



ASSISTED LIVING

SUMMARY OF STATE STATUTES

In three volumes

Volume II

State Summaries (Alabama - Missouri)

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Section 3

ASSISTED LIVING: SUMMARY OF STATE STATUTES

STATE SUMMARIES

ALABAMA - MISSOURI

(Includes the District of Columbia)

ALABAMA

CLASSIFICATION "ASSISTED LIVING FACILITY"

A permanent building, portion of a building, or group of buildings (not to include mobile homes and trailers) in which room, board, meals, laundry, and assistance with personal care and other services are provided for not less than twenty-four hours in any week and to a minimum of two ambulatory adults not related by blood or marriage to the owner and/or administrator. Facilities in which residents are under the care, oversight, or protection of another governmental agency are not assisted living facilities. Each assisted living facility is classified in one of three categories under A.A.C. § 420-5-4.03:

"FAMILY ASSISTED LIVING FACILITY"

An assisted living facility for 2 – 3 adults;

"GROUP ASSISTED LIVING FACILITY"

An assisted living facility for 4 – 16 adults; or,

"CONGREGATE ASSISTED LIVING FACILITY"

An assisted living facility for 17 or more adults.

AUTHORITY

STATUTE Ala. Code § 22-21-20 et seq. *Licensing of Hospitals, Nursing Homes, & Other Healthcare Institutions.*

REGULATION Ala. Admin. Code § 420-5-4.01 et seq. *Assisted Living Facilities.*

**OVERSIGHT
AGENCY**

Department of Public Health, Division of Licensure and Certification.

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

LICENSURE Required by statute but exempts facilities operated by the federal government and mental hospitals under the supervision of the board of trustees of the Alabama State Hospitals. Specific guidance provided by regulation.

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, by regulation.
CRITERIA

RESTRICTIONS **HEALTH/MENTAL HEALTH**

- A. CHRONIC HEALTH CONDITION: Yes.
Persons with chronic health conditions requiring extensive nursing care, daily professional observations, or the exercise of professional judgment from facility staff.
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: Yes.
Persons with active, reportable, communicable, contagious, or infectious diseases without prior approval by the Health Department.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: Yes.
Persons requiring treatment for addiction to alcohol or drugs or persons who require treatment or special care for mental illness deficiency sufficient to endanger themselves or others.
- D. COGNITIVE IMPAIRMENT: Yes.
Persons with severe symptoms of senility.
- E. MEDICAL OR NURSING CARE: Yes.
When related to a chronic condition. (See **RESTRICTIONS** Item A.)

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: Yes.
Persons who require the assistance of more than one staff member in leaving the building in an emergency.
- G. INCONTINENT: No.
- H. BEDFAST: No.

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: Yes.
(See **RESTRICTIONS** Item J.)
- J. PHYSICAL/CHEMICAL RESTRAINTS OR CONFINEMENT: Yes.
Persons requiring any kind of restraint or confinement for their own protection or that of other residents.

NEEDS EXCEED FACILITY LICENSURE: No.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMENS: No.
- L. COURT DETERMINED INCOMPETENCE: No.
- M. OTHER ADDITIONAL: Yes.
Persons who are not in need of hospital or nursing home care.

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? No.
It is provided under section 420-5-4.06(3)(f) of the regulation.

ENUMERATED RIGHTS FREEDOM

A. FREEDOM OF CHOICE: Yes.

- Access to adequate and appropriate health care consistent with established and recognized standards within the community including the right to receive or reject medical care, dental care, or other services except as required by law to control communicable diseases and not to be life-threatening.
- Be fully informed, prior to or at the time of admission and during the stay, of services available in the facility, and of related charges.
- Have 30-day written notice to both resident and sponsor prior to any increase of service fees or charges.

B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.

Live in a safe and decent environment, free from abuse and neglect, and free from chemical and physical restraints.

PRIVACY/CONFIDENTIALITY

C. PRIVACY: Yes.

- Be treated with consideration, respect, and due recognition of personal dignity, individuality, and the need for privacy.
- Unrestricted private communication, including receiving and sending unopened correspondence, access to a telephone, and visiting with any person of his choice, at any reasonable time.
- Be accorded privacy for sleeping and for storage of personal belongings.

D. CONFIDENTIALITY: Yes.

To be assured of confidential treatment of personal and medical records. A resident may authorize the release of such records to any individual of his choice. Such authorization must be given by the resident in writing and the written authorization must be included in the resident's file.

GRIEVANCE

E. GRIEVANCE: Yes.

To present grievances and recommend changes in policies, procedures, and services to the staff of the facility, governing officials, or any other person without restraint, interference, coercion, discrimination, or reprisal.

OTHER

F. ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.

- At least 30-day notice of relocation or termination of residence from the facility unless for medical reasons the resident is certified by a physician to require an emergency relocation to a facility providing a more skilled level of care, or the resident engages in a pattern of conduct that is harmful or offensive to other residents, or for nonpayment for his or her stay. Such actions will be documented in the resident's admission record.
- No resident of a facility shall be deprived of any civil or legal rights, benefits or privileges guaranteed by law or the Constitution of the U.S. solely by reason of status as a resident of a facility.

