIATED RISK**Does the statute include reference to negotiated risk agreement?**

Not specifically.

The resident does have the right to "refuse medication and treatment, after being informed of the effects of such actions; and may refuse to participate in research projects (but if the resident chooses to participate, his or her informed written consent shall be obtained)."

DATA COLLECTION Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? Yes.

An annual chronological listing of residents admitted and discharged, including the destination of residents who are discharged and statistical data, such as resident census and facility characteristics.

SPECIAL CARE ENVIRONMENTS Does the state have specific guidelines for special care environments? Yes.

PLANNING: Yes.

"Any existing or new residential health care facility proposing to establish a specialized program where the residents in such a program shall constitute a substantial proportion of its census shall submit a plan for provision of services appropriate to the needs of these residents. Such a plan shall be reviewed by the Department and approval shall be received prior to the initiation of such admissions and services. This requirement shall not apply to a facility that is serving residents with special needs (for example, mental illness or diabetes) as part of its normal admission and retention policies."

STAFFING/STAFF TRAINING: No.

ENVIRONMENT: No.

ACTIVITIES: No.

DISCLOSURE: No.

OTHER: No.

NEW MEXICO

CLASSIFICATION “ADULT RESIDENTIAL SHELTER CARE FACILITY”

Provides programmatic services, room, board, assistance with 1 or more activities of daily living, and/or general supervision to 2 or more adults who have difficulty living independently or managing their own affairs.

“ASSISTED LIVING”

A Medicaid waiver service. Providers must be licensed adult residential care homes or new or innovative programs.

AUTHORITY

STATUTE N.M. Stat. Ann. §§ 24-1-1 to -22; *Public Health Act*.

REGULATIONS N.M. Admin. Code tit. 7, ch. 8, part 2 (not published). *Adult Residential Care*.

OVERSIGHT AGENCY Department of Health & Environment, Health Facilities Licensing & Certification Bureau.

Does the state regulate the operation of assisted living facilities?
Yes, by statute.

LICENSURE No health facility shall be operated without a license issued by the Department.

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? No.

ADMISSION CRITERIA Does the state restrict who can be admitted? No.

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? No.

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? No, however, it is in the regulations.

TRANSFER & DISCHARGE Does the state set guidelines for involuntary transfer and/or discharge? Yes, by regulation.

- REASON(S)**
- A. BEHAVIOR: No.
 - B. HEALTH STATUS: Yes.
Residents requiring continuous nursing care.
 - C. NONPAYMENT: No.
 - D. NONCOMPLIANCE: No.
 - E. FACILITY CEASES TO OPERATE: No.
 - F. OTHER: No.

- RESIDENT NOTIFICATION**
- A. TIMING/DISTRIBUTION: No.
 - B. CONTENT OF NOTIFICATION: No.
 - C. RELOCATION ASSISTANCE: No.

- APPEAL RIGHTS**
- A. WITHIN FACILITY: No.
 - B. STATE AGENCY: No.

CONTRACT Does the state require a written contract? No.

GRIEVANCE PROCEDURE Does the state require the facility to have a grievance procedure for resident concerns? No.

FACILITY DISCRETION: No.

STATE MANDATED

- A. INTERNAL PROCEDURES: No.
- B. EXTERNAL PROCEDURES: No.

PRIVATE RIGHT OF ACTION Does the state permit private right of action against the facility? No.

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? No.

DATA COLLECTION Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? No.

SPECIAL CARE ENVIRONMENTS Does the state have specific guidelines for special care environments? No.

NEW YORK

CLASSIFICATION "ASSISTED LIVING PROGRAM"

An entity which is approved to operate pursuant to subdivision 3 of this section and possesses a valid operating certificate as an Adult Care Facility, other than a Shelter for Adults, a Residence for Adults, or a Family Type Home for Adults, issued pursuant to this article and which possessed either: (i) a valid license as a home care services agency issued pursuant to section 3605 of the public health law; or (ii) a valid certificate of approval as a certified home health agency issued pursuant to section 3606 of the public health law; or (iii) valid authorization as a long term home health care program issued pursuant to section 3610 of the public health law.

"ADULT CARE FACILITY"

Effective until July 1, 1999: a family type home for adults, a shelter for adults, a residence for adults, an enriched housing program or an adult home, which provides temporary or long-term residential care and services to adults who, though not requiring continual medical or nursing care as provided by facilities licensed pursuant to article twenty-eight of the public health law or articles nineteen, twenty-three, and thirty-one of the mental hygiene law, are by reason of physical or other limitations associated with age, physical, or mental disabilities or other factors, unable or substantially unable to live independently. In addition, a residence for adults, enriched housing program or an adult home may provide services to nonresidents in accordance with the provisions of section four hundred sixty-one-k of this chapter. Effective July 1, 1999: a family type home for adults, a shelter for adults, a residence for adults, an enriched housing program or an adult home, which provides temporary or long-term residential care and services to adults who, though not requiring continual medical or nursing care as provided by facilities licensed pursuant to article twenty-eight of the public health law or articles nineteen, twenty-three, and thirty-one of the mental hygiene law, are by reason of physical or other limitations associated with age, physical or mental disabilities or other factors, unable or substantially unable to live independently. Specific categories of Adult Homes include:

"PUBLIC HOME"

An adult care facility or a residential health care facility operated by a social services district. In any law where reference is made by any name to an almshouse maintained at public expense, it shall be construed as referring to a public home.

"ADULT HOME"

An adult care facility established and operated for the purpose of providing long-term residential care, room, board, housekeeping, personal care, and supervision to five or more adults unrelated to the operator. The provisions of this subdivision shall not apply to any housing projects established pursuant to the private housing finance law, the public housing law, the membership corporations law, or the not-for-profit corporation law except for those distinct programs operated by such projects which provide supervision and/or personal care and which are approved or certified by the department.

"A PRIVATE PROPRIETARY ADULT HOME"

Shall mean an adult home, as defined by subdivision twenty-five of this section, which is operated for compensation and profit.

CLASSIFICATION “ENRICHED HOUSING PROGRAM”
(CONT.) An adult care facility established and operated for the purpose of providing long-term residential care to five or more adults, primarily persons sixty-five years of age or older, in community-integrated settings resembling independent housing units. Such program shall provide or arrange the provision of room, and provide board, housekeeping, personal care and supervision.

AUTHORITY
STATUTE N.Y. Soc. Serv. Law §§ 2, 460 – 462-b; *Residential Programs for Adults*.

REGULATIONS N.Y. Comp. Codes R. & Regs. Tit 18, §§ 485 – 495. *Adult Care Facilities*.

OVERSIGHT Department of Social Services, Division of Health & Long Term Care.
AGENCY

Does the state regulate the operation of assisted living facilities?
 Yes, by statute.

LICENSURE No.

REGISTRATION No.

CERTIFICATION No facility subject to inspection and supervision by the Department, except a facility operated by a state department or agency, or a facility which pursuant to law is licensed or certified to operate by a state department or agency or by an authorized agency as such term is defined in section three hundred seventy-one of this chapter, shall be operated unless it shall possess a valid operating certificate issued pursuant to this article by the department, which certificate shall specify who the operator of the facility shall be, the kind or kinds of care and services such facility is authorized to provide, the capacity of the facility, the location of the facility and, except in the case of a facility operated by an authorized agency as such term is defined in paragraph (a) of subdivision ten of section three hundred seventy- one of this chapter, the duration of the period of its validity. The Department shall by regulation specify the manner in which the public shall be given notice of the existence of such operating certificate.

Note: Unless expressly provided otherwise in this Part, an assisted living program is subject to any other Federal, State and local laws, rules or regulations governing adult care facilities, long-term home health care programs, certified home health agencies, licensed home care agencies or personal care services.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? No.

ADMISSION Does the state restrict who can be admitted? Yes, by statute and regulation.
CRITERIA

RESTRICTIONS HEALTH/MENTAL HEALTH

- A. **CHRONIC HEALTH CONDITION: Yes.**
Dependent on medical equipment (with exceptions).
- B. **COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: Yes.**
Suffers from a communicable disease or health condition which constitutes a danger to other residents and staff.
- C. **ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: Yes.**
Requires health or mental health services which are not available or cannot be provided safely and effectively by local service agencies or provider. Engages in alcohol or drug use which results in aggressive or destructive behavior.
- D. **COGNITIVE IMPAIRMENT: Yes.**
Is cognitively impaired to such a degree that his or her safety would be endangered.
- E. **MEDICAL OR NURSING CARE: Yes.**
In need of continual medical or nursing care as provided by facilities licensed pursuant to article 28 of the public health law or articles 19, 23, and 31 of the mental hygiene law.

FUNCTIONAL ABILITY

- F. **UNABLE TO DIRECT SELF CARE: Yes.**
Chronically requires the physical assistance of another person to walk, or climb/descend stairs. Is not able, with direction, to take action sufficient to assure self-preservation in an emergency.
- G. **INCONTINENT: Yes.**
Chronic unmanaged urinary or bowel incontinence.
- H. **BEDFAST: Yes.**
- Is chronically bedfast and requires lifting equipment to transfer or the assistance of two persons to transfer.
 - Is chronically chairfast and requires lifting equipment to transfer or the assistance of two persons to transfer.

BEHAVIORAL/SOCIAL

- I. **DANGER TO SELF OR OTHERS: Yes.**
Is cognitively, physically, or medically impaired to such a degree that his or her safety would be endangered. Causes, or is likely to cause, danger to self or others.
- J. **PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: No.**

NEEDS EXCEED FACILITY LICENSURE: Yes.

Does not require more care and services to meet daily health or functional needs than can be provided directly by an adult care facility.

OTHER

- K. **DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: No.**
- L. **COURT DETERMINED INCOMPETENCE: No.**
- M. **OTHER ADDITIONAL: Yes.**
- Is not medically eligible for, and would otherwise require placement in, a residential health care facility due to the lack of a home or a suitable home environment in which to live and safely receive services.

RESTRICTIONS (CONT.)

- Does not exhibit a stable medical condition as categorized by the long-term care patient classification system as defined in Title 10. 18 N.Y.C.R.R. § 494.4(c)(3).
- Does not voluntarily choose to participate in an assisted living program after being provided with sufficient information to make an informed choice.

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? No.

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? Yes.

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: No.
- B. FREEDOM FROM ABUSE & RESTRAINTS: No.

PRIVACY/CONFIDENTIALITY

- C. PRIVACY: Yes.
The right to
- Private communication and consultations with his or her physician, attorney, and any other person.
 - Privacy in treatment and in caring for personal needs.
 - To receive or send personal mail and any other correspondence without interception or interference by the facility.
- D. CONFIDENTIALITY: Yes.
The right to confidentiality in the treatment of personal, social, financial, and medical records, and security in storing personal possessions.

GRIEVANCE

- E. GRIEVANCE: Yes.
The right to present grievances on behalf of him/herself or others, to the facility (staff or administrator), government officials, or any person without fear of reprisal, and to join with other residents or individuals, within or outside the facility, to work for improvements in residential care.

OTHER

- F. ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.
The right to
- Civil and religious liberties.
 - Receive courteous, fair, and respectful care and treatment and a written statement of the services provided by the facility.
 - Have the responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of the other residents.
 - Have his or her version of events leading to an accident or incident (involving the resident) included on the facility's accident or incident report.
 - Not be required to perform work.
 - Receive compensation for services performed for the facility.

**ENUMERATED RIGHTS
(CONT.)**

- Not be permitted, or obliged, to provide any operator any gratuity for services provided or arranged for in accordance with law or regulation.
- G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **No.**
- H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: **No.**
- I. ACCESS AND VISITATION: **Yes.**
The right to
 - Authorize those family members and other adults who will be given priority to visit consistent with the resident's ability to receive visitors.
 - Leave and return to the facility and grounds at reasonable hours.
- J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: **No.**
- K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: **No.**
- L. MANAGE PERSONAL FINANCIAL AFFAIRS: **Yes.**
The right to manage his or her own financial affairs.
- M. OTHER ADDITIONAL: **No.**

**METHOD(S) OF
DISCLOSURE**

- POSTED WITHIN FACILITY: Yes.**
A copy ... posted conspicuously in a public place in each facility covered hereunder.
- WITHIN RESIDENT'S CONTRACT: No.**
- PROVIDED AS SEPARATE WRITING: Yes.**
Each operator shall give a copy of the statement of rights and responsibilities to each resident at or prior to the time of admission to the facility, or to the appointed personal representative and to each member of the facility's staff.
- ORAL EXPLANATION: No.**
- OTHER: Yes.**
Adopt and make public a statement of the rights and responsibilities of the residents who are receiving care.

**TRANSFER &
DISCHARGE**

Does the state set guidelines for involuntary transfer and/or discharge? Yes, by statute.

REASON(S)

- A. BEHAVIOR: **Yes.**
The behavior of the resident poses imminent risk of death or imminent risk of serious physical harm to self or others or directly impairs the well-being, care, or safety of the resident or any other resident, or substantially interferes with the orderly operation of the facility.
- B. HEALTH STATUS: **Yes.**
The need of the resident for continual medical or nursing care which the Adult Home, Residence for Adults, or Enriched Housing Program cannot provide.
- C. NONPAYMENT: **Yes.**
Failure of the resident to make timely payment for all authorized charges, expenses, and other assessments, if any, for services including use and occupancy of premises, materials,

REASON(S) (CONT.)

equipment, and food which the resident has agreed to pay pursuant to the resident's admission and services agreement.

- D. NONCOMPLIANCE: No.
- E. FACILITY CEASES TO OPERATE: Yes.
- The facility has had its operating certificate limited, revoked, or temporarily suspended pursuant to subdivision 4 of section 460-d of this article, or the operation has voluntarily surrendered the operating certificate for the facility to the department.
 - A receiver has been appointed pursuant to the provisions of section 461-f of this article and, as required by such section, is providing for the orderly transfer of all residents in the facility to other facilities or is making other provisions for the residents' continued safety and care.
- F. OTHER: Yes.
- The admission agreement of a resident in an Enriched Housing Program may be terminated and the resident discharged pursuant to the provisions of this section and section 461-h of this article; provided, however, where such resident has an existing lease with the landlord of the premises in which the program is housed, the resident may not involuntarily be removed from the premises pursuant to this section and section 461-h of this article, except in accordance with the provisions of such lease and applicable law and regulation.

RESIDENT NOTIFICATION

- A. TIMING/DISTRIBUTION:
- At least 30-day written notice, on a form prescribed by the Department, to the resident, the resident's next of kin and the person designated in the admission agreement as the responsible party, if any, that the resident's admission agreement will be terminated and the resident discharged.
- B. CONTENT OF NOTIFICATION: Yes.
- Reason for termination, date of discharge, statement of resident's right to object, statement of facility's right to take legal action if resident does not leave the facility voluntarily.
- C. RELOCATION ASSISTANCE: Yes.
- Facility provides a list of free legal services agencies within the facility's geographical area and a list of other available community resources which provide resident advocacy services.

APPEAL RIGHTS

- A. WITHIN FACILITY: No.
- B. STATE AGENCY: Yes.
- Through the special proceeding the facility must originate if the resident's refuses the leave voluntarily.

CONTRACT

Does the state require a written contract? Yes.

"Every operator of an adult care facility, except a shelter for adults, shall execute with each applicant for admission a written admission agreement, dated and signed by the operator and the parties to be charged, which shall contain the entire agreement of the parties and such other information as department regulations shall require."

**DISCLOSURES
REQUIRED IN THE
CONTRACT****SERVICES & ASSOCIATED CHARGES**

- A. **SERVICES & ASSOCIATED CHARGES: Yes.**
- All charges, expenses, and other assessments for services, materials, equipment, and food required by law and that the facility agrees to furnish.
 - Payment arrangements.
 - A statement that facility will not accept payment for any services provided or arranged for as specified by statute, regulation, or agreement.
- B. **ADDITIONAL SERVICES & ASSOCIATED CHARGES: Yes.**
See 'A. SERVICES & ASSOCIATED CHARGES.'

RESIDENT RIGHTS: Yes.

Resident agreement to obey all reasonable rules and to respect the rights and property of other residents.

CONTRACT MODIFICATION: Yes.

The conditions and procedures under which the operator may adjust the rates or charges for supplemental services and supplies.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: Yes.

A statement indicating

- That the resident and any person designated by the resident shall be notified by the operator at the request of the resident pursuant to regulations promulgated by the Department and, shall be provided written notification by the facility not less than thirty days prior to a termination of the resident's admission and services agreement.
- The terms/conditions under which the resident or operator may terminate occupancy.

OTHER

- A. **GRIEVANCE PROCEDURE: No.**
- B. **MEDICATION POLICY: No.**
- C. **RESIDENT NEEDS ASSESSMENT: Yes.**
Resident agreement to inform operator of any changes in health status or medications as they occur.
- D. **SERVICES NOT AVAILABLE: No.**
- E. **STAFF: No.**
- F. **REFUND POLICY: Yes.**
Prorated refund of advance payments based on the rate, the actual days of residency, bed reservation, and the terms of notice.
- G. **OTHER ADDITIONAL:**
Statement that resident waiver of any provision within the admission agreement is null and void.

PROVISIONS PROHIBITED None specified.

GRIEVANCE PROCEDURE Does the state require the facility to have a grievance procedure for resident concerns? No.

**GRIEVANCE
PROCEDURE
(CONT.)** FACILITY DISCRETION: No.
STATE MANDATED
A. INTERNAL PROCEDURES: No.
B. EXTERNAL PROCEDURES: No.

**PRIVATE RIGHT
OF ACTION** Does the state permit private right of action against the facility? Yes.
"There shall be an implied warranty of habitability in each written agreement. ... An action for breach of warranty of habitability and any violation of a written admission agreement may be maintained in a court of competent jurisdiction by the resident or representative of the resident. The court shall apply New York Rules of Court Part 130 to any action brought pursuant to this section."

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? No.

DATA COLLECTION Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? Yes.
" ... such statistical, financial or other information, records or reports, relating to the facility as the Department ... may require ...[and] ... such statistical, financial or other information, records or reports, relating to the facility as ... the Department of Health may require."

**SPECIAL CARE
ENVIRONMENTS** Does the state have specific guidelines for special care environments? No.

NORTH CAROLINA

CLASSIFICATION "ASSISTED LIVING RESIDENCE"

Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. The Department may allow nursing service exceptions on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of G.S. 131E-102. Effective October 1, 1995, there are two types of assisted living residences: Adult Care Homes and Group Homes For Developmentally Disabled Adults. Effective July 1, 1996, there is a third type, Multiunit Assisted Housing With Services.

"ADULT CARE HOME"

An Assisted Living Residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. There are two other types of Adult Care Homes:

"FAMILY CARE HOME"

An Adult Care Home having two to six residents. The structure of a family care home may be no more than two stories high and none of the aged or physically disabled persons being served there may be housed in the upper story without provision for two direct exterior ground-level accesses to the upper story.

"GROUP HOME FOR DEVELOPMENTALLY DISABLED ADULTS"

An Adult Care Home which has two to nine developmentally disabled adult residents.

"MULTIUNIT ASSISTED HOUSING WITH SERVICES"

An Assisted Living Residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency, through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or their compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency's established plan of care. Multiunit assisted housing with services programs are required to register with the Division of Facility Services and to provide a disclosure statement.

- CLASSIFICATION (CONT.)** The disclosure statement is required to be a part of the annual rental contract that includes a description of the following requirements:
- Emergency response system;
 - Charges for services offered;
 - Limitations of tenancy;
 - Limitations of services;
 - Resident responsibilities;
 - Financial/legal relationship between housing management and home care or hospice agencies;
 - A listing of all home care or hospice agencies and other community services in the area;
 - An appeals process; and
 - Procedures for required initial and annual resident screening and referrals for services.
 - Continuing care retirement communities, subject to regulation by the Department of Insurance under Chapter 58 of the General Statutes, are exempt from the regulatory requirements for multiunit assisted housing with services programs.

AUTHORITY

STATUTE NC Gen. Stat. §§ 131D-2 to -4.3, 131D-19 to -34.

REGULATIONS Not available.

OVERSIGHT AGENCY

Department of Human Resources / Facilities Services.

Does the state regulate the operation of assisted living facilities?

Yes.

LICENSURE Adult care homes and family care homes are subject to licensure by the Division of Facility Services.

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY

Does the statute include a statement of philosophy of assisted living? Yes.

The General Assembly finds and declares that the ability to exercise personal control over one's life is fundamental to human dignity and quality of life and that dependence on others for some assistance with daily life activities should not require surrendering personal control of informed decision making or risk taking in all areas of one's life.

The General Assembly intends to ensure that adult care homes provide services that assist the residents in such a way as to assure quality of life and maximum flexibility in meeting individual needs and preserving individual autonomy.

PHILOSOPHY Also:
(CONT.)

It is the intent of the General Assembly to promote the interests and well-being of the residents in adult care homes and assisted living residences licensed pursuant to G.S. 131D-2. It is the intent of the General Assembly that every resident's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and that the facility shall encourage and assist the resident in the fullest possible exercise of these rights. It is the intent of the General Assembly that rules developed by the Social Services Commission to implement Article 1 and Article 3 of Chapter 131D of the General Statutes encourage every resident's quality of life, autonomy, privacy, independence, respect, and dignity and provide the following:

1. Diverse and innovative housing models that provide choices of different life-styles that are acceptable, cost-effective, and accessible to all consumers regardless of age, disability, or financial status;
2. A residential environment free from abuse, neglect, and exploitation;
3. Available, affordable personal service models and individualized plans of care that are mutually agreed upon by the resident, family, and providers and that include measurable goals and outcomes;
4. Client assessment, evaluation, and independent case management that enhance quality of life by allowing individual risk-taking and responsibility by the resident for decisions affecting daily living to the greatest degree possible based on the individual's ability; and
5. Oversight, monitoring, and supervision by State and county governments to ensure every resident's safety and dignity and to assure that every resident's needs, including nursing and medical care needs if and when needed, are being met.

ADMISSION Does the state restrict who can be admitted? Yes, by regulation.
CRITERIA

RESTRICTIONS **HEALTH/MENTAL HEALTH**

- A. CHRONIC HEALTH CONDITION: No.
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: No.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: Yes (family care homes).
- D. COGNITIVE IMPAIRMENT: No.
- E. MEDICAL OR NURSING CARE: Yes (family care homes).

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: No.
- G. INCONTINENT: No.
- H. BEDFAST: No.

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: Yes (family care homes).
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: No.

NEEDS EXCEED FACILITY LICENSURE: No.

RESTRICTIONS (CONT.) OTHER

- L. COURT DETERMINED INCOMPETENCE: **No.**
- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: **No.**
- M. OTHER ADDITIONAL: **Yes.**
Maternity care or requires on lodging (family care homes).

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? **No.**

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? **Yes.**

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: **No.**
- B. FREEDOM FROM ABUSE & RESTRAINTS:
 - To be free of mental and physical abuse, neglect, and exploitation.
 - Except in emergencies, to be free from chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical need.

PRIVACY/CONFIDENTIALITY

- C. PRIVACY: **Yes.**
 - To be treated with respect, consideration, dignity, and full recognition of his or her individuality and right to privacy.
 - To associate and communicate privately and without restriction with people and groups of his or her own choice on his or her own or their initiative at any reasonable hour.
 - To have access at any reasonable hour to a telephone where he or she may speak privately.
 - To send and receive mail promptly and unopened, unless the resident requests that someone open and read mail, and to have access at his or her expense to writing instruments, stationery, and postage.
- D. CONFIDENTIALITY: **Yes.**
To have his or her personal and medical records kept confidential and not disclosed without the written consent of the individual or guardian, which consent shall specify to whom the disclosure may be made, except as required by applicable State or federal statute or regulation or by third party contract. It is not the intent of this section to prohibit access to medical records by the treating physician except when the individual objects in writing. Records may also be disclosed without the written consent of the individual to agencies, institutions, or individuals which are providing emergency medical services to the individual. Disclosure of information shall be limited to that which is necessary to meet the emergency.