**ENUMERATED RIGHTS
(CONT.)**

- Reasonable opportunity for regular exercise several times a week and to be outdoors at regular and frequent intervals.
 - Refuse to perform services for the facility unless so stated in the admission agreement.
 - To participate in drawing up the terms of the admission agreement, including providing for the resident's preferences for physician, hospital, nursing home, acquisition or medication, emergency plans and funeral arrangements. A copy of this agreement will be kept in the resident's file.
- G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **Yes.**
- Freedom to participate in and benefit from social, religious and community services and activities and to achieve the highest possible level of independence, autonomy and interaction within the community.
 - Exercise civil and religious liberties, including the right to independent personal decisions. No religious beliefs or practices, nor any attendance at religious services, shall be imposed upon any resident.
- H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: **No.**
- I. ACCESS AND VISITATION: **Yes.**
- Share a room with spouse if both are residents of the facility and agree to do so.
 - To have the name, telephone number and address of the Bureau of Licensure and Certification in a conspicuous location accessible to residents and visitors.
 - Wear own clothes, to keep and use own personal possessions, including toilet articles, as space permits.
 - To have free access to day rooms, dining and other group living or common areas at reasonable hours and to come and go from the home, unless such access infringes upon the rights of other residents.
- J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: **No.**
- K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: **Yes.**
To be fully informed, as evidenced by the resident's written acknowledgment, prior to or at the time of admission and during the stay, of these rights and of all rules and regulations governing residents' conduct and responsibilities.
- L. MANAGE PERSONAL FINANCIAL AFFAIRS: **Yes.**
To manage his own financial affairs. If a resident or his guardian authorizes the administrator of the facility to provide a safe place to keep funds on the premises, an individual account record for each resident shall be maintained by the administrator and an up-to-date record shall be maintained for all transactions.
- M. OTHER ADDITIONAL: **No.**

**METHOD(S) OF
DISCLOSURE**

- POSTED WITHIN FACILITY: Yes.**
Copy posted conspicuously in the facility.
- 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 regulation.

- REASON(S)**
- A. BEHAVIOR: Yes.
Persons requiring any kind of restraint or confinement for their own protection or that of other residents.
 - B. HEALTH STATUS: Yes.
 - For medical reasons the resident is certified by a physician to require an emergency relocation to a facility providing a more skilled level of care.
 - Persons with active, reportable, communicable, contagious, or infectious diseases without prior approval by the Health Department.
 - Persons with chronic health conditions requiring extensive nursing care, daily professional observations or the exercise of professional judgment from facility staff.
 - Persons requiring treatment for addiction to alcohol or drugs or persons who require treatment or special care for mental illness deficiency sufficient to endanger themselves or others.
 - Persons with severe symptoms of senility.
 - Persons who require the assistance of more than one staff member in leaving the building in an emergency.
 - Generally, whenever a resident requires hospitalization, medical, nursing, or other care beyond the capabilities and facilities of the assisted living facility.
 - The resident engages in a pattern of conduct that is harmful or offensive to other residents.
 - C. NONPAYMENT: Yes.
For nonpayment for stay.
 - D. NONCOMPLIANCE: No.
 - E. FACILITY CEASES TO OPERATE: No.
 - F. OTHER: No.

- RESIDENT NOTIFICATION**
- A. TIMING/DISTRIBUTION:
Each resident has the right to at least 30-day notice of relocation or termination of residence from the facility unless for emergency relocation, harmful/offensive conduct, or nonpayment.
 - B. CONTENT OF NOTIFICATION: Not specified.
 - C. RELOCATION ASSISTANCE: Yes.
Assistance in appropriate placement shall be provided by the facility staff for residents being discharged.

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

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

CONTRACT (CONT.) "Prior to, or at the time of admission, the administrator and the resident or the resident's sponsor shall execute in writing a financial agreement."

**DISCLOSURES
REQUIRED IN THE
CONTRACT**

SERVICES & ASSOCIATED CHARGES

- A. SERVICES & ASSOCIATED CHARGES: Yes.
The basic charges agreed upon (room, board, laundry and personal care and services).
- B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: Yes.
The services for which special charges are made.

RESIDENT RIGHTS: No.

CONTRACT MODIFICATION: No.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: Yes.
The provisions for termination of agreement by either party.

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.
Agreement regarding refunds for any payments made in advance.
- G. OTHER ADDITIONAL: Yes.
• Period to be covered.
• Signatures of both parties.

PROVISIONS PROHIBITED None specified.

GRIEVANCE PROCEDURE Does state require the facility to have a grievance procedure for resident concerns? 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 ? Yes, by regulation.
• A record shall be kept of all births, deaths, and stillbirths that occur within the assisted living facility. By the fifth day of each month, the administrator shall make a report of

**DATA COLLECTION
(CONT.)**

such births, deaths, and stillbirths for the preceding month, on such forms as the State Board of Health shall provide to the county health officer, to the State Registrar. This report shall be in addition to the official birth, death, and stillbirth certificates required of the attending physician. If there are no births, deaths, or stillbirths in any one month, a report stating that fact shall be made to the county health officer;

- Communicable diseases as defined by the laws of this state or the rules shall be reported immediately to the county health department, as well as the Division of Licensure and Certification.

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

ALASKA

CLASSIFICATION "ASSISTED LIVING HOME"

A residential facility operated in the state that serves three or more adults who are not related to the owner of the facility by blood or marriage by providing housing and food service to its residents and providing/obtaining/offering to provide or obtain for its residents assistance with the activities of daily living, personal assistance, or a combination of service.

AUTHORITY

STATUTE Alaska Stat. § 47.33.005 et seq. *Assisted Living Homes*.

REGULATION Alaska Admin. Code tit. 2, § 42.010 et seq. *Administration: Assisted Living Homes*.
Alaska Admin. Code tit. 7, § 75.010 et seq. *Health & Social Services: Assisted Living Homes*.

**OVERSIGHT
AGENCY**

Department of Health & Social Services (for homes providing care primarily to persons with mental or developmental disability) and Department of Administration (for homes providing care primarily to persons with a physical disability, who are elderly, or who suffer from dementia). Both shall confer and jointly determine, in accordance with regulations, the appropriate licensing agency.

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

LICENSURE A person may not maintain or operate an assisted living home that is subject to this chapter unless that home is licensed under this chapter. The licensing agency will, in its discretion and as time permits, issue a license to an assisted living home that serves one or two adult residents whether or not the residents are related to the owner by blood or marriage, and that is not required by AS 47.33.010 and 47.33.400 to be licensed, but that wishes to become licensed voluntarily. All provisions of this chapter apply to this type of licensure.

REGISTRATION No.

CERTIFICATION No.

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

"To

- contribute to the development of a system of care by encouraging the establishment of assisted living homes that provide a homelike environment for elderly persons and persons with a mental or physical disability who need assistance with the activities of daily living;
- promote the establishment of homes that help the elderly to age in place and adults with a physical or mental disability to become integrated into the community and to reach their highest level of functioning;

***PHILOSOPHY
(CONT.)***

- establish standards that will protect residents of assisted living homes, while at the same time promoting an environment that will encourage resident growth and independence, without discouraging the establishment and continued operation of those homes;
- require that a resident of an assisted living home have an assisted living plan that identifies the services that will be used to meet the resident's reasonable wants and needs; and
- provide a resident of an assisted living home, or the resident's representative, with the opportunity to participate to the fullest extent possible in the design and implementation of the resident's assisted living plan and in any decisions involving the resident's care."

***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? Yes.

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

- The right to participate in the development of the resident's assisted living plan.
- The right to have access to adequate and appropriate health care and health care providers of the resident's own choosing, consistent with established and recognized standards within the community.
- The right to self-administer the resident's own medications, unless specifically provided otherwise in the resident's assisted living plan.

B. FREEDOM FROM ABUSE & RESTRAINTS: No.**PRIVACY/CONFIDENTIALITY****C. PRIVACY: Yes.**

- The right to be treated with consideration and respect for personal dignity, individuality, and the need for privacy, including privacy in (a) a medical examination or health-related consultation; (b) the resident's room or portion of a room; (c) bathing and toileting, except for any assistance in those activities that is specified in the resident's assisted living plan; and (d) the maintenance of personal possessions and the right to keep at least one cabinet or drawer locked.
- The right to engage in private communications, including (a) receiving and sending unopened correspondence; (b) having access to a telephone, or having a private telephone at the resident's own expense; and (c) visiting with persons of the resident's choice, subject to visiting hours established by the home.
- The right to close the door of the resident's room at any time, including during visits in the room with guests or other residents.

**ENUMERATED RIGHTS
(CONT.)**

D. CONFIDENTIALITY: No.

GRIEVANCE

E. GRIEVANCE: Yes.

The right to present to the home grievances and recommendations for change in the policies, procedures, or services of the home.

OTHER

F. ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.

- The right to receive meals that are consistent with religious or health-related restrictions.
- The right to receive prior notice of relocation of the home or the home's intent to terminate the residential services contract of the resident required by AS 47.33.080 and 47.33.360, respectively.
- The right to exercise civil and religious liberties.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.

- The right to have a reasonable opportunity to exercise and to go outdoors at regular and frequent intervals, when weather permits.
- The right to, at the resident's own expense unless otherwise provided in the residential services contract, have access to and participate in advocacy or special interest groups.
- The right to, at the resident's own expense unless otherwise provided in the residential services contract, intervene or participate in, or refrain from participating in, adjudicatory proceedings held under this chapter, unless provided otherwise by other law.

H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: No.

I. ACCESS AND VISITATION: Yes.

- The right to possess and use personal clothing and other personal property, unless the home can demonstrate that the possession or use of certain personal property would be unsafe or an infringement of the rights of other residents.
- The right to, at the resident's own expense unless otherwise provided in the residential services contract, participate in and benefit from community services and activities to achieve the highest possible level of independence, autonomy, and interaction with the community.
- The right to share a room with a spouse if both are residents of the home.

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 the resident's own money.

M. OTHER ADDITIONAL: Yes.

- The right to live in a safe and sanitary environment.
- The right to reasonable access to home files relating to the resident, subject to the constitutional right of privacy of other residents of the home.

METHOD(S) OF DISCLOSURE

POSTED WITHIN FACILITY: Yes.
A copy of the rights in a prominent place in the home.

WITHIN RESIDENT'S CONTRACT: No.

PROVIDED AS SEPARATE WRITING: Yes.
A copy of the rights provided to the resident and the resident's representative, if any, residency begins.

ORAL EXPLANATION: No.

OTHER: No.

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

REASON(S)

A. **BEHAVIOR:** No.

B. **HEALTH STATUS:** Yes.

- Medical reasons.
- Engaging in a documented pattern of conduct that is harmful to the resident, other residents, or staff of the home.
- Home can no longer provide or arrange for services in accordance with the resident's needs and the resident's assisted living plan.

C. **NONPAYMENT:** Yes.
Failure to pay costs incurred under the residential services contract.

D. **NONCOMPLIANCE:** Yes.
Violation of the terms of the residential services contract.

E. **FACILITY CEASES TO OPERATE:** Yes.
Home is closing.

F. **OTHER:** No.

RESIDENT NOTIFICATION

A. **TIMING/DISTRIBUTION:**
At least 30 days before terminating the residential services contract with a resident under (a)(2), (3), (5), or (6) of this section, the assisted living home shall provide written notice of the proposed contract termination to the resident or the resident's representative, and to the resident's service coordinator if any.