**ENUMERATED RIGHTS
(CONT.)****GRIEVANCE****E. GRIEVANCE: Yes.**

To be encouraged to exercise his or her rights as a resident and citizen, and to be permitted to make complaints and suggestions without fear of coercion or retaliation.

OTHER**F. ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.**

To receive a reasonable response to his or her requests from the facility administrator and staff.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.

To have freedom to participate by choice in accessible community activities and in social, political, medical, and religious resources and to have freedom to refuse such participation.

H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: No.**I. ACCESS AND VISITATION: Yes.**

To have and use his or her own possessions where reasonable and have an accessible, lockable space provided for security of personal valuables. This space shall be accessible only to the resident, the administrator, or supervisor-in-charge.

J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: No.**K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: Yes.**

To receive upon admission to the facility a copy of this section.

L. MANAGE PERSONAL FINANCIAL AFFAIRS: Yes.

To manage his or her personal needs funds unless such authority has been delegated to another. If authority to manage personal needs funds has been delegated to the facility, the resident has the right to examine the account at any time.

M. OTHER ADDITIONAL: Yes.

- To receive care and services which are adequate, appropriate, and in compliance with relevant federal and State laws and rules and regulations.
- To receive upon admission and during his or her stay a written statement of the services provided by the facility and the charges for these services.
- To be notified when the facility is issued a provisional license or notice of revocation of license by the North Carolina Department of Health and Human Services and the basis on which the provisional license or notice of revocation of license was issued. The resident's responsible family member or guardian shall also be notified.

**METHOD(S) OF
DISCLOSURE****POSTED WITHIN FACILITY: Yes.**

A copy of the declaration of the residents' rights shall be posted conspicuously in a public place in all facilities.

WITHIN RESIDENT'S CONTRACT: Yes.

The declaration of rights shall be included as part of the facility's admission policies and procedures.

PROVIDED AS SEPARATE WRITING: Yes.

A copy of the declaration of residents' rights shall be furnished to the resident upon admittance to the facility, to all residents currently residing in the facility, to a representative payee of the resident, or to any person designated in G.S. 131D-22, and if

METHOD(S) OF DISCLOSURE (CONT.) requested to the resident's responsible family member or guardian. Receipts for the declaration of rights signed by these persons shall be retained in the facility's files.

ORAL EXPLANATION: No.

OTHER: No.

TRANSFER & DISCHARGE Does the state set guidelines for involuntary transfer and/or discharge? Yes.

- REASON(S)**
- A. BEHAVIOR: Yes (family care homes).
 - B. HEALTH STATUS: Yes (family care homes).
 - C. NONPAYMENT: No.
 - D. NONCOMPLIANCE: No.
 - E. FACILITY CEASES TO OPERATE: Yes.
Licensed suspended/revoked or facility closures (family care homes).
 - F. OTHER: Yes.
Unsatisfactory adjustment to facility (family care homes).

- RESIDENT NOTIFICATION**
- A. TIMING/DISTRIBUTION:
14-day notice, except if emergency transfer is needed. 30-day notice for facility closure or license suspended or revoked.
 - B. CONTENT OF NOTIFICATION: No.
 - C. RELOCATION ASSISTANCE: No.

- APPEAL RIGHTS**
- A. WITHIN FACILITY: No.
 - B. STATE AGENCY: No.

CONTRACT Does the state require a written contract? No.

GRIEVANCE PROCEDURE Does the state require the facility to have a grievance procedure for resident concerns? No.

FACILITY DISCRETION: No.

STATE MANDATED

- A. INTERNAL PROCEDURES: No.
- B. EXTERNAL PROCEDURES: No.

PRIVATE RIGHT OF ACTION Does the state permit private right of action against the facility? Yes.
Every resident shall have the right to institute a civil action for injunctive relief to enforce the

***PRIVATE RIGHT
OF ACTION
(CONT.)***

provisions of this Article. The Department of Health and Human Services, a general guardian, or any person appointed ad litem pursuant to law, may institute an action pursuant to this section on behalf of the resident or residents. Any agency or person above named may enforce the rights of the resident specified in G.S. 131D-21 which the resident himself is unable to enforce.

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? No.

DATA COLLECTION Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? No.

***SPECIAL CARE
ENVIRONMENTS***

Does the state have specific guidelines for special care environments? Yes.

Statute and regulation provide guideline for facilities (nursing homes, rest homes) providing special care units.

PLANNING: No.

STAFFING/STAFF TRAINING: Yes.

Staff-to-resident ratio and the training requirement (determined by regulation)

ENVIRONMENT: No.

ACTIVITIES: Yes.

Type of care (determined by regulation).

DISCLOSURE: No.

OTHER: Yes.

The type of resident admitted (determined by regulation).

NORTH DAKOTA

CLASSIFICATION "BASIC CARE FACILITY"

A residence, not licensed under chapter 23-16 by the Department, that provides room and board to five or more individuals who are not related by blood or marriage to the owner or manager of the residence and who, because of impaired capacity for independent living, require health, social, or personal care services, but do not require regular twenty-four-hour medical or nursing services.

AUTHORITY

STATUTE N.D. Cent. Code §§ 23-09.3-01 et seq. *Basic Care Facilities*.

REGULATIONS N.D. Admin. Code §§ 33-03-24.1 (not published).

OVERSIGHT AGENCY Department of Health, Division of Health Facilities.

Does the state regulate the operation of assisted living facilities?

Yes.

LICENSURE No person, institution, organization, limited liability company, or public or private corporation may keep, operate, conduct, or manage a basic care facility without holding a valid license issued by the Department. The license is not valid for more than one year. Any license may be revoked by the Department for violation of this chapter or the rules adopted by the Department.

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? No.

ADMISSION CRITERIA Does the state restrict who can be admitted? Yes.

RESTRICTIONS HEALTH/MENTAL HEALTH

- A. CHRONIC HEALTH CONDITION: No.
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: No.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: No.
- D. COGNITIVE IMPAIRMENT: No.
- E. MEDICAL OR NURSING CARE: No.

RESTRICTIONS (CONT.) FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: **Yes.**
Persons incapable of evacuating with minimal assistance or independent transfer.
- G. INCONTINENT: **No.**
- H. BEDFAST: **No.**

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: **No.**
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: **Yes.**
Person requiring physical or chemical restraints.

NEEDS EXCEED FACILITY LICENSURE:

The facility does not provide, directly or through contract, appropriate services within the facility to attain or maintain the individual at the individual's highest practicable level of functioning. N.D.C.C. § 23-09.3-08.1 –or resident's condition and abilities are not consistent with the National Fire Protection Association 101 Life Safety Code requirements.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: **No.**
- L. COURT DETERMINED INCOMPETENCE: **No.**
- M. OTHER ADDITIONAL: **No.**

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? **No.**

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? **Yes.**

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: **Yes.**
Irrespective of the type of distribution system used, no person may refuse to allow a resident of a basic care facility to choose a pharmacist of the resident's choice for the compounding and dispensing of drugs pursuant to chapter 43-15.
- B. FREEDOM FROM ABUSE & RESTRAINTS: **No.**

PRIVACY/CONFIDENTIALITY

- C. PRIVACY: **No.**
- D. CONFIDENTIALITY: **No.**

GRIEVANCE

- E. GRIEVANCE: **No.**

OTHER

- F. ACCOMMODATION OF INDIVIDUAL NEEDS: **No.**

**ENUMERATED RIGHTS
(CONT.)**

- G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **No.**
- H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: **No.**
- I. ACCESS AND VISITATION: **No.**
- J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: **No.**
- K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: **No.**
- L. MANAGE OF PERSONAL FINANCIAL AFFAIRS: **No.**
- M. OTHER ADDITIONAL: **No.**

**METHOD(S) OF
DISCLOSURE**

- POSTED WITHIN FACILITY: **No.**
- WITHIN RESIDENT'S CONTRACT: **No.**
- PROVIDED AS SEPARATE WRITING: **No.**
- ORAL EXPLANATION: **No.**
- OTHER: **No.**

**TRANSFER &
DISCHARGE**

Does the state set guidelines for involuntary transfer and/or discharge? **Yes.**

REASON(S)

- A. BEHAVIOR: **No.**
- B. HEALTH STATUS: **Yes.**
Residents incapable of evacuating with minimal assistance or independent transfer or who require physical/chemical restraints.
- C. NONPAYMENT: **No.**
- D. NONCOMPLIANCE: **No.**
- E. FACILITY CEASES TO OPERATE: **No.**
- F. OTHER: **No.**

RESIDENT NOTIFICATION

- A. TIMING/DISTRIBUTION: **No.**
- B. CONTENT OF NOTIFICATION: **No.**
- C. RELOCATION ASSISTANCE: **No.**

APEAL RIGHTS

- A. WITHIN FACILITY: **No.**
- B. STATE AGENCY: **No.**

CONTRACT

Does the state require a written contract? **No.**

**GRIEVANCE
PROCEDURE**

Does the state require the facility to have a grievance procedure for resident concerns? **No.**

***GRIEVANCE
PROCEDURE
(CONT.)*** FACILITY DISCRETION: No.
STATE MANDATED
A. INTERNAL PROCEDURES: No.
B. EXTERNAL PROCEDURES: No.

***PRIVATE RIGHT
OF ACTION*** Does the state permit private right of action against the facility? No.

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? No.

DATA COLLECTION Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? No.

***SPECIAL CARE
ENVIRONMENTS*** Does the state have specific guidelines for special care environments? No.

OHIO

CLASSIFICATION “ADULT CARE FACILITY”

An adult family home or an adult group home. For the purposes of this chapter, any residence, facility, institution, hotel, congregate housing project, or similar facility that provides accommodations and supervision to three to sixteen unrelated adults, at least three of whom are provided personal care services, is an adult care facility regardless of how the facility holds itself out to the public. The two type of adult care facilities are:

“ADULT FAMILY HOME”

Means a residence or facility that provides accommodations to three to five unrelated adults and supervision and personal care services to at least three of those adults.

“ADULT GROUP HOME”

Means a residence or facility that provides accommodations to six to sixteen unrelated adults and provides supervision and personal care services to at least three of the unrelated adults.

AUTHORITY

STATUTE Ohio Rev. Code Ann. §§ 3721.01 et seq.; *Adult Care Facilities*.

REGULATIONS Ohio Admin. Code §§ 3701-20-01 et seq.; *Licensing of Adult Care Facilities*.

OVERSIGHT AGENCY Department of Health / Special Projects Section (614-752-3991) – to inspect, license, and regulate. O.R.C. § 3722.04 (A)(1).

Does the state regulate the operation of assisted living facilities?

Yes.

LICENSURE No person shall ... operate an adult care facility unless the facility is validly licensed by the Director of Health under section 3722.04 of the Revised Code. A license for an adult care facility shall be valid for a period of two years after the date of issuance. No single facility may be licensed to operate as more than one adult care facility.

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? No.

ADMISSION CRITERIA Does the state restrict who can be admitted? Yes.

RESTRICTIONS HEALTH/MENTAL HEALTH

- A. CHRONIC HEALTH CONDITION: **No.**
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: **No.**
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: **No.**
- D. COGNITIVE IMPAIRMENT: **No.**
- E. MEDICAL OR NURSING CARE: **Yes.**

In need of skilled nursing care, unless all of the following are the case:

1. The care will be provided on a part-time, intermittent basis for not more than a total of one hundred twenty days in any twelve-month period by one or more of the following:
 - A home health agency certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;
 - A hospice care program licensed under Chapter 3712. of the Revised Code;
 - A nursing home licensed under Chapter 3721. of the Revised Code and owned and operated by the same person and located on the same site as the adult care facility.
2. The staff of the home health agency, hospice care program, or nursing home does not train facility staff to provide the skilled nursing care;
3. The individual to whom the skilled nursing care is provided is suffering from a short-term illness;
4. If the skilled nursing care is to be provided by the nursing staff of a nursing home, all of the following are the case:
 - The adult care facility evaluates the individual receiving the skilled nursing care at least once every seven days to determine whether he should be transferred to a nursing home;
 - The adult care facility meets at all times staffing requirements established by rules adopted under section 3722.10 of the Revised Code;
 - The nursing home does not include the cost of providing skilled nursing care to the adult care facility residents in a cost report filed under section 5111.26 of the Revised Code;
 - The nursing home meets at all times the nursing home licensure staffing ratios established by rules adopted under section 3721.04 of the Revised Code;
 - The nursing home staff providing skilled nursing care to adult care facility residents are registered nurses or licensed practical nurses licensed under Chapter 4723. of the Revised Code and meet the personnel qualifications for nursing home staff established by rules adopted under section 3721.04 of the Revised Code;
 - The skilled nursing care is provided in accordance with rules established for nursing homes under section 3721.04 of the Revised Code;
 - The nursing home meets the skilled nursing care needs of the adult care facility residents;
 - Using the nursing home's nursing staff does not prevent the nursing home or adult care facility from meeting the needs of the nursing home and adult care facility residents in a quality and timely manner.
5. Notwithstanding section 3721.01 of the Revised Code, an adult care facility in which residents receive skilled nursing care as described in division (B) of this section is not a nursing home. No adult care facility shall provide skilled nursing care.

RESTRICTIONS (CONT.) FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: **No.**
 G. INCONTINENT: **No.**
 H. BEDFAST: **No.**

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: **No.**
 J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: **No.**

NEEDS EXCEED FACILITY LICENSURE: No.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: **No.**
 L. COURT DETERMINED INCOMPETENCE: **No.**
 M. OTHER ADDITIONAL: **No.**

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? **No.**

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? **Yes.**
 "Any attempted waiver of these rights is void."

ENUMERATED RIGHTS Listed under O.R.C. § 3722.12(B) and O.A.C. § 3701-20-23.

FREEDOM

- A. FREEDOM OF CHOICE: **Yes.**
- The right to retain the services of any health or social services practitioner at his or her own expense.
 - The right to refuse medical treatment or services, or if the resident has been adjudicated incompetent pursuant to Chapter 2111. of the Revised Code and has not been restored to legal capacity, the right to have his legal guardian make decisions about medical treatment and services for him or her.
 - The right to have any significant change in health status reported to his or her sponsor.
- B. FREEDOM FROM ABUSE & RESTRAINTS: **Yes.**
- The right to be free from abuse, neglect, or exploitation.
 - The right to be free from physical restraints.
 - The right not to be locked out of the facility. If the facility is locked during any portion of the day, each resident shall be provided with a key or a staff member shall be immediately available on the premises to open the door.
 - The right not to be locked in the facility at any time for any reason. All lockable doors shall be capable of being opened by residents from the inside without using a key.
 - The right not to be isolated or to have food or other services withheld for punishment, incentive, or convenience.

**ENUMERATED RIGHTS
(CONT.)****PRIVACY/CONFIDENTIALITY**

- C. **PRIVACY: Yes.**
The right to private and unrestricted communications, including: (a) the right to receive, send, and mail sealed, unopened correspondence; (b) the right to reasonable access to a telephone for private communications; and (c) the right to private visits at any reasonable hour.
- D. **CONFIDENTIALITY: Yes.**
- The right to examine records maintained by the adult care facility concerning him or her, upon request.
 - The right to confidential treatment of his or her personal records, and the right to approve or refuse the release of these records to any individual outside the facility, except upon transfer to another adult care facility or a nursing home, residential care facility, home for the aging, hospital, or other health care facility or provider, and except as required by law or rule or as required by a third-party payment contract.

GRIEVANCE

- E. **GRIEVANCE: Yes.**
The right to state grievances to the owner or the manager of the facility, to any governmental agency, or to any other person without reprisal.

OTHER

- F. **ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.**
- The right to a safe, healthy, clean, and decent living environment.
 - The right to be treated at all times with courtesy and respect, and with full recognition of personal dignity and individuality.
 - The right not to be deprived of any legal rights solely by reason of residence in an adult care facility.
- G. **PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.**
- The right to practice a religion of choice or to abstain from the practice of religion.
 - The right to participate in activities within the facility and to use the common areas of the facility.
 - The right to engage in or refrain from engaging in activities of his own choosing within reason.
 - The right to initiate and maintain contact with the community, including the right to participate in the activities of community groups at his initiative or at the initiative of community groups.
- H. **EXAMINATION OF SURVEY AND INSPECTION RESULTS: No.**
- I. **ACCESS AND VISITATION:**
- The right to retain and use personal clothing.
 - The right to ownership and reasonable use of personal property so as to maintain personal dignity and individuality.
 - Prior to becoming a resident, the right to visit the facility alone or with his sponsor.
 - The right to share a room with a spouse if both are residents of the facility.
- J. **SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: No.**
- K. **NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: No.**

**ENUMERATED RIGHTS
(CONT.)**

- L. **MANAGE PERSONAL FINANCIAL AFFAIRS: Yes.**
The right to manage personal financial affairs.
- M. **OTHER ADDITIONAL: Yes.**
The right to be informed in writing of the rates charged by the facility as well as any additional charges, and to receive thirty days notice in writing of any change in the rates and charges.

**METHOD(S) OF
DISCLOSURE**

Listed under O.R.C. § 3722.13.

POSTED WITHIN FACILITY: Yes.

Each adult care facility shall post prominently within the facility a copy of the residents' rights listed in division (B) of section 3722.12 of the Revised Code and any additional residents' rights established by rules adopted by the public health council pursuant to this chapter ...

WITHIN RESIDENT'S CONTRACT: No.

PROVIDED AS SEPARATE WRITING: Yes.

At the time of admission the manager shall give a copy of the residents' rights policy to the resident and his sponsor, if any, and explain the contents of the policy to them.

ORAL EXPLANATION: No.

OTHER: No.

**TRANSFER &
DISCHARGE**

Does the state set guidelines for involuntary transfer and/or discharge? Yes.

REASON(S)

Listed under O.R.C. § 3722.14(A).

A. **BEHAVIOR: Yes.**

- The health, safety, or welfare of the resident or of another resident requires a transfer or discharge.
- An adult family home may transfer or discharge a resident if transfer or discharge is required for the health, safety, or welfare of an individual who resides in the home but is not a resident for whom supervision or personal services are provided.

B. **HEALTH STATUS: Yes.**

The mental, emotional, or physical condition of the resident requires a level of care that the facility is unable to provide.

C. **NONPAYMENT: Yes.**

Charges for the resident's accommodations and services have not been paid within thirty days after the date on which they became due.

D. **NONCOMPLIANCE: No.**

E. **FACILITY CEASES TO OPERATE: Yes.**

The facility's license has been revoked or renewal has been denied pursuant to this chapter or owner closes the facility.

F. **OTHER: No.**

- RESIDENT NOTIFICATION**
- A. TIMING/DISTRIBUTION:
The facility shall give a resident a 30-day advance notice, in writing, of a proposed transfer or discharge, except ... for a reason given in divisions (A)(2) to (5) of this section and an emergency exists ...
- B. CONTENT OF NOTIFICATION: **No.**
- C. RELOCATION ASSISTANCE: **No.**

- APPEAL RIGHTS**
- A. WITHIN FACILITY: **No.**
- B. STATE AGENCY: **Yes.**
The resident may request and the Director of Health shall conduct a hearing if the transfer or discharge is based upon division (A)(1), (2), or (3) of this section.

CONTRACT Does the state require a written contract? **Yes.**
An adult care facility shall enter into a written resident agreement with each prospective resident prior to beginning residency in the facility. The agreement shall be signed and dated by the manager or owner and the prospective resident or, if the prospective resident is physically unable to sign and consent, another individual designated by the prospective resident. The facility shall provide both the prospective resident and any other individual signing on his or her behalf with a copy of the agreement and shall explain the agreement to them.

**DISCLOSURES
REQUIRED IN THE
CONTRACT** Listed under O.A.C. § 3701-20-16(B).
SERVICES & ASSOCIATED CHARGES

- A. SERVICES & ASSOCIATED CHARGES: **Yes.**
A written explanation of the extent and types of services the facility will provide to the resident and of monthly charges to the resident including security deposits, if any are required, and a statement whether the facility or the resident will pay for the initial and annual assessments required by rule 3701-20-18 of the Administrative Code.

B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: **No.**

RESIDENT RIGHTS: Yes.

The facility shall provide the resident with a copy of the facility's residents' rights policy and procedures required by paragraphs (D) and (E) of rule 3701-20-23 of the Administrative Code, the facility's smoking policy required by paragraph (I)(9) of rule 3701-20-22 of the Administrative Code and any other facility policies that residents must follow.

CONTRACT MODIFICATION: Yes.

A statement that no charges, fines, or penalties will be assessed against the resident other than those stipulated in the agreement.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: No.

OTHER

- A. GRIEVANCE PROCEDURE: **No.**
- B. MEDICATION POLICY: **No.**
- C. RESIDENT NEEDS ASSESSMENT: **No.**

**DISCLOSURES
REQUIRED IN THE
CONTRACT (CONT.)**D. SERVICES NOT AVAILABLE: **No.**E. STAFF: **No.**F. REFUND POLICY: **Yes.**

An explanation of the facility's policy for refunding monthly charges in the event of the resident's absence, discharge, or transfer from the facility and the facility's policy for refunding security deposits.

G. OTHER ADDITIONAL: **No.****PROVISIONS PROHIBITED** None specified.**GRIEVANCE
PROCEDURE** Does the state require the facility to have a grievance procedure for resident concerns? **No.**FACILITY DISCRETION: **No.**

STATE MANDATED

A. INTERNAL PROCEDURES: **No.**B. EXTERNAL PROCEDURES: **No.****PRIVATE RIGHT
OF ACTION** Does the state permit private right of action against the facility? **Yes.**
Any resident whose rights under this section or section 3722.13 or 3722.14 of the Revised Code are violated has a cause of action against any person or facility committing the violation.**NEGOTIATED RISK** Does the statute include reference to negotiated risk agreement? **No.****DATA COLLECTION** Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? **No.****SPECIAL CARE
ENVIRONMENTS** Does the state have specific guidelines for special care environments? **No.**

OKLAHOMA

CLASSIFICATION "ASSISTED LIVING CENTER"

Any home or establishment offering, coordinating, or providing services to two or more persons who (a) are domiciled therein, (b) are unrelated to the operator, (c) by choice or functional requirement, need assistance with personal care or nursing supervision, (d) may need intermittent or unscheduled nursing care, (e) may need medication assistance, and (f) may need assistance with transfer and/or ambulation.

"CONTINUUM OF CARE FACILITY"

A home, establishment, or institution providing nursing facility services as defined under [Okla. Stat. tit. 63 § 1-1902] and one or both of . . .(A) assisted living center services and/or (B) adult day care center services.

AUTHORITY

STATUTE Okla. Stat. tit. 63 §§ 1-890 et seq. (1998). *Continuum of Care & Assisted Living Act.*

REGULATIONSS Okla. Admin. Regs. §§ 310:663-1-1 et seq. (1998). *Continuum of Care & Assisted Living Rules.*

OVERSIGHT AGENCY

Oklahoma State Department of Health.

Does the state regulate the operation of assisted living facilities?
Yes.

LICENSURE Yes, required by statute.

No person shall establish, operate, or maintain a continuum of care facility or assisted living center, or use in its name, logo, contracts, or literature the phrase "continuum of care facility" or "assisted living," nor imply that it is a continuum of care facility or assisted living center, nor hold itself out to be a continuum of care facility or assisted living center, unless that person first obtains a license as required by the Continuum of Care and Assisted Living Act.

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? No.

ADMISSION CRITERIA Does the state restrict who can be admitted? Yes, by regulation.