B. **CONTENT OF NOTIFICATION:**
Basis for termination.

C. **RELOCATION ASSISTANCE:** Yes.
The home shall cooperate with the resident, the resident's service coordinator, if any, and the resident's representative, if any, in making arrangements to relocate the resident. Also, the assisted living home shall, within three business days, return to the resident or the resident's representative at least 90 percent of the resident's money, less any accrued charges, whether the money is in a designated trust account or in the resident's daily-needs account. The home shall return all remaining money belonging to the resident within 60 calendar days after termination of the contract.

APPEAL RIGHTS Resident's right to contest the termination in the manner provided in the contract, which must include an offer by the home to participate in a case conference as described in (c) of this section.

A. WITHIN FACILITY: Case conference.

B. STATE AGENCY: No.

CONTRACT Does the state require a written contract? Yes, by statute.
 "A person may not begin residency in an assisted living home unless a representative of the home and either the person or the person's representative sign a residential services contract that complies with the provisions of this section."

**DISCLOSURE(S)
REQUIRED IN THE
CONTRACT** **SERVICES & ASSOCIATED CHARGES**

A. SERVICES & ASSOCIATED CHARGES: Yes.

Specifically describe the services and accommodations to be provided by the assisted living home and the rates charge by the home.

B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: No.

RESIDENT RIGHTS: Yes.

Specifically describe the rights, duties, and obligations of the resident, other than those specified in this chapter.

CONTRACT MODIFICATION: No.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: Yes.

The policies and procedures for termination of the contract as provided for in this chapter.

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.

The home's policy for refund of advance payments in the event of termination of the contract or death of the resident.

G. OTHER ADDITIONAL: Yes.

The amount and purpose of any advance payments required by the home.

PROVISIONS PROHIBITED None specified.

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

**GRIEVANCE
PROCEDURE
(CONT.)**

"An assisted living home shall establish a written grievance procedure for handling complaints of residents of the home."

FACILITY DISCRETION: No.

STATE MANDATED

A. **INTERNAL PROCEDURES:** Yes.

Must provide that a resident and the resident's representative have the right to (1) present both a written and an oral explanation of the resident's grievance; (2) have an advocate of the resident's choice, and the resident's representative, if any, attend meetings concerning the resident's grievance; and (3) be notified in writing, within 30 days after the filing of the grievance, of the final decision of the home regarding the grievance.

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? Yes.
"The assisted living plan for a resident of an assisted living home must ... recognize the responsibility and right of the resident or the resident's representative to evaluate and choose, after discussion with all relevant parties, including the home, the risks associated with each option when making decisions pertaining to the resident's abilities, preferences, and service needs; and ... recognize the right of the home to evaluate and to either consent or refuse to accept the resident's choice of risks."

DATA COLLECTION

Do the regulations call for keeping data on residents? No.

**SPECIAL CARE
ENVIRONMENTS**

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

ARIZONA

CLASSIFICATION “ASSISTED LIVING FACILITY”

A residential care institution, including adult foster care, that provides or contracts to provide supervisory care services, personal care services, or directed care services on a continuing basis.” A “residential care institution” is a health care institution other than a hospital or a nursing care institution which provides resident beds or residential units, supervisory care services, personal care services, directed care services, or health-related services for persons who do not need inpatient nursing care.” Each *assisted living facility* is classified in one of two categories:

ASSISTED LIVING FACILITY HOME

- ten or less residents;

ASSISTED LIVING FACILITY CENTER

- eleven or more residents.

Note: Arizona regulations still use the term “supportive residential living center,” however, its definition is consistent with that of an “assisted living facility.”

AUTHORITY

STATUTE Ariz. Rev. Stat. Ann. §§ 36-401 et seq. (West 1998). *Health Care Institutions*. 1998 Ariz. Legis. Serv. Ch. 178 (S.B. 1237) *Assisted Living Facilities*.

REGULATION Ariz. Admin. R. & Regs. §§ R9-10-1501 et seq. (West 1998). *Supportive Residential Living Centers*.

OVERSIGHT AGENCY Arizona Department of Health Services.

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

LICENSURE “The operation or maintenance of a health care institution which does not hold a current and valid license or which exceeds the range of the services authorized by the class or subclass for which it is licensed is a violation of this chapter and is declared a nuisance inimical to the public health and safety.”

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: No.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: No.
- D. COGNITIVE IMPAIRMENT: No.
- E. MEDICAL OR NURSING CARE: Yes.
If requires continuous nursing services, except private duty nursing care provided on a 24-hour basis, or services provided through a hospice agency.

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: Yes.
If unable to direct self care.
- G. INCONTINENT: No.
- H. BEDFAST: No.

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: Yes.
If exhibits behavior that is a threat to the health and safety of any individual in the facility.
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: Yes.
If requires chemical restraints or physical restraints for personal safety (except where used for postural support or alignment) or for the safety of others.

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? No.
It is included in the regulations.

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: Yes.
To participate in the development of and receive the services specified in the service plan.

**ENUMERATED RIGHTS
(CONT.)****B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.**

To be free from abuse, physical and chemical restraints, emotional abuse, neglect, and exploitation.

PRIVACY/CONFIDENTIALITY**C. PRIVACY: Yes.**

- To be treated with consideration, respect, and full recognition of the dignity and individuality of each resident, including the right to privacy in tub, shower, and toilet rooms and intimate personal activity and hygiene.
- To communicate, associate, and meet privately with persons of the resident's choice in the resident's residential unit or in another area provided by the center.

D. CONFIDENTIALITY: Yes.

- To have medical and financial records kept in confidence. The release of such records shall be by written consent of the resident or resident's representative, except as otherwise required or permitted by law.
- To inspect the resident's own records during normal business hours or at a time agreed upon by the resident and the staff.

GRIEVANCE**E. GRIEVANCE: Yes.**

To submit grievances without retaliation.

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

- To live in a homelike environment which promotes and supports the values of dignity, independence, individuality, privacy, and choice.
- To request relocation in the center or another health care facility or other living arrangement based on the resident's need, desires, and availability of such options.
- To refuse relocation within the center.
- To exercise other civil rights and religious liberties, including the right to make personal decisions.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.

To participate in activities of the center.

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

- To have access to a telephone, to make and receive calls in private, and to send and receive correspondence without interception or interference by the staff or other residents.
- To arrive and depart for the center freely consistent with the resident's service plan and personal safety.
- To use personal belongings or furniture in the resident's residential unit.
- To have access to common areas in the center and individual storage space.
- To share a residential unit with another individual if both consent to the arrangement.

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.**
To independently manage personal affairs, including financial.
- M. **OTHER ADDITIONAL: Yes.**
To be informed of the rates and charges for the use of the center, increases to rates and charges 30 days before the new rates and charges go into effect, and how to contact the long-term care ombudsman, the local office of Adult Protective Services, and the Arizona Center for Disability Law.

**METHOD(S) OF
DISCLOSURE**

- POSTED WITHIN FACILITY: Yes.**
Posted in center's reception area.
- WITHIN RESIDENT'S CONTRACT: Yes.**
A copy provided as part of the residency agreement.
- PROVIDED AS SEPARATE WRITING: Yes.**
A written list provided to resident at the time of acceptance into the center.
- 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.**
If exhibiting behavior that is a threat to the health and safety of any individual in the facility.
- B. **HEALTH STATUS: Yes.**
- If unable to direct self care.
 - If requires chemical restraints or physical restraints for personal safety (except where used for postural support or alignment) or for the safety of others.
 - If requires continuous nursing services, except private duty nursing care provided on a 24-hour basis, or services provided through a hospice agency.
 - If requires services that the center is not licensed or able to provide.
- C. **NONPAYMENT: Yes.**
For failure to pay residency fees.
- D. **NONCOMPLIANCE: Yes.**
For repeated failure to abide by residency agreement.
- E. **FACILITY CEASES TO OPERATE: Yes.**
When center is unable to operate as a supportive residential living center.
- F. **OTHER: No.**

RESIDENT NOTIFICATION

- A. **TIMING/DISTRIBUTION:**
14-day prior notice to resident or resident's representative except for immediate termination necessitated by behavior that is a threat to the health and safety of individuals in the center or interferes with the physical or psychological well-being of

**RESIDENT
NOTIFICATION (CONT.)**

other individuals in the center.

B. CONTENT OF NOTIFICATION:

Documented reason(s) for termination, the center's grievance procedure, and the resident's right to submit a grievance.

C. RELOCATION ASSISTANCE: Yes.

The center manager shall provide the resident and the resident's representative with a written summary of the services provided to the resident and a copy of the resident's service plan, and assist the resident in obtaining home health services or arranging an alternative living arrangement.

APPEAL RIGHT(S)**A. WITHIN FACILITY: Yes.**

Through the center's grievance process.

B. STATE AGENCY: No.**CONTRACT**

Does the state require a written contract? Yes, a residency agreement is required by regulation.

**DISCLOSURES
REQUIRED IN THE
CONTRACT****SERVICES & ASSOCIATED CHARGES****A. SERVICES & ASSOCIATED CHARGES: Yes.**

Monthly fees and expenses and the customary services provided, including nursing services.

B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: Yes.

Services available at an additional cost.

RESIDENT RIGHTS: Yes.

A copy of the resident's rights.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: Yes.

Termination procedures.

OTHER**A. GRIEVANCE PROCEDURE: Yes.**

A copy of the center's grievance procedure.

B. MEDICATION POLICY: No.**C. RESIDENT NEEDS ASSESSMENT: No.****D. SERVICES NOT AVAILABLE: No.****E. STAFF: No.****F. REFUND POLICY: Yes.**

The Center's refund policies.

G. OTHER ADDITIONAL: Yes.

- The terms of occupancy, including resident and center responsibilities.
- The Center's deposit policies.
- Emergency contacts.
- Copy of the center's rules.

PROVISIONS PROHIBITED None specified.

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

FACILITY DISCRETION: Yes.

"The manager shall be responsible for ... developing and implementing ... resident grievance procedures."

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 Do the regulations call for keeping data on residents? No.

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

ARKANSAS

CLASSIFICATION "RESIDENTIAL CARE FACILITY"

A building or structure which is used or maintained to provide, for pay on a twenty-four hour basis, a place of residence and board for three or more individuals whose functional capabilities may have been impaired but who do not require hospital or nursing home care on a daily basis but could require other assistance in activities of daily living.

AUTHORITY

STATUTE Ark. Code. Ann. §§ 20-10-101 et seq. (1987-1997) *Long Term Care Facilities & Services*. 1999 Ark. Act 1181 (Approved 4/7/99) *Protection—Long Term Care Facility Residents*.

REGULATION Rules of Licensure §§ 100 et seq. (not available)

OVERSIGHT AGENCY Department of Human Services, Office of Long Term Care.

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

LICENSURE Yes, "No ... facility or related institution shall be established, conducted, or maintained ... without obtaining 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, by regulation.

RESTRICTIONS HEALTH/MENTAL HEALTH

- A. CHRONIC HEALTH CONDITION: No.
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: Yes.
If individual has a communicable disease.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: Yes.
If individual has a level of mental illness that requires a higher level of treatment that can be provided safely in the facility.
- D. COGNITIVE IMPAIRMENT: Yes.
If incapable of understanding and responding to reminders and guidance from staff or has a level of dementia that requires a higher level of treatment that can be provided safely in the facility.