RESTRICTIONS HEALTH/MENTAL HEALTH

- A. CHRONIC HEALTH CONDITION: **No.**
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: **No.**
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: **No.**
- D. COGNITIVE IMPAIRMENT: **No.**
- E. MEDICAL OR NURSING CARE: **No.**

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: **No.**
- G. INCONTINENT: **No.**
- H. BEDFAST: **No.**

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: **Yes.**
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: **Yes.**

NEEDS EXCEED FACILITY LICENSURE: Yes.

Needing care in excess of level of licensing.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: **No.**
- L. COURT DETERMINED INCOMPETENCE: **No.**
- M. OTHER ADDITIONAL: **Yes.**
Facility cannot meet resident's needs for privacy or dignity.

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? **No.**

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? **Yes.**

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: **Yes.**
The right to receive adequate and appropriate medical care, be fully informed of his or her medical condition and advised in advance of proposed treatment, and to refuse medication/treatment after being fully informed of the consequences (unless adjudicated mentally incapacitated).
- B. FREEDOM FROM ABUSE & RESTRAINTS: **Yes.**
The right to be free from mental/physical abuse, corporal punishment, involuntary seclusion, and physical/chemical restraints imposed for reasons of discipline or convenience.

PRIVACY/CONFIDENTIALITY

- C. PRIVACY: **Yes.**
The right to
 - Have private communications.

**ENUMERATED RIGHTS
(CONT.)**

- Respect and privacy in his or her medical care program.
- Privacy for spousal visits.

D. CONFIDENTIALITY: No.

GRIEVANCE

E. GRIEVANCE: Yes.

The right to present treatment/care grievances to the facility, government officials, or others without fear of reprisal or discrimination and to prompt efforts by the facility to resolve these grievances.

OTHER

F. ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.

The right to

- Civil and religious liberties.
- Reside and receive services with reasonable accommodation of individual needs.
- Be informed, at the time of admission, of the facility's policy on providing hospice services.
- Receive advance notice of room or roommate changes.
- Receive courteous and respectful care and treatment and a written statement of the services provided by the facility.
- Receive a statement that his or her rights will be exercised by a court-appointed representative if he/she is adjudicated incompetent.
- Not be required to perform services for the facility.
- Immediate notification to resident's next of kin or representative of the resident's death or imminent death.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.

The right to

- Organize to join with other residents or individuals to work for improvements in resident care and to have his or her family meet in the facility with other resident's families.
- Participate in social, religious, and community activities.

H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: Yes.

The right to examine the most recent survey of the facility conducted by the Department.

I. ACCESS AND VISITATION: Yes.

The right to retain and use personal clothing/possessions, unless medically contraindicated, and to have security in the storage of the personal clothing/possessions.

J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: No.

K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: Yes.

The right to receive a statement of the facility's regulations and the resident's responsibility to obey.

L. MANAGE PERSONAL FINANCIAL AFFAIRS: Yes.

The right to manage his or her own financial affairs unless resident has delegated the responsibility to the facility.

M. OTHER ADDITIONAL: No.

**METHOD(S) OF
DISCLOSURE****POSTED WITHIN FACILITY: Yes.**

"Posted in a conspicuous, easily accessible place within the facility."

WITHIN RESIDENT'S CONTRACT: No.**PROVIDED AS SEPARATE WRITING: Yes.**

A written copy is provided to the resident (and his or her personally appointed representative).

ORAL EXPLANATION: Yes.

The resident (and his or her personally appointed representative) is verbally advised.

OTHER: No.**TRANSFER &
DISCHARGE****Does the state set guidelines for involuntary transfer and/or discharge? Yes., by regulation.****REASON(S)****A. BEHAVIOR: Yes.**

The resident poses a threat to self or others.

B. HEALTH STATUS: Yes.

- The resident needs care or services that exceed the care or services available in the center.

- The resident's physician determines that the resident requires physical or chemical restraints in non-emergency situations.

- The center is unable to meet the resident's needs for privacy or dignity.

C. NONPAYMENT: No.**D. NONCOMPLIANCE: No.****E. FACILITY CEASES TO OPERATE: No.****F. OTHER: No.****RESIDENT NOTIFICATION****A. TIMING/DISTRIBUTION:**

10-day written notice to resident except in emergency transfer or discharge.

B. CONTENT OF NOTIFICATION: No.**C. RELOCATION ASSISTANCE: No.****APEAL RIGHTS****A. WITHIN FACILITY: No.****B. STATE AGENCY: No.****CONTRACT****Does the state require a written contract? Yes, by regulation.****DISCLOSURES
REQUIRED IN THE
CONTRACT****SERVICES & ASSOCIATED CHARGES****A. SERVICES & ASSOCIATED CHARGES: Yes.**

Services provided and charges for services.

**DISCLOSURES
REQUIRED IN THE
CONTRACT (CONT.)**

B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: **No.**

RESIDENT RIGHTS: **No.**

CONTRACT MODIFICATION: **No.**

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: **Yes.**

Discharge criteria, a provision for transfer within 5 days of condition meriting transfer, and the term, renewal, and cancellation of the contract.

OTHER

A. GRIEVANCE PROCEDURE: **Yes.**

Dispute resolution and grievance procedures.

B. MEDICATION POLICY: **No.**

C. RESIDENT NEEDS ASSESSMENT: **No.**

D. SERVICES NOT AVAILABLE: **No.**

E. STAFF: **No.**

F. REFUND POLICY: **No.**

G. OTHER ADDITIONAL: **Yes.**

- Facility's name/address.
- Facility's admission criteria.
- A statement that contract constitutes entire agreement not excluding marketing materials and regulations.
- A statement of conformity to law.

PROVISIONS PROHIBITED

None specified.

**GRIEVANCE
PROCEDURE**

Does the state require the facility to have a grievance procedure for resident concerns? **No.**

FACILITY DISCRETION: **No.**

STATE MANDATED

A. INTERNAL PROCEDURES: **No.**

B. EXTERNAL PROCEDURES: **No.**

**PRIVATE RIGHT
OF ACTION**

Does the state permit private right of action against the facility? **No.**

NEGOTIATED RISK

Does the statute include reference to negotiated risk agreement? **No,** however, it is in the regulations.

If a resident's preference or decision places the resident or others at risk, or is likely to lead to an adverse consequence, the center shall:

***NEGOTIATED RISK
(CONT.)***

- Advise the resident and resident's representative of such risk or consequences;
- Specify the cause for concern, discuss the concern, and attempt to negotiate a written agreement that minimizes the risk and adverse consequences and offers alternatives while respecting the resident's preferences; and
- Document any lack of agreement and provide a copy to the resident and the resident's representative.

DATA COLLECTION

Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? No.

***SPECIAL CARE
ENVIRONMENTS***

Does the state have specific guidelines for special care environments? Yes.

Statute and regulation provide guidelines for any facility (such as nursing facility, residential care facility, assisted living facility, adult congregate living facility, adult day care center, or continuum of care facility retirement community) that advertises, markets, or otherwise promotes providing care or treatment to person with Alzheimer's disease, or related disorders, in a special unit or under a special program.

PLANNING: No.

STAFFING/STAFF TRAINING: No.

ENVIRONMENT: No.

ACTIVITIES: No.

DISCLOSURE: Yes.

Written disclosure (state standardized form) to the state licensing agency, the state ombudsman, and consumers (prior to care agreement) of the facility's:

- Overall philosophy and mission
- Process and criteria for placement, transfer, and discharge
- Process for assessment and establishment / implementation of care plan
- Staff-to-resident ratios, staff training and continuing education
- Physical environment and design features
- Frequency and type of resident activities
- Family involvement and the availability of family support programs
- Fees for care and any additional fees
- Security measures provided

OTHER: No.

OREGON

CLASSIFICATION "ASSISTED LIVING FACILITY"

The licensed physical structure, the licensed owner of the assisted living facility and each entity with which the business owner leases the business directly or indirectly, or contracts directly or indirectly, to manage overall operations of the assisted living facility.

AUTHORITY

STATUTE Or. Rev. Stat. §§ 443.400 – .640, .880 – .991. *Home Health Agencies; Residential Facilities; Hospice Programs.*

REGULATIONS Or. Admin. R. §§ 411-56-0000 to -0090 (1999). *Assisted Living Facilities.*

OVERSIGHT AGENCY Department of Human Resources / Division of Senior & Disabled Services.

Does the state regulate the operation of assisted living facilities?

Yes, by regulation.

LICENSURE "To operate and be designated as an assisted living facility, the facility must be licensed as an assisted living facility and comply with Chapter 411, Division 056."

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY **Does the statute include a statement of philosophy of assisted living?** No.

However, a statement is included in the regulations. The purpose of these rules is to establish standards for assisted living. The standards support the concept of aging in place and promote the availability of appropriate services for elderly and disabled persons in a homelike environment which enhances dignity, independence, individuality, privacy, choice, and decision making ability of the resident. Assisted living requires the facility to address standards in the delivery of services to residents and design the physical environment to support dignity, independence, individuality, privacy, choice and decision making abilities of individual residents.

ADMISSION CRITERIA **Does the state restrict who can be admitted?** Yes, by statute.

RESTRICTIONS **HEALTH/MENTAL HEALTH**

- A. CHRONIC HEALTH CONDITION: **No.**
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: **No.**
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: **No.**

RESTRICTIONS (CONT.)

- D. **COGNITIVE IMPAIRMENT: No.**
- E. **MEDICAL OR NURSING CARE: Yes.**
Individuals who require continuous nursing care except as provided in subsection (3) of this section, except with approval from the Mental Health and Developmental Disability Services Division or the Senior and Disabled Services Division.

FUNCTIONAL ABILITY

- F. **UNABLE TO DIRECT SELF CARE: No.**
- G. **INCONTINENT: No.**
- H. **BEDFAST: No.**

BEHAVIORAL/SOCIAL

- I. **DANGER TO SELF OR OTHERS: No.**
- J. **PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: No.**
Needs exceed licensed capacity: Individuals of categories other than those designated on its license without prior written consent of the Department.

OTHER

- K. **DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: No.**
- L. **COURT DETERMINED INCOMPETENCE: No.**
- M. **OTHER ADDITIONAL: No.**

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? No.

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? No. However, it is specified within the regulations.

ENUMERATED RIGHTS FREEDOM

- A. **FREEDOM OF CHOICE: Yes.**
The right to be given informed choice and opportunity to select or refuse service and to accept responsibility for the consequences.
- B. **FREEDOM FROM ABUSE & RESTRAINTS: Yes.**
The right to
- Be free from neglect, financial exploitation, verbal, mental, physical, or sexual abuse.
 - Be free from physical restraints and inappropriate use of psychoactive medications.

PRIVACY/CONFIDENTIALITY

- C. **PRIVACY: Yes.**
The right to receive services in a manner that protects privacy and dignity.
- D. **CONFIDENTIALITY: Yes.**
The right to have medical and other records kept confidential except as otherwise provided by law.

**ENUMERATED RIGHTS
(CONT.)****GRIEVANCE**

- E. **GRIEVANCE: Yes.**
Voice grievances, be informed of grievance procedures, and suggest changes in policies and services to either staff or outside representatives without fear of retaliation.

OTHER

- F. **ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.**
The right to
- Be treated with dignity and respect.
 - Exercise individual rights that do not infringe upon the rights or safety of others.
 - Have a safe and homelike environment.
 - Be free of discrimination in regard to race, color, national origin, gender, sexual orientation, or religion.
 - Have proper notification if requested to move out of the facility, and to be required to move out only for reasons stated in O.A.R. § 411-056-0020, Involuntary Move-out Criteria, and have the opportunity for an informal conference and hearing.
- G. **PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.**
The right to
- Interact freely with others within their assisted living home and in the community.
 - Have access to and participate in social activities.
- H. **EXAMINATION OF SURVEY AND INSPECTION RESULTS: No.**
- I. **ACCESS AND VISITATION: Yes.**
The right to
- Have access to his or her records.
 - Be encouraged and assisted to exercise rights as a citizen.
- J. **SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: No.**
- K. **NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: No.**
- L. **MANAGE PERSONAL FINANCIAL AFFAIRS: Yes.**
The right to manage personal financial affairs unless legally restricted.
- M. **OTHER ADDITIONAL: No.**

**METHOD(S) OF
DISCLOSURE**

- POSTED WITHIN FACILITY: No.**
- WITHIN RESIDENT'S CONTRACT: No.**
- PROVIDED AS SEPARATE WRITING: Yes.**
A copy given to each resident, or resident's representative.
- ORAL EXPLANATION: No.**
- OTHER: No.**

**TRANSFER &
DISCHARGE**

- Does the state set guidelines for involuntary transfer and/or discharge? Yes, by regulation.**
Except as provided in subsection (3) of this section, if any resident of a residential facility or home requires nursing care for eight or more consecutive days or a physician or the designee of a

TRANSFER & DISCHARGE (CONT.)
REASON(S) physician or a registered nurse certifies that continued nursing care is required, the resident shall be transferred to an appropriate health care facility for as long as necessary.

- A. **BEHAVIOR: Yes.**
 Resident's behavior repeatedly and substantially interferes with the rights or well being of other residents and the facility has tried prudent and reasonable interventions or is an immediate danger to the resident or others.
- B. **HEALTH STATUS: Yes.**
- Resident's needs exceed the level of ADL services the facility provides.
 - Resident's severe cognitive decline makes him/her unable to respond to verbal instructions, recognize danger, make basic care decisions, express need, or summon assistance.
 - Resident's medical condition is complex, unstable, or unpredictable and treatment cannot be appropriately developed and implemented in an assisted living environment.
- C. **NONPAYMENT: Yes.**
 Nonpayment of charges.
- D. **NONCOMPLIANCE: No.**
- E. **FACILITY CEASES TO OPERATE: Yes.**
 Facility has had its license revoked, not renewed, or voluntarily surrendered.
- F. **OTHER: No.**

RESIDENT NOTIFICATION

A. **TIMING/DISTRIBUTION:**
 30-day (14-day notice for emergency transfer/discharge) written notice to resident, resident's legal representative, or any person designated by the resident, guardian, or conservator, and if applicable, the case manager.

B. **CONTENT OF NOTIFICATION: Yes.**
 Division approved form.

C. **RELOCATION ASSISTANCE: No.**

APPEAL RIGHTS

A. **WITHIN FACILITY: Yes.**
 Informal conference.

B. **STATE AGENCY: Yes.**
 Formal administrative hearing.

CONTRACT Does the state require a written contract? Yes.
 A residency agreement and disclosure statement approved by the Division prior to distribution.

DISCLOSURES REQUIRED IN THE CONTRACT **SERVICES & ASSOCIATED CHARGES**

A. **SERVICES & ASSOCIATED CHARGES: Yes.**
 A description of the scope of services available according to O.A.R. 411-056-0015; a description of the service planning process and the relationship between the service plan and cost of services; payment provisions, including (1) basic rental rate and what it

**DISCLOSURES
REQUIRED IN THE
CONTRACT (CONT.)**

includes, (2) additional services costs, (3) billing method, payment system, and due dates, and (4) deposits/fees, if applicable.

- B. **ADDITIONAL SERVICES & ASSOCIATED CHARGES: Yes.**
Additional available services.

RESIDENT RIGHTS: Yes.
Resident rights and responsibilities.

CONTRACT MODIFICATION: Yes.
Policy for rate changes, including (1) 30-day prior written notice of any facility-wide increases, additions, or changes, and (2) immediate written notice at the time the facility determines a resident's service rates will increase due to increased service provision as negotiated in a service plan.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: Yes.
Criteria, actions, circumstances or conditions which may result in a move-out notification or intra-facility move and resident's rights pertaining to notification of move-out.

OTHER

- A. **GRIEVANCE PROCEDURE: No.**
- B. **MEDICATION POLICY: Yes.**
The facility system for packaging medications and the resident's right to choose a pharmacy.
- C. **RESIDENT NEEDS ASSESSMENT: No.**
- D. **SERVICES NOT AVAILABLE: No.**
- E. **STAFF: STAFFING PLAN.**
- F. **REFUND POLICY: Yes.**
Refund/proration conditions;
- G. **OTHER ADDITIONAL: Yes.**
- Terms of occupancy.
 - The philosophy of how health care and ADL services are provided to the resident.
 - Notice of Division's authority to examine resident's records as part facility evaluation.

PROVISIONS PROHIBITED Any provision that is in conflict with these rules and shall not ask or require a resident to waive any of the resident's rights or the facility's liability for negligence.

**GRIEVANCE
PROCEDURE** Does the state require the facility to have a grievance procedure for resident concerns? Yes.

FACILITY DISCRETION: Yes.
The facility shall develop and implement effective methods of resolving resident complaints.

STATE MANDATED

- A. **INTERNAL PROCEDURES: No.**
- B. **EXTERNAL PROCEDURES: No.**

PRIVATE RIGHT OF ACTION Does the state permit private right of action against the facility? No.

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? Yes.
The resident's service plan shall include agreed upon actions if a managed risk plan is developed and the managed risk plan must be reviewed at least quarterly.

DATA COLLECTION Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? No.

SPECIAL CARE ENVIRONMENTS Does the state have specific guidelines for special care environments? Yes.
Statute and regulation provide guidelines for facilities (nursing home; residential care facility; assisted living facility; any other like facility) that provide care for residents with Alzheimer's disease or other dementia through an Alzheimer's care unit.

PLANNING: Yes.

Care planning; policy/procedures for wandering residents; written admission/discharge/disclosure policy.

STAFFING/STAFF TRAINING: Yes.

Staffing and staff training; orientation program; on-going in-service training.

ENVIRONMENT: Yes.

Physical design, safety measures, egress control, freedom of movement, high visual contrasts.

ACTIVITIES: Yes.

Psychosocial and physical assessment; family involvement, therapeutic activities, and social services.

DISCLOSURE: Yes.

Marketing and advertising of the availability of and services from Alzheimer's care units; philosophy; admission/discharge/transfer criteria; staff training; staffing.

OTHER: Yes.

Any facility that provides care for patients or residents with Alzheimer's disease or other dementia by means of an Alzheimer's care unit must register with the Senior and Disabled Services Division and must obtain a special endorsement on its license or registration.

PENNSYLVANIA

CLASSIFICATION "PERSONAL CARE HOME"

Any premises in which food, shelter, and personal assistance/supervision are provided for a period exceeding 24 hours for 4 or more adults who are not relatives of the operator, who do not require the services in or of a licensed long-term care facility but who do require assistance/supervision in matters such as dressing, bathing, diet, financial management, evacuation of a resident in the event of an emergency, or medication prescribed for self-medication.

AUTHORITY

STATUTE 62 Pa. Cons. Stat. §§ 101-1053. *Public Welfare Code*.

REGULATIONS 55 Pa. Code § 2620.1 et seq. *Personal Care Home Licensing*.

OVERSIGHT AGENCY

Department of Public Welfare.

Also:

Department of Labor & Industry, Department of Environmental Resources, Department of Aging, Pennsylvania Human Relations Commission.

Does the state regulate the operation of assisted living facilities?

Yes, by statute.

LICENSURE Yes.

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? No.

ADMISSION CRITERIA

RESTRICTIONS HEALTH/MENTAL HEALTH

- A. CHRONIC HEALTH CONDITION: No.
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: No.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: No.
- D. COGNITIVE IMPAIRMENT: No.
- E. MEDICAL OR NURSING CARE:
Persons requiring the services in or of a licensed long-term care facility.

RESTRICTIONS (CONT.) **FUNCTIONAL ABILITY**

- F. UNABLE TO DIRECT SELF CARE: **No.**
- G. INCONTINENT: **No.**
- H. BEDFAST: **No.**

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: **No.**
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: **No.**

NEEDS EXCEED FACILITY LICENSURE: Yes.

Persons whose personal care needs cannot be met by the home.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: **No.**
- L. COURT DETERMINED INCOMPETENCE: **No.**
- M. OTHER ADDITIONAL: **No.**

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? **No.**

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? **No.**
It is specified in the regulations.

ENUMERATED RIGHTS **FREEDOM**

- A. FREEDOM OF CHOICE: **No.**
- B. FREEDOM FROM ABUSE & RESTRAINTS: **Yes.**
The right to be free from abuse and restraints.

PRIVACY/CONFIDENTIALITY

- C. PRIVACY: **Yes.**
The right to
- Reasonable privacy to use a telephone in the home to make calls without charge, except when a standard pay telephone is used.
 - Write/send mail at own expense and receive uncensored/unopened mail.
 - Privacy of self and possessions.
 - Associate and communicate with other privately.
- D. CONFIDENTIALITY: **No.**

GRIEVANCE

- E. GRIEVANCE: **Yes.**
The right to voice grievances and recommend changes in policies and services of the home without fear of reprisal or intimidation.

OTHER

- F. ACCOMMODATION OF INDIVIDUAL NEEDS: **Yes.**

**ENUMERATED RIGHTS
(CONT.)**

The right to

- Be treated with dignity and respect.
- Request and receive assistance in relocating.
- Exercise civil rights.
- Be compensated, in accordance with federal/state labor statutes, for labor performed for the home.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **Yes.**
The right to attend and participate in religious activities.

H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: **No.**

I. ACCESS AND VISITATION: **Yes.**

The right to

- Leave and return to the home at reasonable times consistent with the home's rules.
- Receive visitors for a minimum of 8 hours daily, 7 days per week.
- Have access to the U.S. mail.
- Have access to the Governor's Action Center Toll Free Line.

J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: **No.**

K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: **No.**

L. MANAGE PERSONAL FINANCIAL AFFAIRS: **No.**

M. OTHER ADDITIONAL: **No.**

**METHOD(S) OF
DISCLOSURE**

POSTED WITHIN FACILITY: Yes.

A copy posted in a conspicuous place.

WITHIN RESIDENT'S CONTRACT: Yes.

PROVIDED AS SEPARATE WRITING: No.

ORAL EXPLANATION: Yes.

Informed orally.

OTHER: No.

**TRANSFER &
DISCHARGE**

Does the state set guidelines for involuntary transfer and/or discharge? Yes, by regulation.

REASON(S)

A. BEHAVIOR: **No.**

B. HEALTH STATUS: **Yes.**

- Resident requires the services in or of a licensed long-term care facility.
- Resident has personal care needs that cannot be met by the home.

C. NONPAYMENT: **No.**

D. NONCOMPLIANCE: **No.**

E. FACILITY CEASES TO OPERATE: **Yes.**

Licensee chooses to close the home.

F. OTHER: **No.**

- RESIDENT NOTIFICATION**
- A. **TIMING/DISTRIBUTION:**
30-day prior written notice to the resident, the designated person, and the referral agent unless emergency transfer is needed.
 - B. **CONTENT OF NOTIFICATION:** Yes.
Reasons for the transfer/discharge.
 - C. **RELOCATION ASSISTANCE:** Yes.
Offered by the Department if the licensee chooses to voluntarily close the home. It includes resident involvement in planning the transfer.

- APPEAL RIGHTS**
- A. **WITHIN FACILITY:** No.
 - B. **STATE AGENCY:** No.

- CONTRACT**
- Does the state require a written contract? Yes.
A written admission agreement is required by regulation.

- DISCLOSURES
REQUIRED IN THE
CONTRACT**
- SERVICES & ASSOCIATED CHARGES**
- A. **SERVICES & ASSOCIATED CHARGES:** Yes.
Personal care services to be provided, the actual amount of the periodic charges, the procedures for payment (including long distance telephone calls) and the handling of rent rebate funds, and a statement that each resident retains a \$30 monthly minimum of own funds for personal expenditure.
 - B. **ADDITIONAL SERVICES & ASSOCIATED CHARGES:** Yes.
The actual amount of the periodic charges for additional charges, charges for holding a bed during hospitalization or other extended absence from the home.

RESIDENT RIGHTS: Yes.
Resident's rights as described in section 2620.61. 55 P.C. § 2620.4(a)(9).