RESTRICTIONS (CONT.)

- E. MEDICAL OR NURSING CARE: Yes.
If using a feeding or intravenous tube or needs nursing services exceeding those provided by a home health agency.

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: Yes.
If not independently mobile or unable to self-administer medications.
- G. INCONTINENT: Yes.
If totally incontinent of bowel and bladder.
- H. BEDFAST: No.

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: Yes.
If individual has violent behavior.
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: Yes.
If physical restraints, lockup, or confinement are required.

NEEDS EXCEED FACILITY LICENSURE: Yes.
If needs are greater than the facility is licensed to provide.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: Yes.
If individual requires religious, cultural, or dietary regimens that cannot be without undue burden.
- L. COURT DETERMINED INCOMPETENCE: No.
- M. OTHER ADDITIONAL: No.

**RESIDENT
PARTICIPATION**

Does the state require a resident council or similar for resident involvement? Yes, by statute.
"The Office of Long-Term Care shall prescribe through rule or regulation the establishment of a residents' council within each long-term care facility."

**RESIDENT BILL OF
RIGHTS****ENUMERATED RIGHTS**

Does the statute include a resident bill of rights? Yes.

FREEDOM

- A. FREEDOM OF CHOICE: Yes.
- The right to be fully informed, in writing and orally, prior to or at the time of admission and during his or her stay, of services available in the facility and of related charges for such services, including any charges for services not covered under Title XVIII or Title XIX of the Social Security Act or not covered by the basic per diem rates and of bed reservation and refund policies of the facility.
 - The right to be adequately informed of his or her medical condition and proposed treatment, unless the resident is determined to be unable to provide informed consent under Arkansas law, or the right to be fully informed in advance of any non-emergency changes in care or treatment that may affect the resident's well-being and, except with

**ENUMERATED RIGHTS
(CONT.)**

respect to a resident adjudged incompetent, the right to participate in the planning of all medical treatment, including the right to refuse medical treatment, unless otherwise indicated by the resident's physician; and to know the consequences of such actions.

- The right to refuse medication or treatment and to be informed of the consequences of such decisions, unless determined unable to provide informed consent under state law. When the resident refuses medication or treatment, the long-term care facility must notify the resident or the resident's legal representative of the consequences of such decision and must document the resident's decision in his or her medical record. The long-term care facility must continue to provide other services the resident agrees to in accordance with the resident's care plan.
- The right to receive adequate and appropriate health care and protective and support services, including social services; mental health services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with the resident care plan, with established and recognized practice standards within the community, and with rules as adopted by the agency.
- The right to freedom of choice in selecting a personal physician; to obtain pharmaceutical supplies and services from a pharmacy of the resident's choice, at the resident's own expense or through Title XIX of the Social Security Act; and to obtain information about, and to participate in, community-based activities programs, unless medically contraindicated as documented by a physician in the resident's medical record. If a resident chooses to use a community pharmacy and the facility in which the resident resides uses a unit-dose system, the pharmacy selected by the resident shall be one that provides a compatible unit-dose system, provides service delivery, and stocks the drugs normally used by long-term care residents. If a resident chooses to use a community unit-dose system, and the facility in which the resident resides does not use a unit-dose system, the pharmacy selected by the resident shall be one that provides service delivery and stocks the drugs normally used by the long-term care residents.

B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.

The right to be free from mental and physical abuse, corporal punishment, extended involuntary seclusion, and physical and chemical restraints, except those restraints authorized in writing by a physician for a specified and limited period of time or as are necessitated by an emergency. In case of an emergency, restraint may be applied only by a qualified licensed nurse who shall set forth in writing the circumstances requiring the use of restraint, and, in the case of use of a chemical restraint, a physician shall be consulted immediately thereafter. Restraints may not be used in lieu of staff supervision or merely for staff convenience, for punishment, or for reasons other than resident protection or safety.

PRIVACY/CONFIDENTIALITY

C. PRIVACY: Yes.

- The right to have privacy in treatment and in caring for personal needs; to close room doors and to have facility personnel knock before entering the room, except in the case of an emergency or unless medically contraindicated; and to security in storing and using personal possessions. Privacy of the resident's body shall be maintained during, but not limited to, toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance.
- The right to private and uncensored communication, including, but not limited to,

ENUMERATED RIGHTS
(CONT.)

receiving and sending unopened correspondence, access to a telephone, visiting with any person of the resident's choice during visiting hours provided that such visitors are not disruptive or dangerous, and overnight visitation outside the facility with family and friends in accordance with facility policies, physician orders, and Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act regulations, without the resident's losing his or her bed. Facility visiting hours shall be flexible, taking into consideration special circumstances such as, but not limited to, out-of-town visitors and working relatives or friends. Unless otherwise indicated in the resident care plan, the licensee shall, with the consent of the resident and in accordance with policies approved by the agency, permit recognized volunteer groups, representatives of community-based legal, social, mental health, and leisure programs, and members of the clergy access to the facility during visiting hours for the purpose of visiting with and providing services to any resident.

D. CONFIDENTIALITY: No.

GRIEVANCE

E. GRIEVANCES: Yes.

The right to present grievances on behalf of himself or herself or others to the staff or administrator of the facility, to governmental officials, or to any other person; to recommend changes in policies and services to facility personnel; and to join with other residents or individuals within or outside the facility to work for improvements in resident care, freedom from restraint, interference, coercion, discrimination, or reprisal. This right includes access to ombudsmen and advocates and the right to be a member of, to be active in, and to associate with advocacy or special interest groups. The right also includes the right to prompt efforts by the facility to resolve resident grievances, including grievances with respect to the behavior of other residents.