CONTRACT MODIFICATION: No.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: Yes.
The conditions under which the agreement may be terminated, including home closure.

OTHER

- A. **GRIEVANCE PROCEDURE:** No.
- B. **MEDICATION POLICY:** No.
- C. **RESIDENT NEEDS ASSESSMENT:** Yes.
An explanation of the annual screening and medical evaluation requirements and the procedures if evaluation indicates the need for another level of care.
- D. **SERVICES NOT AVAILABLE:** No.
- E. **STAFF:** No.
- F. **REFUND POLICY:** Yes.
The conditions under which refunds will be made, including the refund of admission fees and refunds upon a resident's death.

**DISCLOSURES
REQUIRED IN THE
CONTRACT (CONT.)**

- G. OTHER ADDITIONAL: Yes.
Financial arrangements if assistance with financial management is to be provided; the home's rules.

PROVISIONS PROHIBITED None specified.

**GRIEVANCE
PROCEDURE** Does state require the facility to have a grievance procedure for resident concerns? No.

FACILITY DISCRETION: No.

STATE MANDATED

- A. INTERNAL PROCEDURES: No.
B. EXTERNAL PROCEDURES: No.

**PRIVATE RIGHT
OF ACTION** Does state permit private right of action against the facility? No.

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? No.

DATA COLLECTION Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? No.

**SPECIAL CARE
ENVIRONMENTS** Does the state have specific guidelines for special care environments? No.

PUERTO RICO

CLASSIFICATION "SUBSTITUTE HOME"

The home of a family engaged in the care of not more than 6 aged persons, who come from other homes or families, for 24 hours a day, with or without profit. Also known as an establishment.

AUTHORITY

STATUTE P.R. Laws Ann. tit. 8, §§ 351 – 365. *Establishment for the Aged.*

REGULATIONS (Not published).

OVERSIGHT Department of the Family.

AGENCY

Does the state regulate the operation of assisted living facilities?
Yes, by statute.

LICENSURE "No person, entity, association, corporation, or the Commonwealth Government ... shall establish, operate, or maintain an establishment for the care of the elderly unless ... it requests and is granted [a] license ... [except if] taking care of ... aged persons to whom he is related by consanguinity or affinity."

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? No.

ADMISSION Does the state restrict who can be admitted? No.
CRITERIA

RESIDENT Does the state require a resident council or similar for resident
PARTICIPATION involvement? No.

RESIDENT BILL OF Does the statute include a resident bill of rights? No.
RIGHTS However, regulations must specify the minimum rights to be guaranteed.

ENUMERATED RIGHTS FREEDOM

A. FREEDOM OF CHOICE: Yes.

The right to participate in the decision-making that affects them.

**ENUMERATED RIGHTS
(CONT.)**B. FREEDOM FROM ABUSE & RESTRAINTS: **No.****PRIVACY/CONFIDENTIALITY**C. PRIVACY: **No.**D. CONFIDENTIALITY: **No.****GRIEVANCE**E. GRIEVANCE: **No.****OTHER**F. ACCOMMODATION OF INDIVIDUAL NEEDS: **No.**G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **No.**H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: **No.**I. ACCESS AND VISITATION: **No.**J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: **No.**K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: **No.**L. MANAGE PERSONAL FINANCIAL AFFAIRS: **No.**M. OTHER ADDITIONAL: **No.****METHOD(S) OF
DISCLOSURE**POSTED WITHIN FACILITY: **No.**WITHIN RESIDENT'S CONTRACT: **No.**PROVIDED AS SEPARATE WRITING: **No.**ORAL EXPLANATION: **No.**OTHER: **No.****TRANSFER &
DISCHARGE**Does the state set guidelines for involuntary transfer and/or discharge? **No.****CONTRACT**Does the state require a written contract? **No.****GRIEVANCE
PROCEDURE**Does state require the facility to have a grievance procedure for resident concerns? **No.**FACILITY DISCRETION: **No.****STATE MANDATED**A. INTERNAL PROCEDURES: **No.**B. EXTERNAL PROCEDURES: **No.**

PRIVATE RIGHT OF ACTION Does state permit private right of action against the facility? No.

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? No.

DATA COLLECTION Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? No.
But the Department must keep a register of licensed establishments which must be made available to the public.

SPECIAL CARE ENVIRONMENTS Does the state have specific guidelines for special care environments? No.

RHODE ISLAND

CLASSIFICATION “RESIDENTIAL CARE & ASSISTED LIVING FACILITY”

A publicly or privately operated residence that provides directly or indirectly by means of contracts or arrangements personal assistance lodging, and meals to two (2) or more adults who are unrelated to the licensee or administrator, excluding however, any privately operated establishment or facility licensed pursuant to chapter 17 of this title, and those facilities licensed by or under the jurisdiction of the Department of Mental Health, Retardation, and Hospitals, the Department of Children, Youth, and Families, or any other state agency. Residential care and assisted living facilities include sheltered care homes, and board and care residences or any other entity by any other name providing the above services which meet the definition of residential care and assisted living facilities.

AUTHORITY

STATUTE R.I. Gen. Laws §§ 23-17.4-1 et seq. *Residential Care & Assisted Living Facility Act.*

REGULATIONSS R.I. Rules R23.17.4-SCF et seq. (Not published). *Residential Care & Assisted Living Facility.*

OVERSIGHT AGENCY

Department of Health, Division of Facilities Regulation.

Does the state regulate the operation of assisted living facilities?

Yes.

LICENSURE

No person, acting severally or jointly with any other person, shall establish, conduct, or maintain a residential care/assisted living facility in this state without a license under this chapter. The licensing agency may grant a variance from the provisions of any rule or regulation in a specific case if it finds that a literal enforcement of the provision will result in unnecessary hardship to the applicant, and that the variance will not be contrary to the public interest and the health and safety of residents.

There are four levels of licensure and residences may have areas within a facility licensed separately:

- Level F1 – residents are not capable of self-preservation;
- Level F2 – residents are capable of self-preservation;
- Level M1 – residents require that the facility centrally store and administer medications; and/or
- Level M2 – residents require assistance with self-administration of medications.

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? No.

ADMISSION Does the state restrict who can be admitted? Yes, in regulations.
CRITERIA

RESTRICTIONS **HEALTH/MENTAL HEALTH**

- A. CHRONIC HEALTH CONDITION: **No.**
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: **No.**
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: **No.**
- D. COGNITIVE IMPAIRMENT: **No.**
- E. MEDICAL OR NURSING CARE: **Yes.**
Requires medical or nursing care as provided in a health care facility.

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: **Yes.**
Not capable of self-preservation; unless the facility meets a more stringent life safety code as required under § 23-17.4-6(b)(3). R.I.G.L. § 23-17.4-2(7).
- G. INCONTINENT: **No.**
- H. BEDFAST: **No.**

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: **No.**
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: **No.**

NEEDS EXCEED FACILITY LICENSURE: Yes.

Not reasonably oriented and requires care beyond that permitted by the level of service for which the facility is licensed.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: **No.**
- L. COURT DETERMINED INCOMPETENCE: **No.**
- M. OTHER ADDITIONAL: **No.**

RESIDENT Does the state require a resident council or similar for resident
PARTICIPATION involvement? **No.**

RESIDENT BILL OF Does the statute include a resident bill of rights? **Yes.**
RIGHTS

ENUMERATED RIGHTS **FREEDOM**

- A. FREEDOM OF CHOICE: **Yes.**
Residents shall have the right to obtain personal services or to purchase needs outside of the facility.
- B. FREEDOM FROM ABUSE & RESTRAINTS: **No.**

**ENUMERATED RIGHTS
(CONT.)****PRIVACY/CONFIDENTIALITY**

- C. **PRIVACY: Yes.**
Residents may associate and communicate privately with persons of their choice and shall be allowed freedom and privacy in sending and receiving mail.
- D. **CONFIDENTIALITY: Yes.**
Residents' medical information shall be protected by applicable state confidentiality laws.

GRIEVANCE

- E. **GRIEVANCE: Yes.**
Residents shall be encouraged and assisted to voice their grievances through a documented grievance mechanism which will insure residents' freedom from interference, coercion, discrimination, or reprisal.

OTHER

- F. **ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.**
- Before asking a resident to leave the facility, the facility will inform the resident of the need for such action and of any alternatives to the action, and shall give adequate notification prior to eviction.
 - A resident will be asked to leave only for his or her welfare or that of other residents, or for nonpayment of his or her stay.
 - Reasonable advance notice for leaving will be given to ensure orderly departure, and the action shall be appropriately documented.
 - If a resident chooses, or his or her legal guardian so determines, to leave a facility, adequate notification to the owner of the facility should be given and
 - Each resident shall be offered care without discrimination as to sex, race, color, religion, national origin, or source of payment.
 - Each resident shall be cared for with consideration, respect and dignity, and shall be afforded his or her rights to freedom of religious practice, civil liberties, maintenance of self independence, and privacy.
- G. **PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.**
Residents shall be encouraged to meet with and participate in activities of social, religious, and community groups at their discretion.
- H. **EXAMINATION OF SURVEY AND INSPECTION RESULTS: No.**
- I. **ACCESS AND VISITATION: Yes.**
Each resident shall be allowed to maintain an amount of money to cover reasonable monthly personal expenses.
- J. **SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: No.**
- K. **NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: Yes.**
- Each resident shall be fully informed as evidenced by the resident's written acknowledgment prior to or at the time of admission or during stay, of all rules and regulations and policies pertaining to the rights of residents and governing resident conduct and responsibilities.
 - Each resident shall receive a copy of the rights as provided in this section.
- L. **MANAGE PERSONAL FINANCIAL AFFAIRS: Yes.**
A resident may manage his or her personal financial affairs or shall be given at least a

**ENUMERATED RIGHTS
(CONT.)**

monthly accounting of financial transactions made on his or her behalf if written delegation of this responsibility was accepted by the facility for a stipulated period of time and in conformance with state laws.

- M. OTHER ADDITIONAL: Yes.
- Each resident shall be informed in writing, prior to, or at the time of admission or during stay, of services available and of related charges, including all charges not covered either under federal and/or state programs by other third party payers or by the facility's basic rate.
 - Upon transfer, the resident shall be refunded any advanced payment made, provided a 30-day notice has been given.

**METHOD(S) OF
DISCLOSURE**

POSTED WITHIN FACILITY: Yes.

Shall display in a conspicuous place on the premises.

WITHIN RESIDENT'S CONTRACT: No.

PROVIDED AS SEPARATE WRITING: Yes.

Provided to each resident or his or her representative upon admission.

ORAL EXPLANATION: No.

OTHER: No.

**TRANSFER &
DISCHARGE**

Does the state set guidelines for involuntary transfer and/or discharge? Yes.

REASON(S)

- A. BEHAVIOR: Yes.
To protect the welfare of the resident or of other residents.
- B. HEALTH STATUS: No.
- C. NONPAYMENT: YES.
- D. NONCOMPLIANCE: No.
- E. FACILITY CEASES TO OPERATE: No.
- F. OTHER: No.

RESIDENT NOTIFICATION

- A. TIMING/DISTRIBUTION:
Reasonable notice of reason and alternatives to action.
- B. CONTENT OF NOTIFICATION: No.
- C. RELOCATION ASSISTANCE: No.

APEAL RIGHTS

- A. WITHIN FACILITY: No.
- B. STATE AGENCY: No.

CONTRACT

Does the state require a written contract? No.

GRIEVANCE PROCEDURE Does the state require the facility to have a grievance procedure for resident concerns? No.

FACILITY DISCRETION: No.

STATE MANDATED

A INTERNAL PROCEDURES: No.

B. EXTERNAL PROCEDURES: No.

PRIVATE RIGHT OF ACTION Does the state permit private right of action against the facility? No.

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? No.

DATA COLLECTION Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? Yes.
Upon request of the licensing agency, health agencies and professionals may share resident health status information with the Department of Health for the purpose of determining each resident's capability of self-preservation.

SPECIAL CARE ENVIRONMENTS Does the state have specific guidelines for special care environments? Yes.
The statute specifies requirements for Alzheimer's Special Care Units.

PLANNING: No.

STAFFING/STAFF TRAINING: No.

ENVIRONMENT: No.

ACTIVITIES: No.

DISCLOSURE: Yes.

On or after January 1, 1994, any residential care and assisted living facility which offers to provide or provides care for patients or residents with Alzheimer's disease or other dementia by means of an Alzheimer's special care unit shall be required to disclose the form of care or treatment provided, in addition to that care and treatment required by the rules and regulations for the licensing of residential care and assisted living facilities. That disclosure shall be made to the licensing agency and to any person seeking placement in an Alzheimer's special care unit of a residential care and assisted living facility. The information disclosed shall explain that additional care is provided in each of the following areas:

- Philosophy. The Alzheimer's special care unit's written statement of its overall philosophy and mission which reflects the needs of residents afflicted with dementia.

***SPECIAL CARE
ENVIRONMENTS
(CONT.)***

- Pre-admission, admission, and discharge. The process and criteria for placement, transfer, or discharge from the unit.
- Assessment, care planning, and implementation. The process used for assessment and establishing the plan of care and its implementation, including the method by which the plan of care evolves and is responsive to changes in condition.
- Staffing patterns and training ratios. Staff training and continuing education practices.
- Physical environment. The physical environment and design features appropriate to support the functioning of cognitively impaired adult residents.
- Resident activities. The frequency and types of resident activities.
- Family role in care. The involvement in families and family support programs.
- Program costs. The cost of care and any additional fees.

OTHER: No.

SOUTH CAROLINA

CLASSIFICATION “COMMUNITY RESIDENTIAL CARE FACILITY”

A facility which offers room and board and provides a degree of personal assistance for two or more persons eighteen years old or older. [It] offers room and board and provides a degree of personal assistance for a period of time in excess of twenty-four consecutive hours for two or more persons, eighteen years old or older, unrelated to the operator within the third degree of consanguinity. Included in this definition is any facility (other than a hospital), which offers or represents to the public that it offers a beneficial or protected environment specifically for the mentally ill or drug addicted or alcoholic, or provides or purports to provide any specific procedure or process for the cure or improvement of that disease or condition.

“LONG-TERM CARE FACILITY”

An intermediate care facility, nursing care facility, or residential care facility subject to regulation and licensure by the State Department of Health and Environmental Control.

AUTHORITY

STATUTE S.C. Code Ann. §§ 44-7-110 et seq. (1998) *State Certification of Need and Health Facility Licensure Act*.
S.C. Code Ann §§ 41-81-10 et seq. (1998) *Bill of Rights for Residents of Long-Term Care Facilities*.

REGULATIONS S.C. Code Regs. 61-84 (1998). *Standards for Licensing Community Residential Care Facilities*.

OVERSIGHT Department of Health & Environmental Control, Division of Health Licensing.

AGENCY

Does the state regulate the operation of assisted living facilities?
Yes, by statute.

LICENSURE If they provide care for two or more unrelated persons, ... facilities or services may not be established, operated, or maintained in this state without first obtaining a license in the manner provided by this article and regulations promulgated by the department.

Separate licenses are required for facilities maintained on separate premises even though they are operated by the same management. Separate licenses are not required, but may be issued, for separate buildings on the same or adjoining grounds where a single level or type of care is provided.

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? Yes.

PHILOSOPHY Only with regard to residents' rights. The General Assembly finds that persons residing within long-term care facilities are isolated from the community and often lack the means to assert their rights fully as individual citizens. The General Assembly recognizes the need for these persons to live within the least restrictive environment possible in order to retain their individuality and personal freedom. The General Assembly further finds that it is necessary to preserve the dignity and personal integrity of residents of long-term care facilities through the recognition and declaration of rights safeguarding against encroachments upon each resident's need for self-determination.

(CONT.)

ADMISSION Does the state restrict who can be admitted? Yes.
CRITERIA

RESTRICTIONS

HEALTH/MENTAL HEALTH

- A. CHRONIC HEALTH CONDITION: No.
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: No.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS:
Any person who is suffering from acute mental illness of a nature likely to endanger himself or others.
- D. COGNITIVE IMPAIRMENT: No.
- E. MEDICAL OR NURSING CARE: Yes.
Any person needing hospitalization or nursing care or any person needing the daily attention of a licensed nurse.

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: No.
- G. INCONTINENT: No.
- H. BEDFAST: No.

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: No.
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: No.

NEEDS EXCEED FACILITY LICENSURE: Yes.

Any person not meeting the requirements for admission. The facility may determine who is eligible for admission in their policies as long as compliance with state and federal laws and regulations are met.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: No.
- L. COURT DETERMINED INCOMPETENCE: No.
- M. OTHER ADDITIONAL: No.

RESIDENT Does the state require a resident council or similar for resident
PARTICIPATION involvement? No.

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? Yes.

ENUMERATED RIGHTS FREEDOM

A. FREEDOM OF CHOICE: Yes.

- The right to choose a personal attending physician;
- The right to participate in planning care and treatment or changes in care and treatment;
- The right to be fully informed in advance about changes in care and treatment that may affect the resident's well-being;
- The right to receive from the resident's physician a complete and current description of the resident's diagnosis and prognosis in terms that the resident is able to understand; and
- The right to refuse to participate in experimental research.

A resident or a resident's legal representative may contract with a person not associated with or employed by the facility to perform sitter services unless the services are prohibited from being performed by a private contractor by state or federal law or by the written contract between the facility and the resident.

B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.

Each resident must be free from mental and physical abuse and free from chemical and physical restraints except those restraints ordered by a physician.

PRIVACY/CONFIDENTIALITY

C. PRIVACY: Yes.

Each resident must be assured privacy for visits of a conjugal nature.

D. CONFIDENTIALITY: Yes.

Each resident must be assured security in storing personal possessions and confidential treatment of the resident's personal and medical records and may approve or refuse their release to any individual outside the facility, except in the case of a transfer to another health care institution or as required by law or a third party payment contract.

GRIEVANCE

E. GRIEVANCE: No.

OTHER

F. ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.

- A resident may be transferred or discharged only for medical reasons, for the welfare of the resident or for the welfare of other residents of the facility, or for nonpayment and must be given written notice of not less than thirty days, except that when the health, safety, or welfare of other residents of the facility would be endangered by the thirty-day notice requirement, the time for giving notice must be that which is practical under the circumstances. Each resident must be given written notice before the resident's room or roommate in the facility is changed.
- Each resident must be treated with respect and dignity and assured privacy during treatment and when receiving personal care.
- Each resident must be assured that no resident will be required to perform services for the facility that are not for therapeutic purposes as identified in the plan of care for the resident.

**ENUMERATED RIGHTS
(CONT.)**

- G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **Yes.**
Each resident may meet with and participate in activities of social, religious, and community groups at the resident's discretion unless medically contraindicated by written medical order.
- H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: **No.**
- I. ACCESS AND VISITATION: **Yes.**
- The legal guardian, family members, and other relatives of each resident must be allowed immediate access to that resident, subject to the resident's right to deny access or withdraw consent to access at any time. Each resident without unreasonable delay or restrictions must be allowed to associate and communicate privately with persons of the resident's choice and must be assured freedom and privacy in sending and receiving mail. The legal guardian, family members, and other relatives of each resident must be allowed to meet in the facility with the legal guardian, family members, and other relatives of other residents to discuss matters related to the facility, so long as the meeting does not disrupt resident care or safety;
 - Each resident must be able to keep and use personal clothing and possessions as space permits unless it infringes on another resident's rights;
 - Married residents must be permitted to share a room unless medically contraindicated by the attending physician in the medical record.
- J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: **No.**
- K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: **No.**
- L. MANAGE PERSONAL FINANCIAL AFFAIRS:
Each resident or the resident's representative may manage the resident's personal finances unless the facility has been delegated in writing to carry out this responsibility, in which case the resident must be given a quarterly report of the resident's account.
- M. OTHER ADDITIONAL: **No.**

**METHOD(S) OF
DISCLOSURE**

- POSTED WITHIN FACILITY: Yes.**
Each facility must have posted written notices of the residents' rights in conspicuous locations in the facility.
- WITHIN RESIDENT'S CONTRACT: Yes.**
- PROVIDED AS SEPARATE WRITING: Yes.**
Each resident or the resident's representative must be given by the facility a written and oral explanation of the rights ... before or at the time of admission to a long-term care facility.
- ORAL EXPLANATION: No.**
- OTHER: No.**

**TRANSFER &
DISCHARGE**

Does the state set guidelines for involuntary transfer and/or discharge? **Yes.**

- REASON(S)** A. BEHAVIOR: **No.**

**TRANSFER &
DISCHARGE
(CONT.)**

- B. HEALTH STATUS: Yes.
Medical reasons.
- C. NONPAYMENT: Yes.
Nonpayment.
- D. NONCOMPLIANCE: No.
- E. FACILITY CEASES TO OPERATE: No.
- F. OTHER: Yes.
For the welfare of the resident or other residents of the facility.

RESIDENT NOTIFICATION

- A. TIMING/DISTRIBUTION:
Written notice of not less than thirty days, except that when the health, safety, or welfare of other residents of the facility would be endangered by the thirty-day notice requirement, the time for giving notice must be that which is practicable under the circumstances.
- B. CONTENT OF NOTIFICATION: No.
- C. RELOCATION ASSISTANCE: No.

APPEAL RIGHTS

- A. WITHIN FACILITY: No.
- B. STATE AGENCY: No.

CONTRACT

Does the state require a written contract? No.

**GRIEVANCE
PROCEDURE**

Does the state require the facility to have a grievance procedure for resident concerns? Yes.

FACILITY DISCRETION:

Each facility shall establish grievance procedures to be exercised by or on behalf of the resident to enforce the rights provided by this act.

STATE MANDATED

- A. INTERNAL PROCEDURES: No.
- B. EXTERNAL PROCEDURES: No.

**PRIVATE RIGHT
OF ACTION**

Does the state permit private right of action against the facility? No.

NEGOTIATED RISK

Does the statute include reference to negotiated risk agreement? No.

DATA COLLECTION

Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? Yes.

DATA COLLECTION (CONT.) An accurate up-to-date monthly statistical record [for each resident] ... [containing] at least ... name, case number, dates of admission and discharge if during that month, and days of residence during the month.

SPECIAL CARE ENVIRONMENTS Does the state have specific guidelines for special care environments? Yes.
Statute provides guideline for facilities (nursing homes, community residential care facilities, day care facilities for adults) that offer to provide or provide an Alzheimer's special care unit or program.

PLANNING: No.

STAFFING/STAFF TRAINING: No.

ENVIRONMENT: No.

ACTIVITIES: No.

DISCLOSURE: Yes.

- Written disclosure (facility form) to consumers regarding the facility's:
- Criteria for admission, transfer, and discharge
- Care planning
- Staffing patterns and staff training
- Physical environment
- Resident & participant activities
- Family role in care
- Unique costs to the resident

OTHER: No.

SOUTH DAKOTA

CLASSIFICATION "ASSISTED LIVING CENTER"

Any institution, rest home, boarding home, place, building, or agency which is maintained and operated to provide personal care and services which meet some need beyond basic provision of food, shelter, and laundry in a freestanding, physically separate facility which is not otherwise required to be licensed under this chapter.

Also:

"HEALTH CARE FACILITY"

Any institution, sanitarium, maternity home, ambulatory surgery center, chemical dependency treatment facility, hospital, nursing facility, assisted living center, rural primary care hospital, adult foster care home, place, building, or agency in which any accommodation is maintained, furnished, or offered for the hospitalization, nursing care, or supervised care of the sick or injured.

"CONTINUING CARE RETIREMENT COMMUNITY"

A facility that offers any person, under a continuing agreement, board and lodging, in addition to care in a nursing facility or assisted living center, regardless of whether the lodging and care is provided at the same location.

AUTHORITY

STATUTE S.D. Cod. Laws §§ 34-12-1 et seq. *Regulation of Hospitals & Related Institutions.*

REGULATIONS S.D. Admin. R. §§ 44:04:01 et seq. *Medical Facilities.*

OVERSIGHT

AGENCY

Department of Health

The state department of health may promulgate rules, pursuant to chapter 1- 26, which are necessary to protect the health and safety of patients cared for in licensed health care facilities. The state department of health may issue licenses to operate a health care facility or related institutions as defined in § 34-12-1.1 which, after application and inspection, are found to comply with the provisions of this chapter, and the rules adopted by the state department of health.

Also:

Department of Social Services

The secretary may adopt reasonable and necessary rules for the administration and operation of the program for adults and the elderly which shall relate to ... payments for elderly, blind, and disabled persons residing in adult foster care or assisted living centers.

However, no regulations may be made, or standards established, under this chapter for any health care facility or related institution conducted in accordance with the practices and principles of the body known as the Church of Christ, Scientist, or licensed by the state chiropractic board of examiners as provided in § 34-13-7 except as to the sanitary and safe

OVERSIGHT AGENCY (CONT.) condition of the premises, cleanliness of operation, and its physical equipment. Chapter 34-13 shall not apply to any health care facility licensed under this chapter.

Does the state regulate the operation of assisted living facilities?
Yes, by statute.

LICENSURE Yes.
No person, partnership, limited liability company, association, or corporation may establish, conduct, or maintain in the state of South Dakota, any health care facility or related institution for the hospitalization or care, or both, of human beings without first obtaining a license from the South Dakota department of health in the manner provided in this chapter. The term "corporation" as used in this chapter means public and municipal corporations as well as private corporations. Provisions may be made for multiple licenses for health care facilities providing different levels of care and services to patients.

REGISTRATION Yes.
Any person engaged in the business of operating a home or facility for the purpose of providing residential services for compensation to two or more elderly or disabled persons not related to the owner by blood or marriage shall register annually with the state department of health, unless otherwise required to be licensed under this chapter. As used in this section, the term "residential services" means room, meals and daily living services, but not habilitative or health care. The Department shall establish procedures and provide forms for registration. No fee may be established for registration. To implement this section, the state department of health may adopt rules pursuant to chapter 1-26. Failure to register pursuant to this section is a Class 2 misdemeanor.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? No.

ADMISSION CRITERIA Does the state restrict who can be admitted? Yes, under state regulations. Note that under state law, a facility operating under a probationary license may not accept new admissions.

RESTRICTIONS **HEALTH/MENTAL HEALTH**

A. **CHRONIC HEALTH CONDITION: Yes.**
A chronic illness which would require any services beyond supervision, cueing, or limited hands-on physical assistance to carry out normal activities of daily living and instrumental activities of daily living.

B. **COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: Yes.**
A communicable disease which would require any services beyond supervision, cueing, or limited hands-on physical assistance to carry out normal activities of daily living and instrumental activities of daily living.

RESTRICTIONS (CONT.)

- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: **No.**
- D. COGNITIVE IMPAIRMENT: **No.**
- E. MEDICAL OR NURSING CARE: **Yes.**
Requires more than intermittent nursing care or rehabilitative services.

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: **No.**
- G. INCONTINENT: **No.**
- H. BEDFAST: **No.**

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: **No.**
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: **No.**

NEEDS EXCEED FACILITY LICENSURE: Yes.

- A disability which would require any services beyond supervision, cueing, or limited hands-on physical assistance to carry out normal activities of daily living and instrumental activities of daily living.
- Requires care in excess of the classification for which it is licensed.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: **No.**
- L. COURT DETERMINED INCOMPETENCE: **No.**
- M. OTHER ADDITIONAL: **No.**

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? **No.**

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? **No**, however it is in regulations.

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: **Yes.**
- The resident's right to be fully informed of the resident's total health status, including functional status, medical care, nursing care, nutritional status, rehabilitation and restorative potential, activities potential, cognitive status, oral health, psychosocial status, and sensory and physical impairments.
 - The resident's right to refuse treatment and to refuse to participate in experimental research. A resident's right to refuse treatment does not absolve a facility from responsibility to provide for necessary medical services and treatment. Residents who refuse treatment must be informed of the results of that refusal, plus any alternatives that may be available.
 - The resident's right to formulate a durable power of attorney for health care as provided in SDCL chapter 59-7 and a living will declaration as provided in SDCL chapter 34-12D.

**ENUMERATED RIGHTS
(CONT.)**

- B. **FREEDOM FROM ABUSE & RESTRAINTS: Yes.**
- A facility must provide care and an environment that contributes to the resident's quality of life, including:
 - A safe, clean, comfortable, and homelike environment;
 - Maintenance or enhancement of the resident's ability to preserve individuality, exercise self-determination, and control everyday physical needs;
 - Freedom from physical or chemical restraints imposed for purposes of discipline or convenience;
 - Freedom from verbal, sexual, physical, and mental abuse and from involuntary seclusion, neglect, or exploitation imposed by anyone, and theft of personal property; and
 - Retention and use of personal possessions, including furnishings and clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents.

PRIVACY/CONFIDENTIALITY

- C. **PRIVACY: Yes.**

The resident's right to receive visitors. Visiting hours and policies of the facility must permit and encourage the visiting of residents by friends and relatives.

A facility must provide for privacy and confidentiality for the resident, including the resident's accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups. A facility is not required to provide a private room for each resident. A facility must permit residents to perform the following:

- To send and receive unopened mail and to have access to stationery, postage, and writing implements at the resident's own expense;
- To access and use a telephone without being overheard;
- To visit a spouse or, if both are residents of the same facility, to share a room with the spouse, within the capacity of the facility, upon the consent of both spouses;
- Except in an emergency, to have room doors closed and to require knocking before entering the resident's room;
- To have only authorized staff present during treatment or activities of personal hygiene;
- To retire and rise according to the resident's wishes, as long as the resident does not disturb other residents;
- To meet, associate, and communicate with any person of the resident's choice in a private place within the facility;
- To participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility; and
- To approve or refuse the release of personal and medical records to any individual outside the facility, except when the resident is transferred to another health care facility or when the release of the record is required by law. With the resident's permission, a facility must allow the state ombudsman or a representative of the ombudsman access to the resident's medical records.

- D. **CONFIDENTIALITY: See item 'c' above.**

GRIEVANCE

- E. **GRIEVANCE: Yes.**

A resident may voice grievances without discrimination or reprisal. A resident's grievance

**ENUMERATED RIGHTS
(CONT.)**

may be in writing or oral and may relate to treatment furnished, treatment that has not been furnished, the behavior of other residents, and infringement of the resident's rights. A facility must adopt a grievance process and make the process known to each resident and to the resident's immediate family. The grievance process must include the facility's efforts to resolve the grievance, documentation of the grievance, the names of the persons involved, the disposition of the matter, and the date of disposition.

OTHER

- F. ACCOMMODATION OF INDIVIDUAL NEEDS: **Yes.**
- The resident's right to exercise his or her rights as a resident of the facility and as a citizen of the United States.
 - The resident's right to be free of interference, coercion, discrimination, and reprisal from the facility in exercising the resident's rights.
 - The resident's right to have a person appointed to act on the resident's behalf.
 - A resident may refuse to perform services on behalf of the facility, unless otherwise agreed to in the resident's plan of care.
- G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **No.**
- H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: **Yes.**
A resident may examine the results of the Department's most recent survey of the facility and any plan of correction in effect. A facility must make available, in a place readily accessible to residents, results of the department's most recent survey, and if applicable, the survey conducted by the United States Department of Health and Human Services and any plans of correction in effect. A resident may request to receive information from client advocates and to be afforded opportunity to contact these agencies.
- I. ACCESS AND VISITATION: **Yes.**
The resident's right to records pertaining to the resident. The resident may purchase photocopies of the resident's records or any portions of them. The cost to the resident may not exceed community standards for photocopying, and the facility must provide the photocopies within two working days after the request.
- J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: **No.**
- K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: **No.**
- L. MANAGE PERSONAL FINANCIAL AFFAIRS: **Yes.**
A resident may manage personal financial affairs. A facility may not require residents to deposit their personal funds with the facility. If the resident chooses to deposit funds with the facility and gives written authorization, the facility must hold the funds in accordance with SDCL 34-12-15.1 to 34-12-15.10, inclusive. This section does not apply to Assisted Living Centers that do not manage residents' personal funds.
- M. OTHER ADDITIONAL: **No.**

**METHOD(S) OF
DISCLOSURE**

POSTED WITHIN FACILITY: **No.**

WITHIN RESIDENT'S CONTRACT: **No.**

PROVIDED AS SEPARATE WRITING: **Yes.**

Prior to or at the time of admission, a facility must inform the resident ... in writing, of the resident's rights and of the rules governing the resident's conduct and responsibilities while

**METHOD(S) OF
DISCLOSURE (CONT.)**

living in the facility. During the resident's stay the facility must notify the resident ... in writing, of any changes to the original information. The facility must promptly notify the resident, and if known, the resident's legal representative or interested family member ... when there has been a change in the resident's rights.

ORAL EXPLANATION: Yes.

Prior to or at the time of admission, a facility must inform the resident ... orally ..., of the resident's rights and of the rules governing the resident's conduct and responsibilities while living in the facility. During the resident's stay the facility must notify the resident ... orally ... of any changes to the original information. The facility must promptly notify the resident, and if known, the resident's legal representative or interested family member ... when there has been a change in the resident's rights.

OTHER: No.**TRANSFER &
DISCHARGE**

Does the state set guidelines for involuntary transfer and/or discharge? Yes.

Primarily under regulations.

REASON(S)**A. BEHAVIOR: Yes.**

The safety or health of individuals in the facility is endangered by the resident.

B. HEALTH STATUS: Yes.

- Requires care in excess of the classification for which it is licensed.
- Requires more than intermittent nursing care or rehabilitative services.
- The resident's needs and welfare cannot be met by the facility.
- The resident's health has improved sufficiently so the resident no longer needs the services provided by the facility.

C. NONPAYMENT: Yes.

The resident has failed to pay for allowable billed services as agreed to.

D. NONCOMPLIANCE: No.**E. FACILITY CEASES TO OPERATE: Yes.**

The facility ceases to operate.

F. OTHER: No.**RESIDENT NOTIFICATION****A. TIMING/DISTRIBUTION:**

The facility must notify the resident and a family member or client advocate in writing at least 30 days before the transfer or discharge unless a change in the resident's health requires immediate transfer or discharge or the resident has not resided in the facility for 30 days.

B. CONTENT OF NOTIFICATION: Yes.

The written notice must specify the reason for and effective date of the transfer or discharge and the location to which the resident will be transferred or discharged.

C. RELOCATION ASSISTANCE: Yes.

The written notice must specify ... the location to which the resident will be transferred or discharged.

**RESIDENT NOTIFICATION
(CONT.)**

- A. **WITHIN FACILITY: Yes.**
The state does not set guidelines for the facility's appeal process but only requires that "the written notice must specify ... conditions under which the resident may request or refuse transfer within the facility, and a description of how the resident may appeal a decision by the facility to transfer or discharge the resident."

APPEAL RIGHTS

- B. **STATE AGENCY: Yes.**
Any person aggrieved by any decision or ruling of the said department of health may appeal under the provisions of chapter 1-26.

CONTRACT

Does the state require a written contract? Yes, under regulations.
A signed and dated admission agreement between the resident or the resident's legal representative and the facility ... is required. The resident or resident's legal representative and the facility shall complete the admission agreement before or at the time of admission and before the resident has made a commitment for payment for proposed or actual care. The agreement may not include ambiguous or misleading information and may not be in conflict with this chapter. The agreement must be printed for ease of reading by the resident. If the agreement exceeds three pages, it must contain a table of contents or an index of principal sections. Any change in the information must be given to the resident or the resident's legal representative as a signed and dated addendum to the original agreement.

**DISCLOSURES
REQUIRED IN THE
CONTRACT****SERVICES & ASSOCIATED CHARGES**

- A. **SERVICES & ASSOCIATED CHARGES: Yes.**
A list of services available in the facility and the charges for such services. The facility must specify which items and services are included in the services for which the resident may not be charged, those other items and services that the facility offers and for which the resident may be charged, and the amount of any such charges.
- B. **ADDITIONAL SERVICES & ASSOCIATED CHARGES: No.**

RESIDENT RIGHTS: No.

CONTRACT MODIFICATION: No.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: No.

OTHER

- A. **GRIEVANCE PROCEDURE: Yes.**
A description of how to file a complaint with the Department concerning abuse, neglect, and misappropriation of resident property.
- B. **MEDICATION POLICY: No.**
- C. **RESIDENT NEEDS ASSESSMENT: No.**
- D. **SERVICES NOT AVAILABLE: No.**
- E. **STAFF: No.**
- F. **REFUND POLICY: No.**
- G. **OTHER ADDITIONAL: Yes.**
- A description of how a resident can protect personal funds, including the right to establish eligibility for Medicaid.

**DISCLOSURES
REQUIRED IN THE
CONTRACT (CONT.)**

- A list of names, addresses, and telephone numbers of client advocates.
- A description of how the resident can contact the resident's physician, including the name and specialty of the physician.
- A description of how to apply for and use Medicare and Medicaid benefits, including the addresses and telephone numbers of the nearest office of the South Dakota Department of Social Services and of the United States Social Security Administration.
- A description of the bed-hold policy which indicates the length of time the bed will be held for the resident, any policies regarding the held bed, and readmission rights of the resident.

PROVISIONS PROHIBITED Not specified.

GRIEVANCE PROCEDURE Does the state require the facility to have a grievance procedure for resident concerns? Yes, under regulations.

FACILITY DISCRETION: Yes.

A facility must adopt a grievance process and make the process known to each resident and to the resident's immediate family.

STATE MANDATED

A. **INTERNAL PROCEDURES:** Yes.

The [facility's] grievance process must include the facility's efforts to resolve the grievance, documentation of the grievance, the names of the persons involved, the disposition of the matter, and the date of disposition.

B. **EXTERNAL PROCEDURES:** No.

PRIVATE RIGHT OF ACTION Does the state permit private right of action against the facility? No.

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? No.

DATA COLLECTION Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? Yes.

Generally, "each licensed facility, when requested by the Department, shall submit to the Department the pertinent data necessary to carry out the purposes of SDCL chapter 34-12 and this article. ... Facilities shall report to the Department deaths resulting from other than natural causes originating on facility property such as accidents, abuse, negligence, or suicide; missing patients or residents; and abuse or neglect of patients or residents by any person within 48 hours of the event."

SPECIAL CARE ENVIRONMENTS Does the state have specific guidelines for special care environments? Yes, by regulation.
For residents suffering from developmental disabilities or mental diseases.

PLANNING: No.

STAFFING/STAFF TRAINING: No.

ENVIRONMENT:

Facilities consistent with needs.

ACTIVITIES:

Programs consistent with needs.

DISCLOSURE: No.

OTHER: No.

TENNESSEE

CLASSIFICATION “ASSISTED-CARE LIVING FACILITY”

A building, establishment, complex or distinct part thereof which ... accepts primarily aged persons for domiciliary care and ... provides on site to its residents, room, board, nonmedical living assistance services appropriate to the residents’ respective needs, and medical services as prescribed by each resident’s treating physician [and] limited to ... limited to oral medications, topicals, suppositories and injections (excluding intravenous) pursuant to a physician’s order, ... all other services that a licensed home care organization is authorized to provide to home-bound persons [including] home health aide service ... by a licensed home care organization.

Note that a “Home for the Aged” ... accepts primarily aged persons for relatively permanent, domiciliary care, ...provides room, board, and personal services to one or more non-related persons ... [and transfers residents] to a licensed hospital, a licensed assisted living facility, or a licensed nursing home when health care services are needed which must be provided in such other facilities.

AUTHORITY

STATUTE Tenn. Code Ann. §§ 68-11-201 to –253. *Health Facilities & Resources.*

REGULATIONS Tenn. Admin. Code §§ 1200-8-9.01 to .13 (1999). *Standards for Assisted-Care Living Facilities.*

OVERSIGHT **AGENCY** Department of Health

Does the state regulate the operation of assisted living facilities?
Yes, by statute.

LICENSURE State statute requires that “an assisted-care living facility shall be subject to licensure and meet such requirements and minimum standards as the board shall prescribe in regulations pursuant to § 68-11-209.” and that “ No person, partnership, association, corporation or any state, county or local government unit, or any division, department, board or agency thereof, shall establish, conduct, operate or maintain ... [an] assisted-care living facility ... without having a license.”

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? No.

ADMISSION CRITERIA Does the state restrict who can be admitted? Yes, under both state statute and state regulation.

RESTRICTIONS HEALTH/MENTAL HEALTH

- A. CHRONIC HEALTH CONDITION: No.
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: No.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: No.
- D. COGNITIVE IMPAIRMENT: Yes.
Persons is in the latter stages of Alzheimer's disease or related disorders.
- E. MEDICAL OR NURSING CARE: Yes.
 - Persons requiring hypodermoclysis, nasopharyngeal and tracheotomy aspiration, initial phases of a regimen involving administration of medical gases, a Levin tube, or arterial blood gas monitoring.
 - Persons requiring intravenous or daily intramuscular injections or intravenous feedings, ... insertion, sterile irrigation and replacement of catheters, except for routine maintenance of Foley catheters, ... sterile wound care, or ... treatment of extensive stage 3 or stage 4 decubitus ulcer or exfoliative dermatitis.

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: Yes.
Persons unable to communicate his or her needs.
- G. INCONTINENT: No.
- H. BEDFAST: No.

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: Yes.
Persons posing a serious threat to self or others.
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: Yes.
Persons requiring physical or chemical restraints.

NEEDS EXCEED FACILITY LICENSURE: Yes.

Residents whose needs cannot be met by the facility within its licensure category or who do not meet the statutory definition of assisted-care living facility resident.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: No.
- L. COURT DETERMINED INCOMPETENCE: No.
- M. OTHER ADDITIONAL: No.

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? No.

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? No. It is included in the regulation.

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: **Yes.**
The right to
- Refuse treatment.
 - Execute, modify, or rescind a Living Will, Do-Not-Resuscitate Order, or advance directive.
- B. FREEDOM FROM ABUSE & RESTRAINTS: **Yes.**
The right to be free from mental and physical abuse.

PRIVACY/CONFIDENTIALITY

- C. PRIVACY: **Yes.**
The right to
- Privacy in treatment and personal care and for sleeping.
 - Privacy in storage space for personal belongings.
 - Send and receive unopened mail.
 - Associate and communicate privately with persons of his or her choice.
- D. CONFIDENTIALITY: **Yes.**
The right to have resident's file kept confidential and private.

GRIEVANCE

- E. GRIEVANCE: **Yes.**
The right to voice grievances and recommend changes in policies and services of the facility with freedom from restraint, interference, coercion, discrimination, or reprisal.

OTHER

- F. ACCOMMODATION OF INDIVIDUAL NEEDS: **Yes.**
The right to
- 30-day written notice prior to transfer/discharge, except when ordered by any physician because a higher level of care is required.
 - Be treated with consideration, respect, and full recognition of resident's dignity and individuality.
 - Not be required to perform services for the home.
- G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **Yes.**
The right to participate, or to refuse to participate, in community activities.
- H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: **No.**
- I. ACCESS AND VISITATION: **Yes.**
The right to
- Free access to day rooms, dining and other group living or common areas at reasonable hours and to come and go from the facility, unless such access infringes upon the rights of other residents.
 - Wear his or her own clothes, to keep and use his or her own toilet articles and personal possessions.
- J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: **No.**
- K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: **Yes.**
The right to be fully informed of the Resident's Rights, and any policies/procedures governing resident conduct.

**ENUMERATED RIGHTS
(CONT.)**

- L. **MANAGE PERSONAL FINANCIAL AFFAIRS: Yes.**
The right to manage his or her own personal financial affairs.
- M. **OTHER ADDITIONAL: Yes.**
The right to be fully informed of any services available in the home (and the schedule of all fees for all services) and to participate in drawing up terms of the admission agreement.

**METHOD(S) OF
DISCLOSURE**

- POSTED WITHIN FACILITY: No.**
- WITHIN RESIDENT'S CONTRACT: No.**
- PROVIDED AS SEPARATE WRITING: No.**
- ORAL EXPLANATION: No.**
- OTHER: Yes.**
Resident has the right to be fully informed of the Resident's Rights, and any policies/procedures governing resident conduct.

**TRANSFER &
DISCHARGE**

Does the state set guidelines for involuntary transfer and/or discharge? Yes, by statute.

REASON(S)

- A. **BEHAVIOR: Yes.**
The person poses a serious threat to such person or to others.
- B. **HEALTH STATUS: Yes.**
- The person is not able to communicate such person's needs.
 - The person requires hypodermoclysis, nasopharyngeal and tracheotomy aspiration, initial phases of a regimen involving administration of medical gases, a Levin tube, or arterial blood gas monitoring.
 - The person is in the latter stages of Alzheimer's disease or related disorders.
 - The person requires physical or chemical restraints.
 - The person requires intravenous or daily intramuscular injections or intravenous feedings, ... insertion, sterile irrigation and replacement of catheters, except for routine maintenance of Foley catheters, ... sterile wound care, or ... treatment of extensive stage 3 or stage 4 decubitus ulcer or exfoliative dermatitis [for a period exceeding twenty-one days].
 - A person ... after 21 days ... requires 4 or more skilled nursing visits per week for conditions other than those listed in subdivision (5)(B).
- C. **NONPAYMENT: No.**
- D. **NONCOMPLIANCE: No.**
- E. **FACILITY CEASES TO OPERATE: No.**
- F. **OTHER: No.**

RESIDENT NOTIFICATION

- A. **TIMING/DISTRIBUTION:**
30-day written notice except when ordered by physician because a higher level of care is required.

- RESIDENT NOTIFICATION**
(CONT.)
- B. CONTENT OF NOTIFICATION: **No.**
 - C. RELOCATION ASSISTANCE: **No.**

- APPEAL RIGHTS**
- A. WITHIN FACILITY: **No.**
 - B. STATE AGENCY: **No.**

CONTRACT Does the state require a written contract? Yes, by regulation.
A written admission agreement.

- DISCLOSURES
REQUIRED IN THE
CONTRACT**
- SERVICES & ASSOCIATED CHARGES**
- A. SERVICES & ASSOCIATED CHARGES: **Yes.**
 - B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: **Yes.**
- RESIDENT'S RIGHTS: No.**
- CONTRACT MODIFICATION: No.**
- TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: Yes.**
A procedure for handling the transfer or discharge of residents without violating the resident's rights under the law or these rules.
- OTHER**
- A. GRIEVANCE PROCEDURE: **No.**
 - B. MEDICATION POLICY: **No.**
 - C. RESIDENT NEEDS ASSESSMENT: **No.**
 - D. SERVICES NOT AVAILABLE: **No.**
 - E. STAFF: **No.**
 - F. REFUND POLICY: **No.**
 - G. OTHER ADDITIONAL: **No.**

PROVISIONS PROHIBITED Yes, any provisions that violate a resident's right under the law or these rules.

**GRIEVANCE
PROCEDURE** Does the state require the facility to have a grievance procedure for resident concerns? **No.**

FACILITY DISCRETION: No.

STATE MANDATED

- A. INTERNAL PROCEDURES: **No.**
- B. EXTERNAL PROCEDURES: **No.**

**PRIVATE RIGHT
OF ACTION** Does the state permit private right of action against the facility? **No.**

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? No.

SPECIAL CARE ENVIRONMENTS Does the state have specific guidelines for special care environments? Yes.

Statute and regulation provide guidelines for facilities (hospitals; facilities licensed under title 68, chapter 11, part 2) providing secured units.

PLANNING: No.

STAFFING/STAFF TRAINING: Yes.