OTHER

F. ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.

- The right to be treated courteously, fairly, and with the fullest measure of dignity and to receive a written statement and an oral explanation of the services provided by the licensee, including those required to be offered on an as-needed basis.
- The right to be transferred or discharged only for medical reasons or for the welfare of other residents, and the right to be given reasonable advance notice of no less than thirty (30) days of any involuntary transfer or discharge, except in the case of an emergency as determined by a licensed professional on the staff of the long-term care facility, or in the case of conflicting rules and regulations which govern Title XVIII or Title XIX of the Social Security Act. For nonpayment of a bill for care received, the resident shall be given thirty (30) days advance notice. A licensee certified to provide services under Title XIX of the Social Security Act may not transfer or discharge a resident solely because the source of payment for care changes. Admission to a long-term care facility operated by a licensee may not be conditioned upon a waiver of such right, and any document or provision in a document which purports to waive or preclude such right is void and unenforceable. Any licensee certified to provide services under Title XIX of the Social Security Act that obtains or attempts to obtain such a waiver of a resident's rights as established herein is subject to disciplinary action as provided in subdivision (a)(3). The resident and the family or representative of the

**ENUMERATED RIGHTS
(CONT.)**

resident shall be consulted in choosing another facility.

- The right to receive notice before the room of the resident in the facility is changed.
- For residents of Medicaid or Medicare certified facilities, the right to challenge a decision by the facility to discharge or transfer the resident, as required under Title 42 C.F.R. Part 488.12. Ark. Act 1181 sec 3(a)(22).

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.

- The right to organize and participate in resident groups in the facility and the right to have the resident's family meet in the facility with the families of other residents.
- The right to participate in social, religious, and community activities that do not interfere with the rights of other residents.

H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: Yes.

The right to examine, at any time, the results which the facility shall post of the most recent inspection of the facility conducted by a federal or state agency and any plan of correction in effect with respect to the facility.

I. ACCESS AND VISITATION: Yes.

- Any entity or individual that provides health, social, legal, or other services to a resident has the right to have reasonable access to the resident. The resident has the right to deny or withdraw consent to access at any time by any entity or individual. Notwithstanding the visiting policy of the facility, the following individuals must be permitted immediate access to the resident: (a) any representative of the federal or state government, including, but not limited to, representatives of the Department of Human Services, any law enforcement officer; any ombudsman; and the resident's individual physician; (b) subject to the resident's right to deny or withdraw consent, immediate family or other relatives of the resident. The facility must allow any ombudsman to examine a resident's clinical records with the permission of the resident or the resident's legal representative and consistent with state law.
- The right to retain and use personal clothing and possessions as space permits, unless to do so would infringe upon the rights of other residents or unless medically contraindicated as documented in the resident's medical record by a physician. If clothing is provided to the resident by the licensee, it shall be of reasonable fit.

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

K. NOTIFICATION OF RIGHTS: Yes.

- The right to civil and religious liberties, including knowledge of available choices and the right to independent personal decisions, which will not be infringed upon, and the right to encouragement and assistance from the staff of the facility in the exercise of these rights.
- The right to have copies of the rules and regulations of the facility and an explanation of the responsibility of the resident to obey all reasonable rules and regulations of the facility and to respect the personal rights and private property of the other residents.

L. MANAGE PERSONAL FINANCIAL AFFAIRS: Yes.

The right to manage his or her own financial affairs or to delegate such responsibility to the licensee, but only to the extent of the funds held in trust by the licensee for the resident. An annual accounting of any transactions made on behalf of the resident shall be furnished to the resident or the person responsible for the resident. The facility may not require a resident to deposit personal funds with the facility. However, upon written

**ENUMERATED RIGHTS
(CONT.)**

authorization of a resident, the facility must hold, safeguard, manage, and account for the personal funds of the resident deposited with the facility as follows: (a) the facility must establish and maintain a system that ensures a full, complete, and separate accounting, according to generally accepted accounting principles or regulations established by OLTC of each resident's personal funds entrusted to the facility on the resident's behalf; (b) the accounting system established and maintained by the facility must preclude any commingling of resident funds with facility funds or with the funds of any person other than a resident; (c) an annual accounting of any transaction made on behalf of the resident shall be furnished to the resident or the person responsible for the resident; and (d) the facility may not impose a charge against the personal funds of a resident for any item or service for which payment is made under Title XVIII or Title XIX of the Social Security Act.

M. OTHER ADDITIONAL: Yes.

The right to be informed of the bed reservation policy for a hospitalization. The long-term care facility shall inform a private-pay resident and his or her responsible party that his or her bed will be reserved for any single hospitalization for a period up to thirty (30) days provided the long-term care facility receives reimbursement. Any resident who is a recipient of assistance under Title XIX of the Social Security Act, or the resident's designee or legal representative, shall be informed by the licensee that his or her bed, for which there is Title XIX reimbursement available, will be reserved up to five (5) days but that the bed will not be reserved if it is medically determined by a physician that the resident will not need it or will not be able to return to the long-term care facility, or if the agency determines that the long-term care facility's occupancy rate ensures the availability of a bed for the resident. Notice shall be provided within twenty-four (24) hours of hospitalization.

**METHOD(S) OF
DISCLOSURE**

POSTED WITHIN FACILITY: No.

WITHIN RESIDENT'S CONTRACT: No.

PROVIDED AS SEPARATE WRITING: Yes.

"The licensee ... shall ... provide a copy of the statement [of the rights and responsibilities of the residents]."

ORAL EXPLANATION: Yes.