Annual in-service training for unit staff and at least one 24-hour staff member.

ENVIRONMENT: No.

ACTIVITIES: No.

DISCLOSURE: Yes.

Disclose to consumers the facility's

- Philosophy and mission
- Admission, discharge, and emergency policies and procedures
- Procedure for defining programs of service
- Staffing and staff training
- Physical environment
- Activities
- Family involvement
- Charges

OTHER: Yes.

- Interdisciplinary team must approve the admittance of residents in the latter stages of Alzheimer's disease.
- Performance information for annual survey staff (deaths, hospitalizations, unusual incidents and/or complaints, incidences of decubitus and/or nosocomial infections).

TEXAS

CLASSIFICATION “PERSONAL CARE FACILITY”

An establishment, including a board and care home, that ... furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment and ... provides ... (a) assistance with meals, dressing, movement, bathing, or other personal needs or maintenance; (b) the administration of medication by a person licensed to administer medication or the assistance with or supervision of medication; or (c) general supervision or oversight of the physical and mental well-being of a person who needs assistance to maintain a private and independent residence in a personal care facility or who needs assistance to manage the person’s personal life, regardless of whether a guardian has been appointed for the person.

TYPE A PERSONAL CARE FACILITY

A resident: (a) must be physically and mentally capable of evacuating the facility unassisted in the event of an emergency. This may include the mobile non-ambulatory; (b) does not require routine attendance during nighttime sleeping hours; and (c) must be capable of following directions under emergency conditions.

TYPE B PERSONAL CARE FACILITY

A resident may: (a) require staff assistance to evacuate; (b) be incapable of following directions under emergency conditions; (c) require attendance during nighttime sleeping hours; or (d) not be permanently bedfast, but may require assistance in transferring to and from a wheelchair.

TYPE C PERSONAL CARE FACILITY

A four-bed facility which meets the minimum standards and program rules for enrollment with the Texas Department of Human Services as an adult foster care facility and is so enrolled on the effective date of this rule will be deemed licensed as a Type C facility without having to apply for a personal care facility license.

TYPE D PERSONAL CARE FACILITY

An establishment which qualifies as a personal care facility under §92.2(b)(1)(a) of this title (relating to Basis and Scope), operated by a person certified by the Texas Department of Mental Health and Mental Retardation (TDMHMR) as a provider in a § 1915(c) waiver program and providing personal care services only to persons in such a program, or any other programs identified in a memorandum of understanding (MOU) between DHS and TDMHMR as being similar to Home and Community-based Services (HCS), will be deemed licensed as a Type D facility without having to apply for a personal care facility license.

AUTHORITY

STATUTE Tex. Health & Safety Code Ann. § 274.001 et seq. (1997) *Personal Care Facilities Licensing Act*.

REGULATIONS Tex. Admin. Code tit. 40, § 92.2 et seq. (1998) *Personal Care Facilities*.
Tex. Admin. Code tit. 40, § 46.1 et seq. (1998) *Licensed Personal Care Facilities Contracting with the Texas Department of Human Services to Provide*.

OVERSIGHT AGENCY Department of Human Services.

Also:
Department of Protective & Regulatory Services.
Texas Department on Aging, Office of Long-term Care Ombudsman.

Does the state regulate the operation of assisted living facilities?
Yes, by statute.

LICENSURE State statute provides that "a person may not establish or operate a personal care facility without a license issued under this chapter."

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? No.

ADMISSION CRITERIA Does the state restrict who can be admitted? Yes, by regulation.

RESTRICTIONS HEALTH/MENTAL HEALTH

- A. CHRONIC HEALTH CONDITION: No.
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: No.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: No.
- D. COGNITIVE IMPAIRMENT: No.
- E. MEDICAL OR NURSING CARE: Yes.

In Type A and Type B facilities, an individual requiring the services of facility ... licensed nurses on a daily or regular basis, ... [except for] individuals with a terminal illness or experiencing a short-term, acute episode.

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: No.
- G. INCONTINENT: No.
- H. BEDFAST: No.

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: No.
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: No.

NEEDS EXCEED FACILITY LICENSURE: Yes.

In Type A and Type B facilities, residents whose needs cannot be met by the personal care facility, or the necessary services secured by the resident.

RESTRICTIONS (CONT.) OTHER

- K. DIETARY , RELIGIOUS, OR CULTURAL REGIMEN: **No.**
- L. COURT DETERMINED INCOMPETENCE: **No.**
- M. OTHER ADDITIONAL: **No.**

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? **No.**

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? **Yes**, within both the statute and the regulations.
The statute provides that "the Department shall develop a residents' bill of rights in accordance with this section and provide a copy to each facility. The copy shall be written in the primary language of each resident of the facility." However, "the rights provided ... do not take precedence over health and safety rights of other residents of the facility."

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: **Yes.**
The right to
- Choose and retain a personal physician and to be fully informed in advance about treatment or care that may affect the resident's well-being.
 - Participate in developing his or her individual service plan that describes the resident's medical, nursing, and psychological needs and how the needs will be met.
 - Be given the opportunity to refuse medical treatment or services after the resident: (i) is advised by the person providing services of the possible consequences of refusing treatment or services; and (ii) acknowledges that he/she understands the consequences of refusing treatment or services.
 - Execute an advance directive, under the Natural Death Act (Chapter 672, Health and Safety Code) or Chapter 135, Civil Practice and Remedies Code, or designate a guardian in advance of need to make decisions regarding the resident's health care should the resident become incapacitated.
- B. FREEDOM FROM ABUSE & RESTRAINTS: **Yes.**
The right to
- Be free from physical and mental abuse, including corporal punishment or physical and chemical restraints that are administered for the purpose of discipline or convenience and not required to treat the resident's medical symptoms ... as authorized in writing by a physician and ... necessary in an emergency to protect the resident or others from injury.
 - Participate in a behavior modification program involving use of restraints, consistent [previous item listed], or adverse stimuli only with the informed consent of the guardian (if mentally retarded, with a court-appointed guardian of the person).

PRIVACY/CONFIDENTIALITY

- C. PRIVACY: **Yes.**
The right to
- Receive and send unopened mail promptly.

**ENUMERATED RIGHTS
(CONT.)**

- Unaccompanied access to a telephone at a reasonable hour or in case of an emergency or personal crisis.
- Privacy while attending to personal needs and a private place for receiving visitors or associating with other residents, unless providing privacy would infringe on the rights of other residents. This right applies to medical treatment, written communications, telephone conversations, meeting with family, and access to resident councils. If resident is married and the spouse is receiving similar services, the couple may share a room.
- Unrestricted communication, including personal visitation with any person of the resident's choice, at any reasonable hour, including family members and representatives of advocacy groups and community service organizations.

- D. CONFIDENTIALITY: **Yes.**
See I. ACCESS AND VISITATION below.

GRIEVANCE

- E. GRIEVANCE: **Yes.**
The right to
- Present grievances on behalf of the resident or others to the operator, state agencies, or other persons without threat of reprisal in any manner.
 - Complain about the resident's care or treatment. The complaint may be made anonymously or by a person designated by the resident.

OTHER

- F. ACCOMMODATION OF INDIVIDUAL NEEDS: **Yes.**
The right to
- Determine the resident's dress, hair style, or other personal effects according to individual preference, except that the resident has the responsibility to maintain personal hygiene.
 - Not be prohibited from communicating in his or her native language with other residents or employees for the purpose of acquiring or providing any type of treatment, care, or services.
 - A safe and decent living environment and considerate and respectful care that recognizes the dignity and individuality of the resident.
 - Be treated with respect, consideration, and recognition of his or her dignity and individuality, without regard to race, religion, national origin, sex, age, disability, marital status, or source of payment, [meaning]:
 - The right to make his or her own choices regarding personal affairs, care, benefits, and services;
 - The right to be free from abuse, neglect, and exploitation; and
 - If protective measures are required, ... the right to designate a guardian or representative to ensure the right to quality stewardship of his or her affairs.
 - The right to a safe and decent living environment.
 - The right not be transferred or discharged unless: (i) the transfer is for the resident's welfare, and the resident's needs cannot be met by the facility; (ii) the resident's health is improved sufficiently so that services are no longer needed; (iii) the resident's health and safety or the health and safety of another resident would be endangered if the transfer or discharge was not made; (iv) the provider ceases to operate or to participate

**ENUMERATED RIGHTS
(CONT.)**

- in the program that reimburses for the resident's treatment or care; or (v) the resident fails, after reasonable and appropriate notice, to pay for services.
- The right not be transferred or discharged, except in an emergency, until the 30th day after the date the facility provides written notice to the resident, the resident's legal representative, or a member of the resident's family, stating: (i) that the facility intends to transfer or discharge the resident; (ii) the reason for the transfer or discharge; (iii) the effective date of the transfer or discharge; (iv) if the resident is to be transferred, the location to which the resident will be transferred; and (v) any appeal rights available to the resident.
 - Yes, the right to refuse to perform services for the facility, except as contracted for by the resident and operator.
- G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **Yes.**
The right to
- Make contacts with the community and to achieve the highest level of independence, autonomy, and interaction with the community of which the resident is capable.
 - Practice the religion of the resident's choice.
 - Participate in activities of social, religious, or community groups unless the participation interferes with the rights of others.
- H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: **No.**
- I. ACCESS AND VISITATION: **Yes.**
The right to
- Manage the resident's financial affairs.
 - Retain and use personal property [including clothing and furnishing] in the resident's immediate living quarters and to have an individual locked cabinet [or cabinet, drawer, footlocker, etc.] in which to keep personal property [as space permits and limited for the health and safety of other residents].
 - Leave the facility temporarily, or permanently, subject to contractual or financial obligations.
 - Not be deprived of any constitutional, civil, or legal right solely by reason of residence in a personal care facility.
 - Access the resident's records, which are confidential and may not be released without the resident's consent, except: (i) to another provider, if the resident transfers residence; or (ii) if the release is required by another law.
 - Have access to the service of a representative of the State Long Term Care Ombudsman Program, Texas Department on Aging.
- J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: **Yes.**
The right to be informed by the provider no later than the 30th day after admission: (i) whether the resident is entitled to benefits under Medicare or Medicaid; and (ii) which items and services are not covered by these benefits, including items or services for which the resident may not be charged.
- K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: **No.**
- L. MANAGE PERSONAL FINANCIAL AFFAIRS: **No.**
- M. OTHER ADDITIONAL: **No.**

- METHOD(S) OF DISCLOSURE**
- POSTED WITHIN FACILITY: Yes.**
Posted in a prominent place in the facility.
- WITHIN RESIDENT'S CONTRACT: No.**
- PROVIDED AS SEPARATE WRITING: Yes.**
- The Department shall prepare a consumers' guide to personal care facilities and make it available to the public. The consumers' guide shall provide ... a copy of the residents' bill of rights.
 - A copy of the Resident's Bill of Rights must be given to each resident.
- ORAL EXPLANATION: No.**
- OTHER: No.**

TRANSFER & DISCHARGE Does the state set guidelines for involuntary transfer and/or discharge? Yes, by regulation.

- REASON(S)**
- A. **BEHAVIOR: Yes.**
A provider of personal care services has the right to ... terminate a contract immediately, after notice to the Department if the provider finds that a resident creates a serious or immediate threat to the health, safety, or welfare of other residents of the personal care facility.
- B. **HEALTH STATUS: Yes.**
- In Type A and Type B facilities only, an individual requiring the services of facility ... licensed nurses on a daily or regular basis, ... [except for] individuals with a terminal illness or experiencing a short-term, acute episode.
 - In Type A and Type B facilities only, residents whose needs cannot be met by the personal care facility or the necessary services secured by the resident.
- C. **NONPAYMENT: No.**
- D. **NONCOMPLIANCE: No.**
- E. **FACILITY CEASES TO OPERATE: No.**
- F. **OTHER: Yes.**
A provider of personal care services has the right to ... terminate a resident's contract for just cause after a written 30-day notice.

- RESIDENT NOTIFICATION**
- A. **TIMING/DISTRIBUTION:**
30-day notice for termination based on just cause and immediate transfer/discharge after notice to the Department for termination based on serious or immediate threat.
- B. **CONTENT OF NOTIFICATION: No.**
- C. **RELOCATION ASSISTANCE: No.**

- APPEAL RIGHTS**
- A. **WITHIN FACILITY: No.**
- B. **STATE AGENCY: No.**

CONTRACT Does the state require a written contract? Yes.
Regulations require Type A and Type B facilities “[to have] a written admission agreement between the facility and the resident.”

**DISCLOSURES
REQUIRED IN THE
CONTRACT** **SERVICES & ASSOCIATED CHARGES**

- A. **SERVICES & ASSOCIATED CHARGES: Yes.**
Services to be provided.
- B. **ADDITIONAL SERVICES & ASSOCIATED CHARGES: Yes.**
The charges for the services to be provided, including any nursing services and supplies, with a statement that such services and supplies could be a Medicare benefit.

RESIDENT RIGHTS: No.

CONTACT MODIFICATION: No.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: No.

OTHER

- A. **GRIEVANCE PROCEDURE: No.**
- B. **MEDICATION POLICY: No.**
- C. **RESIDENT NEEDS ASSESSMENT: No.**
- D. **SERVICES NOT AVAILABLE: No.**
- E. **STAFF: No.**
- F. **REFUND POLICY: No.**
- G. **OTHER ADDITIONAL: No.**

PROVISIONS PROHIBITED Not specified.

**GRIEVANCE
PROCEDURE** Does the state require the facility to have a grievance procedure for resident concerns? No.

FACILITY DISCRETION: No.

STATE MANDATED

- A. **INTERNAL PROCEDURES: No.**
- B. **EXTERNAL PROCEDURES: No.**

**PRIVATE RIGHT
OF ACTION** Does the state permit private right of action against the facility? No.

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? No.

SPECIAL CARE ENVIRONMENTS

Does the state have specific guidelines for special care environments? Yes.

Statute provides guideline for facilities that advertise, market, or otherwise promote that they provide services to residents with Alzheimer's disease and related disorders.

PLANNING: No.

STAFFING/STAFF TRAINING: No.

ENVIRONMENT: No.

ACTIVITIES: No.

DISCLOSURE: Yes.

Written disclosure (facility form) to the state licensing agency and consumers (prior to care agreement) of the facility's:

- Philosophy.
- Pre-admission, admission, and discharge procedures.
- Resident assessment, care planning, and care plan implementation.
- Staffing patterns and training / continuing education.
- Physical environment.
- Resident activities.
- Program costs.
- Family involvement.
- Toll-free complaint number.

OTHER: No.

UTAH

CLASSIFICATION "ASSISTED LIVING FACILITY"**"TYPE I ASSISTED LIVING FACILITY"**

Residential facility that provides assistance with activities of daily living and social care to two or more residents who are capable of achieving mobility sufficient to exit the facility without the assistance of another person.

"TYPE II ASSISTED LIVING FACILITY"

Residential facility with a homelike setting that provides an array of coordinated supportive personal and health care services, available 24 hours per day, to residents who have been assessed to need such services.

"HEALTH CARE FACILITY"

General acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, abortion clinics, facilities owned or operated by health maintenance organizations, end stage renal disease facilities, and any other health care facility which the committee designates by rule. "Health care facility" does not include the offices of private physicians or dentists, whether for individual or group practice.

AUTHORITY

STATUTE Utah Code Ann. §§ 26-21-1 et seq. (1953-1998). *Health Care Facility Licensing and Inspection Act*.

REGULATIONS Utah Admin. R. 432-270-1 et seq. (1999). *Health Facility Licensure*.

**OVERSIGHT
AGENCY**

Department of Health, Bureau of Health Facilities Licensure.

Does the state regulate the operation of assisted living facilities?

Yes, by statute.

LICENSURE

A person or governmental unit acting severally or jointly with any other person or governmental unit, may not establish, conduct, or maintain a health care facility in this state without receiving a license from the department as provided by this chapter and the rules of the committee. Does not apply to ... a health care facility owned or operated by an agency of the United States, ... established or operated by any recognized church or denomination for the practice of religious tenets administered by mental or spiritual means without the use of drugs, whether gratuitously or for compensation, if it complies with statutes and rules on environmental protection and life safety and any health care facility owned or operated by the Department of Corrections, created in § 64-13-2. U.C.A. § 26-21-7. Facilities are licensed according to size under U.A.C. § 432-270-4: a large assisted living facility houses 17 or more residents; a small assisted living facility houses six to 16 residents; and a limited capacity assisted living facility houses two to five residents.

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? Yes.

Assisted living services shall be individualized to (a) maintain each individual's capabilities and facilitate using those abilities; (b) create options to enable individuals to exercise control over their lives; (c) provide supports which validate the self-worth of each individual by showing courtesy and respect for individual rights; (d) maintain areas or spaces which provide privacy; and (e) recognize each individual's needs and preferences, and be flexible in service delivery to respond to those needs and preferences.

Under the agency rules, U.A.R. 432-270-2:

Assisted living is intended to enable persons experiencing functional impairments to receive 24-hour personal and health-related services in a place of residence with sufficient structure to meet care needs in a safe manner.

Assisted living services shall be individualized to:

- maintain each individual's capabilities and facilitate using those abilities;
- create options to enable individuals to exercise control over their lives,
- provide supports which validate the self-worth of each individual by showing courtesy and respect for the individual's rights;
- maintain areas or spaces which provide privacy; and
- recognize each individual's needs and preferences and be flexible in service delivery to respond to those needs and preferences.

Assisted living is intended to allow residents to choose how they will balance risk and quality of life.

Type II assisted living facilities shall provide substantial assistance with activities of daily living, in response to a medical condition, above the level of verbal prompting, supervision, or coordination.

Type II assisted living facilities shall provide each resident with a separate living unit. Two residents may share a unit upon written request of both of the residents.

Type II assisted living is intended to enable residents, to the degree possible, to age in place.

ADMISSION Does the state restrict who can be admitted? Yes.

CRITERIA

RESTRICTIONS HEALTH/MENTAL HEALTH

- A. CHRONIC HEALTH CONDITION: Yes.

RESTRICTIONS (CONT.)

- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: **Yes.**
Has active tuberculosis or other chronic communicable diseases that cannot be treated in facility or on outpatient basis, or may be transmitted to other residents or guests through normal course of activities.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: **No.**
- D. COGNITIVE IMPAIRMENT: **No.**
- E. MEDICAL OR NURSING CARE: **Yes.**
Requires inpatient hospital or long-term nursing care.

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: **Yes.**
- Requires significant assistance during night sleeping hours (Type I facility only).
 - Is unable to take life saving action in an emergency without the assistance of another person (Type 1 facility only).
 - Requires close supervision and a controlled environment (Type I facility only).
- G. INCONTINENT: **No.**
- H. BEDFAST: **No.**

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: **Yes.**
Manifests behavior that is suicidal, sexually or socially inappropriate, assaultive, or poses a danger to self or others.
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: **No.**

NEEDS EXCEED FACILITY LICENSURE: No.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: **No.**
- L. COURT DETERMINED INCOMPETENCE: **No.**
- M. OTHER ADDITIONAL: **No.**

RESIDENT PARTICIPATION

Does the state require a resident council or similar for resident involvement? No.

However, residents may organize and participate in resident groups in the facility, and resident's family may meet in facility with families of other residents.

RESIDENT BILL OF RIGHTS

Does the statute include a resident bill of rights? Yes.
Facilities must develop a written statement.

ENUMERATED RIGHTS**FREEDOM**

- A. FREEDOM OF CHOICE: **Yes.**
The right to
- Arrange for medical and personal care.

ENUMERATED RIGHTS
(CONT.)

- Have a family member or responsible person informed by the facility of significant changes in the resident's cognitive, medical, physical, or social condition or needs.
- Be fully informed in advance about care and treatment and of any changes that may affect the resident's well-being.
- Be fully informed in a language and in a manner the resident understands of the resident's health status and health rights, including: medical condition, to refuse treatment, to formulate an advance directive in accordance with U.C.A. § 75-2-1101, and to refuse to participate in experimental medical research.

B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.

The right to be free of mental and physical abuse, and chemical and physical restraints.

PRIVACY/CONFIDENTIALITY

C. PRIVACY: Yes.

The right to

- Privacy during visits with family, friends, clergy, social workers, ombudsmen, resident groups, and advocacy representatives.
- Send and receive mail unopened.
- Privacy when receiving personal care or services.

D. CONFIDENTIALITY: Yes.

The right to personal privacy and confidentiality of personal and clinical records.

GRIEVANCE

E. GRIEVANCE: Yes.

The right to be informed of complaint or grievance procedures and to voice grievances and to recommend changes in policies and services to facility staff or outside representatives without restraint, discrimination, or reprisal.

OTHER

F. ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.

The right to be

- Treated with respect, consideration and fairness, and full of recognition of personal dignity and individuality
- Transferred, discharged or evicted only in accordance with the terms of the signed admission agreement.
- To perform or refuse to perform work for the facility.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.

The right to

- Participate in religious and social activities of the resident's choice;
- Interact with members of the community both inside and outside the facility; and
- Be encouraged and assisted throughout the period of a stay to exercise these rights as a resident and as a citizen.

H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: No.

I. ACCESS AND VISITATION: Yes.

The right to

- Share unit with spouse, if both spouses consent, and if both spouses are facility residents;

**ENUMERATED RIGHTS
(CONT.)**

- Keep personal possessions and clothing as space permits;
 - Access to telephones to make and receive private calls;
 - Leave facility at any time and not be locked into any room, building, or on the facility premises during the day or nights. This right does not prohibit the establishment of house rules, such as locking doors at night for the protection of the resident.
 - To access, within 24 hours of oral or written request, all records pertaining to the resident, including clinical records.
 - Photocopies of the resident's records or any portion thereof within two days of request, at cost not to exceed community standard.
- J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: **No.**
- K. NOTIFICATION OF RIGHTS, AND RESPONSIBILITIES: **Yes.**
The right to manage and control personal funds, or to be given an accounting of personal funds entrusted to facility, as provided in R432-270-20 concerning management of resident funds.
- L. MANAGE PERSONAL FINANCIAL AFFAIRS: **No.**
- M. OTHER ADDITIONAL: **No.**

**METHOD(S) OF
DISCLOSURE****POSTED WITHIN FACILITY: Yes.**

Posted in a public area of the facility that is easily accessible by residents.

WITHIN RESIDENT'S CONTRACT: No.**PROVIDED AS SEPARATE WRITING: Yes.**

Given to resident or responsible party upon admission, in writing and in a language and manner that resident or responsible person understands and including:

- A description of the manner of protecting personal funds, in accordance with Rule § 432-270-1;
- A statement that the resident may file a complaint with the state long term care ombudsman and any other advocacy group concerning resident abuse, neglect, or misappropriation of resident property in the facility.

ORAL EXPLANATION: No.**OTHER: No.****TRANSFER &
DISCHARGE****Does the state set guidelines for involuntary transfer and/or discharge? Yes.****REASON(S)**

- A. BEHAVIOR: **No.**
- B. HEALTH STATUS: **Yes.**
The facility is no longer able to meet the resident's needs.
- C. NONPAYMENT: **Yes.**
The resident fails to pay for services as required by the admission agreement.
- D. NONCOMPLIANCE: **Yes.**
The resident fails to comply with written policies or rules of the facility.

- REASON(S) (CONT.)**
- E. FACILITY CEASES TO OPERATE: **Yes.**
The facility ceases to operate.
 - F. OTHER: **No.**

- RESIDENT NOTIFICATION**
- A. TIMING/DISTRIBUTION:
30-day written notice, hand-delivered or sent certified mail to resident and responsible person, copy to resident's file. The notice may be made as soon as practical before transfer or discharge if the safety or health of persons in the facility is endangered or an immediate transfer or discharge is required by the resident's urgent medical needs. ... Notice may be less than 30 days if safety or health of other residents is in danger, or immediate transfer or discharge required by resident's urgent medical needs.
 - B. CONTENT OF NOTIFICATION: **Yes.**
Notice shall ... state the reasons for transfer or discharge, the effective date of transfer or discharge....
 - C. RELOCATION ASSISTANCE: **Yes.**
Notice shall state ... the location to which resident will be transferred or discharged, and describe resident's right to request a conference.

- APPEAL RIGHTS**
- A. WITHIN FACILITY: **Yes.**
Resident may request informal facility conference within 5 calendar days of receipt of notice (unless undue delay might jeopardize health, safety, or well-being of resident or others); conference participants shall include facility representatives, resident or responsible persons, and any others requested by resident or responsible person.
 - B. STATE AGENCY: **Yes.**
Notice shall also include name, address and phone number for State Long-Term Care Ombudsman (if resident over 60), state developmental disabilities Agency (for developmental disabilities residents), or state protection and advocacy agency (for residents with mental illness).

CONTRACT Does the state require a written contract? **Yes.**

**DISCLOSURES
REQUIRED IN THE
CONTRACT**

SERVICES & ASSOCIATED CHARGES

- A. SERVICES & ASSOCIATED CHARGES: **Yes.**
Charges for room, board and basic services.
- B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: **Yes.**
Charges for optional services.

RESIDENT RIGHTS: No.

CONTRACT MODIFICATION: No.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: Yes.

Retention, transfer, discharge, and eviction policies, and conditions under which the agreement may be terminated.

**DISCLOSURES
REQUIRED IN THE
CONTRACT (CONT.)****OTHER**

- A. GRIEVANCE PROCEDURE: **No.**
- B. MEDICATION POLICY: **No.**
- C. RESIDENT NEEDS ASSESSMENT: **No.**
- D. SERVICES NOT AVAILABLE: **No.**
- E. STAFF: **No.**
- F. REFUND POLICY: **Yes.**
Refund provisions that address 30-day notices for transfer or discharge, emergency transfers or discharges, transfers or discharges without notices, and death of a resident.
- G. OTHER ADDITIONAL: **Yes.**
Admission policies; the name of the responsible party; and notice of the Department's authority to examine resident records to determine compliance with licensing requirements.

PROVISIONS PROHIBITED None specified.

**GRIEVANCE
PROCEDURE**

Does the state require the facility to have a grievance procedure for resident concerns? No.

However the resident has the right to file complaints with the long-term care ombudsman and any other advocacy agency.

FACILITY DISCRETION: No.

STATE MANDATED

- A. INTERNAL PROCEDURES: **No.**
- B. EXTERNAL PROCEDURES: **No.**

**PRIVATE RIGHT
OF ACTION**

Does the state permit private right of action against the facility? No.

NEGOTIATED RISK

Does the statute include reference to negotiated risk agreement? No.

However, "assisted living is intended to allow residents to choose how they will balance risk and quality of life."

**SPECIAL CARE
ENVIRONMENTS**

Does the state have specific guidelines for special care environments? No.

VERMONT

CLASSIFICATION "ASSISTED LIVING RESIDENCE"

A program which combines housing, health, and support services for the support of resident independence and aging in place. Within a homelike setting, assisted living units offer, at a minimum, a private bedroom, private bath, living space, kitchen capacity, and a lockable door. Assisted living promotes resident self-direction and active participation in decision-making while emphasizing individuality, privacy, and dignity.

AUTHORITY

STATUTE Vt. Stat. Ann. Tit. 33, ch. 71 § 7101 et seq. *Licensing of Nursing Homes*.

REGULATIONS Vt. Admin. Code § (not published).

OVERSIGHT Department of Aging & Disabilities.

AGENCY

Does the state regulation the operation of assisted living facilities?
Yes, by statute.

LICENSURE A person shall not operate an assisted living residence without first obtaining a license.

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? Yes.

Within the definition of "assisted living residence."

ADMISSION Does the state restrict who can be admitted? Yes. **CRITERIA**

RESTRICTIONS HEALTH/MENTAL HEALTH

- A. CHRONIC HEALTH CONDITION: No.
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: No.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: No.
- D. COGNITIVE IMPAIRMENT: No.
- E. MEDICAL OR NURSING CARE: No.

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: No.
- G. INCONTINENT: No.

RESTRICTIONS (CONT.)H. BEDFAST: **No.****BEHAVIORAL/SOCIAL**I. DANGER TO SELF OR OTHERS: **Yes.**
Immediate threat to self or others.J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: **No.****NEEDS EXCEED FACILITY LICENSURE: No.****OTHER**K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: **No.**L. COURT DETERMINED INCOMPETENCE: **No.**M. OTHER ADDITIONAL: **Yes.**

Needs cannot be met with available support services or arranged supplemental services.

**RESIDENT
PARTICIPATION**Does the state require a resident council or similar for resident involvement? **No.****RESIDENT BILL OF
RIGHTS**Does the statute include a resident bill of rights? **No.****TRANSFER &
DISCHARGE**Does the state set guidelines for involuntary transfer and/or discharge? **Yes.****REASON(S)**A. BEHAVIOR: **Yes.**

Immediate threat to self or others.

B. HEALTH STATUS: **Yes.**

Needs cannot be met with available support services or arranged supplemental services.

C. NONPAYMENT: **No.**D. NONCOMPLIANCE: **No.**E. FACILITY CEASES TO OPERATE: **No.**F. OTHER: **No.****RESIDENT NOTIFICATION**A. TIMING/DISTRIBUTION: **No.**B. CONTENT OF NOTIFICATION: **No.**C. RELOCATION ASSISTANCE: **No.****APEAL RIGHTS**A. WITHIN FACILITY: **No.**B. STATE AGENCY: **No.****CONTRACT**Does the state require a written contract? **No.**

GRIEVANCE PROCEDURE Does the state require the facility to have a grievance procedure for resident concerns? No.

FACILITY DISCRETION: No.

STATE MANDATED

A. INTERNAL PROCEDURES: No.

B. EXTERNAL PROCEDURES: No.

PRIVATE RIGHT OF ACTION Does the state permit private right of action against the facility? No.

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? No.

SPECIAL CARE ENVIRONMENTS Does the state have specific guidelines for special care environments? No.

VIRGINIA

CLASSIFICATION “ADULT CARE RESIDENCE”

Any place, establishment, or institution, public or private, operated or maintained for the maintenance or care of 4 or more adults who are aged, infirm, or disabled, and who are cared for in a primarily residential setting, except

- A facility or portion of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation and Abuse Services, but including any portion of such facility not so licensed;
- The home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; and,
- A facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21 (or 22 if enrolled in an educational program for the handicapped pursuant to 22.1-214) when such facility is licensed by the Virginia Department of Social Services as a child-caring institution under Chapter 10 (§ 63.1-195 et seq.) of this title, but including any portion of the facility not so licensed.

Included in this definition are any 2 or more places, establishments, or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm, or disabled adults.

AUTHORITY

STATUTE Va. Code Ann. §§ 63.1-172 to –182.1. *Licensing of Homes for Aged, Infirm, or Disabled Adults.*

REGULATIONS Va. Admin. Code tit. 22, §§ 40-71-10 to –700. *Standards & Regulations for Licensed Adult Care Residences.*

OVERSIGHT Department of Social Services.

AGENCY

Also
Department of Health.

Does the state regulate the operation of assisted living facilities?
Yes, by statute.

LICENSURE “Every person who constitutes, or who operates or maintains, an adult care residence shall obtain the appropriate license for the commissions, which may be renewed.”

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? No.

ADMISSION CRITERIA Does the state restrict who can be admitted? Yes, by statute.

RESTRICTIONS HEALTH/MENTAL HEALTH

- A. CHRONIC HEALTH CONDITION: No.
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: Yes.
Airborne infectious disease in a communicable state and requires isolation or special precautions by caretaker to prevent transmission.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: No.
- D. COGNITIVE IMPAIRMENT: No.
- E. MEDICAL OR NURSING CARE: Yes.
 - Ventilator dependency.
 - Stage III or IV dermal ulcers, except those stage III determined by physician to be healing.
 - Intravenous therapy or injections directly into the vein, except intermittent therapy managed by a licensed health care professional.
 - Psychotropic medications without appropriate diagnosis and treatment plans.
 - Nasogastric tubes.
 - Gastric tubes, except provided by licensed physician, nurse, or home care organization.

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: Yes.
Individuals requiring maximum physical assistance.)
- G. INCONTINENT: No.
- H. BEDFAST: No.

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: Yes.
Individuals presenting an imminent physical threat or danger to self or others.
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: No.

NEEDS EXCEED FACILITY LICENSURE:

Medical and functional care needs that the Board determines cannot be properly met in an adult care residence.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: No.
- L. COURT DETERMINED INCOMPETENCE: No.
- M. OTHER ADDITIONAL: Yes.
 - Individuals whose physicians certify that placement is no longer appropriate.
 - Residence determines that it cannot meet individual's health care needs.

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? Yes.

The residence must assist the residents in establishing and maintaining a resident council, except when the majority of residents do not want a council.

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? Yes.

ENUMERATED RIGHTS FREEDOM

A. FREEDOM OF CHOICE: Yes.

The right to

- When a medical condition arises, participate in the planning of program of care and medical treatment at the residence and the right to refuse treatment.
- Select health care services from reasonably available resources.
- Refuse to participate in human subject experimentation or in research in which resident's identity may be ascertained.

B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.

The right to

- Be free from mental, emotional, physical, sexual, and economic abuse/exploitation, forced isolation, and threats or other degrading/demeaning acts and to not have his needs neglected or ignored by residence personnel.
- Be free of physical or mechanical restraint, except in instances of unmanageable behavior in an emergency situation or as medically necessary (by written physician authorization), and with appropriate safeguards.
- Be free of prescription drugs except where medically necessary.

PRIVACY/CONFIDENTIALITY

C. PRIVACY: Yes.

The right to be accorded respect for ordinary privacy.

D. CONFIDENTIALITY: Yes.

The right to confidential treatment of personal affairs/records and may approve/refuse their release to individuals outside the residence except as provided by law and resident's transfer to another care-giving facility.

GRIEVANCE

E. GRIEVANCE: Yes.

The right to voice grievances and recommend changes in policies and services, free of coercion, discrimination, threats, and reprisal.

OTHER

F. ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.

The right to

- Be transferred/discharged only when provided a statement of reasons or for nonpayment for resident's stay, and is given reasonable advance notice.
- Be treated with courtesy, respect, and consideration as a person of worth, sensitivity, and dignity.

**ENUMERATED RIGHTS
(CONT.)**

- Be encouraged and assisted to exercise his or her rights as a resident and as a citizen.
 - Not be required to perform services for the residence, except as voluntarily contracted.
- G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **Yes.**
The right to participate in activities of social, religious, and community groups unless medically contraindicated.
- H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: **No.**
- I. ACCESS AND VISITATION: **No.**
- J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: **No.**
- K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: **Yes.**
The right to be fully informed, prior to or at admission and during resident's stay, of his or her rights and of all rules and expectations governing the resident's conduct, responsibilities, and the terms of the admission agreement.
- L. MANAGE PERSONAL FINANCIAL AFFAIRS: **Yes.**
Unless a committee or conservator has been appointed, the right to manage his or her personal finances and funds and access to personal account statements reflecting financial transactions made by the residence on the resident's behalf.
- M. OTHER ADDITIONAL: **Yes.**
The right to be fully informed, prior to or at admission and during resident's stay, of services available and of any related charges.

**METHOD(S) OF
DISCLOSURE**

- POSTED WITHIN FACILITY: **Yes.**
A copy made available in an easily accessible place.
- WITHIN RESIDENT'S CONTRACT: **No.**
- PROVIDED AS SEPARATE WRITING: **No.**
- ORAL EXPLANATION: **No.**
- OTHER: **No.**

**TRANSFER &
DISCHARGE**

Does the state set guidelines for involuntary transfer and/or discharge? **Yes, by statute and regulation.**

REASON(S)

- A. BEHAVIOR: **Yes.**
An imminent physical threat or danger to self or others.
- B. HEALTH STATUS: **Yes.**
- Individuals requiring maximum physical assistance.
 - Airborne infectious disease in a communicable state and requires isolation or special precautions by caretaker to prevent transmission.
 - Ventilator dependency.
 - Stage III or IV dermal ulcers, except those stage III determined by physician to be healing.
 - Intravenous therapy or injections directly into the vein, except intermittent therapy managed by a licensed health care professional.

REASON(S) (CONT.)

- Psychotropic medications without appropriate diagnosis and treatment plans.
 - Nasogastric tubes.
 - Gastric tubes, except provided by licensed physician, nurse, or home care organization.
 - Medical and functional care needs that the Board determines cannot be properly met in an adult care residence.
 - Physician certifies that placement is no longer appropriate.
 - Residence determines it cannot meet individual's health care needs.
- C. **NONPAYMENT: Yes.**
Nonpayment for resident's stay.
- D. **NONCOMPLIANCE: No.**
- E. **FACILITY CEASES TO OPERATE: No.**
- F. **OTHER: Yes.**
When provided with a statement of reasons.

RESIDENT NOTIFICATION

- A. **TIMING/DISTRIBUTION:**
At least 14 calendar days notice to the resident and the resident's personal representative, if any. Exception: resident's condition presents an immediate and serious risk to the health, safety, or welfare to the resident or others and an emergency discharge is necessary.
- B. **CONTENT OF NOTIFICATION: Yes.**
The reason for the move.
- C. **RELOCATION ASSISTANCE: Yes.**
Reasonable assistance to ensure an orderly transfer/discharge with discharge planning to begin immediately. The facility shall help the resident prepare for relocation, including discussing the resident's destination. Primary responsibility for transporting resident and resident's possession rests with the resident and his or her personal representative.

APEAL RIGHTS

- A. **WITHIN FACILITY: No.**
- B. **STATE AGENCY: No.**

CONTRACT

Does the state require a written contract? No.

GRIEVANCE PROCEDURE

Does state require the facility to have a grievance procedure for resident concerns? No.

FACILITY DISCRETION: No.

STATE MANDATED

- A. **INTERNAL PROCEDURES: No.**
- B. **EXTERNAL PROCEDURES: No.**

PRIVATE RIGHT OF ACTION Does state permit private right of action against the facility? No.

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? No. But residents have the right to refuse treatment.

DATA COLLECTION Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? No.

SPECIAL CARE ENVIRONMENTS Does the state have specific guidelines for special care environments? Yes, by regulation.
For self-contained special care units for residents with serious cognitive deficits. If no special care unit exists and there is a mixed population, these requirements apply to the entire facility. These requirements do not apply to facilities licensed for 10 or fewer residents if no more than 3 residents exhibit serious cognitive deficit behavior.

PLANNING: No.

STAFFING/STAFF TRAINING: Yes.

Dementia/cognitive deficit training for direct care staff (4 hours within 6 months of employment) and the administrator (12 hours within 3 months of employment) developed by qualified health professional or licensed social worker and 1 hour of orientation within the first week of employment for all other employees.

ENVIRONMENT: Yes.

Security monitoring for doors leading to the outside, secured outdoor area for residents' use, protective devices on residents' bedroom/bathroom and common area windows, free access to an indoor walking corridor or other walking area, and special precautions to eliminate hazards to residents' safety and well-being.

ACTIVITIES: No.

DISCLOSURE:

Prospective resident or resident's personal representative shall be notified prior to admission.

OTHER: Yes.

Staffing requirement (2 direct care staff in each building at all times; sufficient supervision during trips away from the facility).

VIRGIN ISLANDS

CLASSIFICATION None specified.

WASHINGTON

CLASSIFICATION "BOARDING HOME"

Any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing board and domiciliary care to 3 or more aged persons not related by blood or marriage to the operator.

AUTHORITY

STATUTE Wash. Rev. Code Ann. §§ 70.129.000 et seq. *Long-Term Care Resident Rights*.

REGULATIONS Wash. Admin. Code § 246-316-001 et seq. *Boarding Homes*.

OVERSIGHT Department of Health.

AGENCY

Does the state regulate the operation of assisted living facilities? Yes.

LICENSURE Yes.

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? Yes.

The legislature recognizes that long-term care facilities are a critical part of the state's long-term care services system. It is the intent of the legislature that individuals who reside in long-term care facilities receive appropriate services, be treated with courtesy, and continue to enjoy their basic civil and legal rights.

It is also the intent of the legislature that long-term care facility residents have the opportunity to exercise reasonable control over life decisions. The legislature finds that choice, participation, privacy, and the opportunity to engage in religious, political, civic, recreational, and other social activities foster a sense of self-worth and enhance the quality of life for long-term care residents.

The legislature finds that the public interest would be best served by providing the same basic resident rights in all long-term care settings. Residents in nursing facilities are guaranteed certain rights by federal law and regulation, 42 U.S.C. 1396r and 42 C.F.R. part 483. It is the intent of the legislature to extend those basic rights to residents in veteran's homes, boarding homes, and adult family homes.

The legislature intends that a facility should care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life. A

PHILOSOPHY resident should have a safe, clean, comfortable, and homelike environment, allowing the resident
(CONT.) to use his or her personal belongings to the extent possible.

ADMISSION Does the state restrict who can be admitted? Yes, by statute and regulation.

CRITERIA

RESTRICTIONS

HEALTH/MENTAL HEALTH

- A. CHRONIC HEALTH CONDITION: **No.**
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: **Yes.**
Individuals having major area of skin breakdown and open wounds.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: **No.**
- D. COGNITIVE IMPAIRMENT: **No.**
- E. MEDICAL OR NURSING CARE:
Individuals whose needs can only be met by inpatient care in a hospital, nursing home, or other facility licensed under chapter 18.51, 71.12, or 70.41 RCW. W.A.C. § 246-316-240(4)(c).

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: **No.**
- G. INCONTINENT: **No.**
- H. BEDFAST: **No.**

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: **Yes.**
Individuals exhibiting continuing overt acts that present a risk of harming self or others.
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: **No.**

NEEDS EXCEED FACILITY LICENSURE: Yes.

May not admit any person requiring nursing or medical care that is provided by those institutions licensed under § 18.51 or § 71.12.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: **No.**
- L. COURT DETERMINED INCOMPETENCE: **No.**
- M. OTHER ADDITIONAL: **Yes.**
Facility cannot safely and appropriately serve the resident's needs.

RESIDENT Does the state require a resident council or similar for resident
PARTICIPATION involvement? **No.**

RESIDENT BILL OF Does the statute include a resident bill of rights? **Yes.**
RIGHTS

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: **No.**
 B. FREEDOM FROM ABUSE & RESTRAINTS: **No.**

PRIVACY/CONFIDENTIALITY

- C. PRIVACY: **Yes.**
 The right to personal privacy.
 D. CONFIDENTIALITY: **Yes.**
 The right to confidentiality of his or her personal clinical records.

GRIEVANCE

- E. GRIEVANCE: **Yes.**
 The right to a statement that the resident may file a complaint with the appropriate state licensing agency concerning alleged resident abuse, neglect, and misappropriation of resident property in the facility.

OTHER

- F. ACCOMMODATION OF INDIVIDUAL NEEDS: **No.**
 G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **No.**
 H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: **No.**
 I. ACCESS AND VISITATION: **Yes.**
 The right to
 - Upon an oral or written request, access all records pertaining to himself or herself including clinical records within twenty-four hours. After receipt of his or her records for inspection, to purchase at a cost not to exceed the community standard photocopies of the records or portions of them upon request and two working days' advance notice to the facility.
 - A posting of names, addresses, and telephone numbers of the state survey and certification agency, the state licensure office, the state ombudsmen program, and the protection and advocacy systems.
 J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: **No.**
 K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: **No.**
 L. MANAGE PERSONAL FINANCIAL AFFAIRS: **Yes.**
 The right to
 - Manage his or her financial affairs, and the facility may not require residents to deposit their personal funds with the facility.
 - A description of the manner of protecting personal funds, under W.R.C.A. § 70.129.040.
 M. OTHER ADDITIONAL: **No.**

METHOD(S) OF DISCLOSURE POSTED WITHIN FACILITY: **No.**
 WITHIN RESIDENT'S CONTRACT: **No.**

PROVIDED AS SEPARATE WRITING: **Yes.**

The facility must inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident

**METHOD(S) OF
DISCLOSURE (CONT.)**

conduct and responsibilities during the stay in the facility. The notification must be made prior to or upon admission. Receipt of the information must be acknowledged in writing.

ORAL EXPLANATION: Yes.

OTHER: No.

**TRANSFER &
DISCHARGE**

Does the state set guidelines for involuntary transfer and/or discharge? Yes, by statute and regulation.

REASON(S)

A. BEHAVIOR: Yes.

Individual exhibits continuing overt acts that present a risk of harming self or others.

B. HEALTH STATUS: Yes.

- Individual has major area of skin breakdown and open wounds.

- Individuals whose needs can only be met by inpatient care in a hospital, nursing home, or other facility licensed under chapter 18.51, 71.12, or 70.41 RCW. W.A.C. § 246-316-240(4)(c).

C. NONPAYMENT: No.

D. NONCOMPLIANCE: No.

E. FACILITY CEASES TO OPERATE: No.

F. OTHER: Yes.

Facility cannot safely and appropriately serve the resident's needs.

RESIDENT NOTIFICATION

A. TIMING/DISTRIBUTION:

The facility must promptly notify the resident or the resident's representative shall make reasonable efforts to notify an interested family member, if known, when there is ... a decision to transfer or discharge the resident from the facility.

B. CONTENT OF NOTIFICATION: Not specified.

C. RELOCATION ASSISTANCE: No.

APPEAL RIGHTS

A. WITHIN FACILITY: No.

B. STATE AGENCY: No.

CONTRACT

Does the state require a written contract? No.

**GRIEVANCE
PROCEDURE**

Does the state require the facility to have a grievance procedure for resident concerns? Yes.

FACILITY DISCRETION: Yes.

Where feasible, direct discussion with facility personnel or administrators should be employed.

**GRIEVANCE
PROCEDURE
(CONT.)**

STATE MANDATED

A. INTERNAL PROCEDURES: No.

B. EXTERNAL PROCEDURES: Yes.

Failing direct discussion with facility personnel or administrators, where feasible, recourse may be sought through state or federal long-term care or nursing home licensing or other regulatory authorities.

**PRIVATE RIGHT
OF ACTION** Does the state permit private right of action against the facility? No.
But grievance procedures suggested do not restrict resident from seeking a remedy provided by law or from attaining additional relief based on the same facts, including remedies available at common law.

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? No.

DATA COLLECTION Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? No.

**SPECIAL CARE
ENVIRONMENTS** Does the state have specific guidelines for special care environments? Yes.

PLANNING: Yes.

Comprehensive resident assessment.

STAFFING/STAFF TRAINING: Yes.

Specialty care skill training (unless staff member passes a 'challenge' test on first try) and annual continuing education.

ENVIRONMENT: Yes.

Safe and secured outdoor areas; indoor ambulation areas; safety measures such as contrasting colors and marked exterior doors; egress control; bedside call system; public address system is used for emergencies only.

ACTIVITIES: No.

DISCLOSURE: No.

OTHER: No.

WEST VIRGINIA

CLASSIFICATION "PERSONAL CARE HOME"

An institution, residence, or place or part thereof, however named, providing accommodations, personal assistance and supervision, for a period of more than 24 hours, to 4 or more persons who are dependent on the services of others by reason of physical or mental impairment who may require limited and intermittent nursing care, including those who qualify for and are receiving services coordinated by a licensed hospice.

"RESIDENTIAL BOARD & CARE HOME"

An institution, residence or place or part thereof, however named, providing accommodations, personal assistance and supervision, for a period of more than 24 hours, to 4 to 10 persons not related to owner or manager by blood or marriage... dependent upon the services of others by reason of physical or mental impairment or who may require limited and intermittent nursing care but are capable of self-preservation and are not bedfast, including those individuals who qualify for and are receiving services coordinated by a licensed hospice.

"RESIDENTIAL CARE COMMUNITY"

Any group of 17 or more residential apartments, however named, which are part of a larger independent living community and which are advertised, offered, maintained, or operated by an owner or manager, regardless of consideration or the absence thereof, for the express or implied purpose of providing residential accommodations, personal assistance, and supervision on a monthly basis to 17 or more persons who are or may be dependent upon the services of others by reason of physical or mental impairment or who may require limited and intermittent nursing care but who are capable of self-preservation and not bedfast.

AUTHORITY

STATUTE W. Va. Code §§ 16-5D et. seq. *Personal Care Homes*.

REGULATIONS W. Va. Admin. Code §§ 64-14-1 to -10 (not published).

OVERSIGHT AGENCY

Department of Health and Human Resources, Office of Health Facilities Licensure and Certification.

Does the state regulate the operation of assisted living facilities?
Yes, by statute.

LICENSURE Yes.

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? No.

ADMISSION CRITERIA Does the state restrict who can be admitted? Yes.

RESTRICTIONS HEALTH/MENTAL HEALTH

- A. CHRONIC HEALTH CONDITION: No.
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: No.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: Yes.
Persons with mental or developmental disabilities except under certain conditions (personal care homes and residential board and care homes only).
- D. COGNITIVE IMPAIRMENT: No.
- E. MEDICAL OR NURSING CARE: Yes.
Persons requiring extensive or ongoing nursing care (personal care homes and residential board and care homes only).

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: Yes.
Incapable of self-preservation (residential board and care homes only).
- G. INCONTINENT: No.
- H. BEDFAST: Yes.
Persons who are bedfast (residential board and care homes and residential care communities only).

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: No.
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: Yes.
Persons requiring the use of routine physical or chemical restraints (residential board and care homes only).

NEEDS EXCEED FACILITY LICENSURE: Yes.

Persons requiring a level of care the home is not licensed to or does not provide (residential board and care homes only) or with needs that cannot be met by the facility (personal care homes only).

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: No.
- L. COURT DETERMINED INCOMPETENCE: No.
- M. OTHER ADDITIONAL: No.

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? No.

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? Yes.

ENUMERATED RIGHTS

FREEDOM

- A. FREEDOM OF CHOICE: No.
- B. FREEDOM FROM ABUSE & RESTRAINTS: No.

PRIVACY/CONFIDENTIALITY

- C. PRIVACY: No.
- D. CONFIDENTIALITY: No.

GRIEVANCE

- E. GRIEVANCE: No.

OTHER

- F. ACCOMMODATION OF INDIVIDUAL NEEDS: No.
- G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: No.
- H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: No.
- I. ACCESS AND VISITATION: No.
- J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: No.
- K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: No.
- L. MANAGE PERSONAL FINANCIAL AFFAIRS: No.
- M. OTHER ADDITIONAL: No.

METHOD(S) OF DISCLOSURE

- POSTED WITHIN FACILITY: No.
- WITHIN RESIDENT'S CONTRACT: No.
- PROVIDED AS SEPARATE WRITING: No.
- ORAL EXPLANATION: No.
- OTHER: No.

TRANSFER & DISCHARGE Does the state set guidelines for involuntary transfer and/or discharge? No.

CONTRACT Does the state require a written contract? No.

GRIEVANCE PROCEDURE Does the state require the facility to have a grievance procedure for resident concerns? No.

FACILITY DISCRETION: No.

**GRIEVANCE
PROCEDURE
(CONT.)** STATE MANDATED
A. INTERNAL PROCEDURES: No.
B. EXTERNAL PROCEDURES: No.

**PRIVATE RIGHT
OF ACTION** Does the state permit private right of action against the facility? No.

DATA COLLECTION Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? No.

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? No.

**SPECIAL CARE
ENVIRONMENTS** Does the state have specific guidelines for special care environments? No.

WISCONSIN

- CLASSIFICATION** **“COMMUNITY-BASED RESIDENTIAL FACILITY”**
 A place where 5 or more adults who are not related to the operator or administrator and do not require care above intermediate level nursing care reside and receive care, treatment or services that are above the level of room and board but that include no more than 3 hours of nursing care per week per resident.
- AUTHORITY**
STATUTE Wis. Stat. Ann. §§ 46.03.50.01 et seq. *Care & Service Residential Facilities.*
- REGULATIONS** Wis. Admin. Code § HFS 83. *Community-Based Residential Facilities.*
- OVERSIGHT AGENCY** Department of Health and Social Services, Division of Community Services, Bureau on Aging.
Does the state regulate the operation of assisted living facilities?
 Yes, by regulation.
- LICENSURE** “No person may conduct, maintain, operate or permit to be maintained or operated a community-based residential facility ... unless it is licensed by the Department. Licensed by size and class.”
- REGISTRATION** No.
- CERTIFICATION** Yes, if facility participates in Medicaid waiver program.
- PHILOSOPHY** **Does the statute include a statement of philosophy of assisted living?** Yes.
 Services shall be provided in a manner which respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making, including the right to accept risk.
- ADMISSION CRITERIA** **Does the state restrict who can be admitted?** Yes, by regulation.
RESTRICTIONS **HEALTH/MENTAL HEALTH**
- A. **CHRONIC HEALTH CONDITION:** Yes.
 Persons with chronic personal care needs that cannot be met by the facility or a community agency.
 - B. **COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE:** No.
 - C. **ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS:** No.
 - D. **COGNITIVE IMPAIRMENT:** Yes.
 Persons having been found by a physician or psychologists to be incapable of recognizing

RESTRICTIONS (CONT.)

danger, summoning assistance, expressing need, or making care decisions.

E. **MEDICAL OR NURSING CARE: Yes.**

Persons needing

- Nursing care more than 3 hours per week; except for temporary condition requiring more than 3 hours per week for less than 90 days.
- Or 24-hour supervision by a registered nurse or licensed practical nurse.

FUNCTIONAL ABILITYF. **UNABLE TO DIRECT SELF CARE: No.**G. **INCONTINENT: No.**H. **BEDFAST: Yes.**

Persons confined to bed by illness or infirmities, except if temporarily confined or if terminally ill and receiving care under section 83.34.

BEHAVIORAL/SOCIALI. **DANGER TO SELF OR OTHERS: Yes.**

Persons destructive of property/self or physically/mentally abusive to others; unless facility has identified the areas of risk and the measures taken to minimize the risk.

J. **PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: Yes.**

Persons requiring a chemical or physical restraint not authorized under the resident bill of rights.

NEEDS EXCEED FACILITY LICENSURE: No.**OTHER**K. **DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: No.**L. **COURT DETERMINED INCOMPETENCE: Yes.**

Persons who have a court determination of incompetence and are subject to incompetence.

M. **OTHER ADDITIONAL: Yes.**

- Persons having an activated power of attorney for health care.
- Persons having physical, mental, psychiatric, or social needs that are not compatible with the facility's client group or the care, treatment, or services provided.

RESIDENT PARTICIPATION

Does the state require a resident council or similar for resident involvement? No.

RESIDENT BILL OF RIGHTS

Does the statute include a resident bill of rights? Yes.
Additional rights are included in the regulation.

ENUMERATED RIGHTS**FREEDOM**A. **FREEDOM OF CHOICE: Yes.**

The right to

- Use licensed, certified, or registered provider of health care and pharmacist of the resident's choice.

**ENUMERATED RIGHTS
(CONT.)**

- Be fully informed of treatment and care and to participate in the planning of treatment and care.
- Receive all prescribed medications in the dosage and at the intervals prescribed.

B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.

The right to be free from mental and physical abuse, and be free from chemical and physical restraints except as authorized in writing by a physician for a specified and limited period of time. The right to have the least restrictive conditions necessary.

PRIVACY/CONFIDENTIALITY**C. PRIVACY: Yes.**

The right to

- Private and unrestricted communications, including visits, telephone conversation and access, and unopened mail.
- Physical and emotional privacy in treatment, living arrangements, and caring for personal needs.

D. CONFIDENTIALITY: Yes.

The right to confidentiality in treatment.

GRIEVANCE**E. GRIEVANCE: Yes.**

The right to present grievances on behalf of self or others without interference or justifiable fear of reprisal.

OTHER**F. ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.**

The right to

- Be treated with courtesy, respect, and full recognition of the resident's dignity and individuality.
- Not be treated as mentally incompetent unless there was a court determination.
- Be transferred or discharged, and be given reasonable advance notice of any planned transfer/discharge, and an explanation of the need for alternatives to the transfer/discharge.
- Receive adequate and appropriate care within the capacity of the facility.
- Not be recorded, filmed, or photographed for promotional or advertising purposes without his or her written informed consent.
- Live in a safe environment.
- Refuse to perform services for the facility that are not included for therapeutic purposes in the resident's plan of care.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.

The right to participate in activities of social, religious and community groups at the resident's discretion, unless medically contraindicated as documented by resident's physician in the resident's medical record.

H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: No.**I. ACCESS AND VISITATION: Yes.**

The right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonable secure manner.

J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: No.

**ENUMERATED RIGHTS
(CONT.)**

- K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: **Yes.**
The right to receive, before or at the time of admission, copies of the resident rights and the facility rules.
- L. MANAGE PERSONAL FINANCIAL AFFAIRS: **Yes.**
The right to manage resident's own financial affairs.
- M. OTHER ADDITIONAL: **Yes.**
The right to be fully informed, at time of admission of the services available and the respective charges.

**METHOD(S) OF
DISCLOSURE**

- POSTED WITHIN FACILITY: Yes.**
Posted in a prominent public place that is accessible to residents, staff, and guests.
- WITHIN RESIDENT'S CONTRACT: Yes.**
- PROVIDED AS SEPARATE WRITING: Yes.**
Provide copies to the resident and the resident's guardian, agent, or designated representative before it is signed or at the time of admission.
- ORAL EXPLANATION: Yes.**
The facility staff shall explain resident rights to the resident before or at the time of admission.
- OTHER: No.**

**TRANSFER &
DISCHARGE**

Does the state set guidelines for involuntary transfer and/or discharge? Yes, by statute and regulation.

REASON(S)

- A. BEHAVIOR: **Yes.**
- Residents who are destructive of property/self or physically/mentally abusive to others; unless facility has identified the areas of risk and the measures taken to minimize the risk.
 - If there is an imminent risk of serious harm.
- B. HEALTH STATUS: **Yes.**
Residents who
- Are confined to bed by illness or infirmities, except if temporarily confined or if terminally ill and receiving care under section 83.34. W.A.C. § HFS 83.06(1)(a)(1).
 - Require a chemical or physical restraint not authorized under the resident bill of rights.
 - Have chronic personal care needs that cannot be met by the facility or a community agency.
 - Have been found by a physician or psychologist to be incapable of recognizing danger, summoning assistance, expressing need, or making care decisions.
 - Have a court determination of incompetence and are subject to incompetence.
 - Need nursing care more than 3 hours per week; except for temporary condition requiring more than 3 hours per week for less than 90 days.
 - Need 24-hour supervision by a registered nurse or licensed practical nurse.
 - Have completed their plan of treatment or services or short-term care period.
 - Medical reasons ordered by a physician.

REASON(S) (CONT.)

- Medical emergency or disaster.
- C. **NONPAYMENT: Yes.**
Nonpayment of charges, following reasonable opportunity to pay any deficiency.
- D. **NONCOMPLIANCE: Yes.**
Residents who violate any condition in the admission agreement which, if violated, may result in immediate dismissal.
- E. **FACILITY CEASES TO OPERATE: Yes.**
Facility is operating without a license, department has suspended/revoked license, Department has initiated revocation procedures, or facility is closing or is changing type or level of services.
- F. **OTHER: Yes.**
 - Department determines emergency exists.
 - Resident requires care other than that which the facility is licensed to provide or care that is inconsistent with facility's program statement.

RESIDENT NOTIFICATION

- A. **TIMING/DISTRIBUTION:**
30-day written advance notice to the resident or the resident's guardian, designated representative or agent.
- B. **CONTENT OF NOTIFICATION: Yes.**
An explanation of the need for or possible alternatives to the transfer/discharge.
- C. **RELOCATION ASSISTANCE: Yes.**
For transfer/discharge.

APPEAL RIGHTS

- A. **WITHIN FACILITY: No.**
- B. **STATE AGENCY: Yes.**
Hearing, for transfer/discharge.

CONTRACT

- Does the state require a written contract? Yes.
- A written admissions agreement is required by regulation.

**DISCLOSURES
REQUIRED IN THE
CONTRACT****SERVICES & ASSOCIATED CHARGES**

- A. **SERVICES & ASSOCIATED CHARGES: Yes.**
Services provided, basic daily/monthly rate, source of payment, security deposit, entrance fee.
- B. **ADDITIONAL SERVICES & ASSOCIATED CHARGES: Yes.**
Charges for any services not covered in the basic rate.

RESIDENT RIGHTS: Yes.
Tenant's rights.

CONTRACT MODIFICATION: No.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: Yes.
Conditions for transfer and discharge.

**DISCLOSURES
REQUIRED IN THE
CONTRACT (CONT.)****OTHER**

- A. GRIEVANCE PROCEDURE: **No.**
- B. MEDIATION POLICY: **No.**
- C. RESIDENT NEEDS ASSESSMENT: **No.**
- D. SERVICES NOT AVAILABLE: **No.**
- E. STAFF: **No.**
- F. REFUND POLICY: **Yes.**
Conditions concerning refunds.
- G. OTHER ADDITIONAL: **Yes.**
The policy and procedures for obtaining outside services.

Provisions Prohibited

- A. UNLAWFUL: **Yes.**
Is contrary to the regulations.
- B. MISLEADING: **Yes.**
Misleads the residents as to their rights.
- C. WAIVER OF RESIDENT RIGHTS: **Yes.**
Waives any rights of the residents.
- D. WAIVER OF FACILITY LIABILITY: **Yes.**
Claims to release the licensee from any of the rules.
- E. OTHER: **No.**

**GRIEVANCE
PROCEDURE**

Does the state require the facility to have a grievance procedure for resident concerns? **Yes.**

FACILITY DISCRETION: Yes.

Written grievance procedure, copy to tenant/designated representative. Must provide written record of grievance, findings, conclusions and any action taken, to tenant and applicable representative.

STATE MANDATED

- A. INTERNAL PROCEDURES: **No.**
- B. EXTERNAL PROCEDURES: **Yes.**
Tenants may file grievance with state.

**PRIVATE RIGHT
OF ACTION**

Does the state permit private right of action against the facility? **No.**

NEGOTIATED RISK

Does the statute include reference to negotiated risk agreement?
Yes.

- NEGOTIATED RISK*** **“RISK AGREEMENT”**
(CONT.) A binding stipulation identifying conditions or situations which could put the tenant at risk of harm or injury and the tenant’s preference for how those conditions or situations are to be handled. Must also include consequences of acting on tenant’s preference, alternatives offered, agreed upon course of action, tenant needs which will not be met. Risk agreement may not include waiver of rules or rights, must be signed and dated by facility and tenant (or guardian and/or agents under power of attorney).
- DATA COLLECTION*** Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? No.
- SPECIAL CARE ENVIRONMENTS*** Does the state have specific guidelines for special care environments? No.

WYOMING

CLASSIFICATION "ASSISTED LIVING FACILITY"

A dwelling operated by any person, firm, or corporation engaged in providing limited nursing care, personal care and boarding home care, but not habilitative care, for persons not related to the owner of the facility.

Also known as:

"HEALTH CARE FACILITY"

AUTHORITY

STATUTE Wyo. Stat. §§ 35-2-901 to -910. *Licensing & Operations.*

REGULATIONS Department of Health, Health Facilities. (1994; uncodified). *Rules & Regulations for Licensure of Assisted Living Facilities.*

OVERSIGHT AGENCY

Department of Health and Social Services, Office of Health Quality.

Does the state regulate the operation of assisted living facilities?
Yes.

LICENSURE Yes. No person shall establish any health care facility in this state without a valid license issued pursuant to [W.S. 35-2-901 through 35-2-910].

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? No.

ADMISSION CRITERIA

Does the state restrict who can be admitted? Yes.
Regulations indirectly restrict who can be admitted by limiting the range of services that a facility may provide.

RESTRICTIONS HEALTH/MENTAL HEALTH

- A. CHRONIC HEALTH CONDITION: No.
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: Yes.
 - Wound care requiring sterile dressing changes.
 - Stage II skin care and beyond.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: Yes.
Chemical abuse that puts [resident] or others at risk.

- RESTRICTIONS (CONT.)**
- D. **COGNITIVE IMPAIRMENT: Yes.**
Resident who wanders extensively.
- E. **MEDICAL OR NURSING CARE: Yes.**
- Provision of catheter or ostomy care, e.g., changing of catheter or irrigation of ostomy.
 - Continuous oxygen if monitoring is required.

FUNCTIONAL ABILITY

- F. **UNABLE TO DIRECT SELF CARE:**
- Continuous assistance with transfer and mobility.
 - Unable to [eat] independently.
 - Total assistance with bathing and dressing.
- G. **INCONTINENT: Yes.**
Incontinence care by facility staff.
- H. **BEDFAST: Yes.**
A significant physical deterioration or medical condition if it requires prolonged bed rest of more than seven days.

BEHAVIORAL/SOCIAL

- I. **DANGER TO SELF OR OTHERS: Yes.**
Inappropriate social behavior, e.g., frequent aggressive, abusive or disruptive behavior.
- J. **PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: No.**

NEEDS EXCEED FACILITY LICENSURE: No.**OTHER**

- K. **DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: Yes.**
Therapeutic diets that are highly restrictive (e.g., renal diet, 1000 calorie diabetic diet).
- L. **COURT DETERMINED INCOMPETENCE: No.**
- M. **OTHER ADDITIONAL: No.**

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? No.

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? Yes.
State regulations provide a bill of rights. The facility shall adopt and follow a written policy of resident's rights ... [that] shall not exclude, take precedence over, or in any way abrogate the legal and constitutional rights [of adult citizens].

ENUMERATED RIGHTS Including, but not limited to:

FREEDOM

- A. **FREEDOM OF CHOICE: No.**
- B. **FREEDOM FROM ABUSE & RESTRAINTS: Yes.**
The right to
- Not be isolated or kept apart from other residents.

ENUMERATED RIGHTS
(CONT.)

- Not be physically, psychologically, sexually, or verbally abused, humiliated, intimidated, or punished.
- Be free from involuntary confinement or financial exploitation and to be free from physical and chemical restraints.

PRIVACY/CONFIDENTIALITYC. **PRIVACY: Yes.**

The right to

- Privacy.
- Communicate privately, including, but not limited to, communicating by mail or telephone with anyone.

D. **CONFIDENTIALITY: No.****GRIEVANCE**E. **GRIEVANCE: Yes.**

The right to voice grievances and recommend changes in policies and services.

OTHERF. **ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.**

The right to

- Expect the cooperation of the provider in achieving the maximum degree of benefit from those services ... made available by the facility.
- Notice of changes in services provided by the facility thirty days prior to the change.
- Wear clothing of choice unless otherwise indicated in the resident's care plan and in accordance with reasonable dress code.
- Be treated with respect and dignity.
- Be reimbursed at an appropriate rate for work performed on the premises for the benefit of the operator, staff, or other residents, in accordance with the resident's assistance plan.

G. **PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.**

The right to

- Exercise choice in attending and participating in religious activities.
- Choose to participate in social activities, in accordance with the assistance plan.

H. **EXAMINATION OF SURVEY AND INSPECTION RESULTS: Yes.**

The right to examine the survey results.

I. **ACCESS AND VISITATION: Yes.**

The right to

- Full use of facility common areas.
- Reasonable use of the telephone, which includes access to operator assistance for placing collect telephone calls.
- Have visitors, including the right to privacy during such visits.
- Make visits outside the facility. The operator and the resident shall share responsibility for communicating with respect to scheduling such visits.
- Have advocates visit, including members of community organizations whose purposes include rendering assistance to the residents.

J. **SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: No.**

**ENUMERATED RIGHTS
(CONT.)**

- K. NOTIFICATION OF RIGHTS, AND RESPONSIBILITIES: **No.**
- L. MANAGE PERSONAL FINANCIAL AFFAIRS: **Yes.**
The right to make decisions and choices in the management of personal affairs, funds, or property in accordance with each resident's abilities.
- M. OTHER ADDITIONAL: **No.**

**METHOD(S) OF
DISCLOSURE**

- POSTED WITHIN FACILITY: **Yes.**
- POSTED IN A CONSPICUOUS PLACE: **No.**
- WITHIN RESIDENT'S CONTRACT: **No.**
- PROVIDED AS SEPARATE WRITING: **Yes.**
There shall be documentation in the resident's record that the resident has read or had explained the policy on resident's rights. A signed copy of the resident's rights in the resident's records. There shall be documentation in the resident's record that the resident has read or had explained the policy on resident's rights.
- ORAL EXPLANATION: **No.**
- OTHER: **No.**

**TRANSFER &
DISCHARGE**

Does the state set guidelines for involuntary transfer and/or discharge? Yes.

Section 9 of the state regulations limits the reasons under which a resident may be asked to leave.

REASON(S)

- A. BEHAVIOR: **Yes.**
The resident has a history of engaging in behavior which imposes an imminent danger to self or to others.
- B. HEALTH STATUS: **Yes.**
The facility cannot meet the resident's needs with available support services or such services are not available.
- C. NONPAYMENT: **Yes.**
Nonpayment of charges.
- D. NONCOMPLIANCE: **Yes.**
The resident, or responsible person, has a documented established pattern, in the facility, of not abiding by agreements necessary for assisted living.
- E. FACILITY CEASES TO OPERATE: **Yes.**
The facility has had its license revoked, not renewed, or voluntarily surrendered.
- F. OTHER: **No.**

RESIDENT NOTIFICATION

- A. TIMING/DISTRIBUTION:
14-day written notice ... except where undue delay might jeopardize the health, safety or well-being of the resident or others. Residents asked to leave for [exigency reasons] shall be given as much notice as is consistent with protection of the health and safety of all parties.

**RESIDENT NOTIFICATION
(CONT.)**

- B. **CONTENT OF NOTIFICATION: Yes.**
Stating reasons for the request [to leave]. Residents transferred to another health care facility shall be given written transfer notice which includes reason for the transfer/ discharge, the effective date of the discharge, the location to which the resident is discharged, and the name, address, and telephone number of the State Long-Term Care Ombudsman.
- C. **RELOCATION ASSISTANCE: Yes.**
A facility must provide sufficient preparation and orientation to resident, to ensure an orderly transfer or discharge from the facility... [and provide] a copy of the written assistance plan for that individual resident ... prior to discharge.

APPEAL RIGHTS

- A. **WITHIN FACILITY: Yes.**
Residents ... shall be given the opportunity of an informal conference if requested within ten days of receipt of notice to move... [in order to] determine if a satisfactory resolution can be reached. Participants ... may include the facility representative, the resident, and a [resident requested] family member and/or legal representative.
- B. **STATE AGENCY: No.**

CONTRACT Does the state require a written contract? No.

GRIEVANCE PROCEDURE Does the state require the facility to have a grievance procedure for resident concerns? No.

FACILITY DISCRETION: No.

STATE MANDATED

- A. **INTERNAL PROCEDURES: No.**
- B. **EXTERNAL PROCEDURES: No.**

PRIVATE RIGHT OF ACTION Does the state permit private right of action against the facility? No.

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? No.

DATA COLLECTION Does the state require facilities to collect and report outcome information in order to evaluate the quality of care provided to assisted living residents? No.

SPECIAL CARE ENVIRONMENTS Does the state have specific guidelines for special care environments? No.