"Each licensee ... shall orally inform the resident ..."

OTHER: No.

**TRANSFER &
DISCHARGE**

Does the state set guidelines for involuntary transfer and/or discharge? Yes, indirectly in the statute's enumerated resident bill of rights.

REASON(S)

A. BEHAVIOR: No.

B. HEALTH STATUS: Yes.
For medical reasons.

C. NONPAYMENT: Yes.

REASON(S) (CONT.) For nonpayment of a bill for care received.

- D. NONCOMPLIANCE: No.
- E. FACILITY CEASES TO OPERATE: No.
- F. OTHER: Yes.
For the welfare of other residents.

RESIDENT NOTIFICATION

- A. TIMING/DISTRIBUTION:
30-day advance notice except in the case of either an emergency (determined by a licensed professional on staff) or conflicting rules and regulations governing Title XVIII or Title XIX of the Social Security Act.
- B. CONTENT OF NOTIFICATION: No.
- C. RELOCATION ASSISTANCE: Yes.
The resident and the family or representative of the resident shall be consulted in choosing another facility.

APPEAL RIGHTS

- A. WITHIN FACILITY: Yes.
Residents of Medicaid/Medicare certified facilities have the right to challenge a facility decision to discharge or transfer the resident, as required under Title 42 C.F.R. Part 488.12. Ark. Act 1181 sec 3(a)(22).
- 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.

**PRIVATE RIGHT
OF ACTION**

Does state permit private right of action against the facility? Yes.
"Any resident who is injured by a deprivation or infringement of his or her rights may bring a cause of action ... in any court of competent jurisdiction in the county in which the injury occurred or where the licensee is located to enforce such rights and to recover actual and punitive damages."

NEGOTIATED RISK

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

DATA COLLECTION

Do the regulations call for keeping data on residents? No.

Does the state set guidelines for special care environments? Yes, by

***SPECIAL CARE
ENVIRONMENTS***

statute.

The Alzheimer's Special Care Standards Act, 1999 Ark. Acts 484 (H.B. 1014) (findings/declaration; definition; disclosure requirement; regulation mandate – minimum standards of care). Regulations forthcoming.

PLANNING: No.

STAFFING/STAFF TRAINING: No.

ENVIRONMENT: No.

ACTIVITIES: No.

DISCLOSURE: Yes.

Disclosure to the licensing agency and consumers of the facility's overall philosophy and mission:

- admission and discharge procedures
- resident assessment and care planning
- staffing and staff training
- physical environment
- resident activities
- family involvement
- program costs

OTHER: No.

CALIFORNIA

CLASSIFICATION "RESIDENTIAL CARE FACILITY FOR THE ELDERLY"

A housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, personal care, or health-related services are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in a residential care facility for the elderly as specified in Section 1569.316. CHSC §§§§ 1569.2(k) - .2(i).

Three levels of care: 1) basic care and supervision, 2) nonmedical personal care, and 3) health-related assistance.

AUTHORITY

STATUTE Cal. Health & Safety Code §§§§ 1569.1 et seq. (1997-1998) *Residential Care Facilities for the Elderly*.

REGULATION Cal. Code of Regs., Tit. 22 §§§§ 87100 et seq. (West 1998) *Residential Care Facilities for the Elderly (RCFE)*.

OVERSIGHT AGENCY

Department of Social Services, Community Care Licensing Division.

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

LICENSURE "No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a residential facility for the elderly in this state without a current valid license or current valid special permit therefore, as provided in this chapter."

Any facility licensed as a residential facility for the elderly under the California Community Care Facilities Act provided for in Chapter 3 (commencing with Section 1500) on January 1, 1986, shall automatically be transferred for the unexpired term of the license to licensure as a residential care facility for the elderly under this act.

REGISTRATION No.

CERTIFICATION No.

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

The Legislature has taken steps in recent years to develop a continuum of long-term social and health support services for older persons in the community that provide a range of options for long-term care, and residential care facilities for the elderly are central in that continuum.

PHILOSOPHY These efforts require a reevaluation of residential care for the elderly outside the constraints of the Community Care Facilities Act.
(CONT.)

The Community Care Facilities Act was enacted in 1973 with the primary purpose of ensuring that residents of state hospitals would have access to safe, alternative community-based housing. Since that time, due to shortages in affordable housing and a greater demand for residences for the elderly providing some care and supervision, a growing number of elderly persons with health and social care needs now reside in community care facilities that may or may not be designed to meet their needs.

Progress in the field of gerontology has provided new insights and information as to the types of services required to allow older persons to remain as independent as possible while residing in a residential care facility for the elderly. The fluctuating health and social status of older persons demands a system of residential care that can respond to these needs by making available multi-levels of service within the facility, thus reducing the need for residents with fluctuating conditions to move between medical and nonmedical facilities. Residential care facilities for the elderly which are not primarily medically oriented represent a humane approach to meeting the housing, social, and service needs of older persons, and can provide a homelike environment for older persons with a variety of care needs.

It is, therefore, the intent of the Legislature to require that residential care facilities for the elderly be licensed as a separate category within the existing licensing structure of the State Department of Social Services.

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

RESTRICTIONS **HEALTH/MENTAL HEALTH**

- A. **CHRONIC HEALTH CONDITION: Yes.**
 If resident has contractures except as specified in Section 87709; dermal ulcers, except as specified in Section 87713; diabetes except as specified in Section 87710; staph infection or other serious infection.
- B. **COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: Yes.**
 If resident has active communicable tuberculosis.
- C. **ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: No.**
- D. **COGNITIVE IMPAIRMENT: Yes.**
 If the resident's primary need for care and supervision results from dementia or a mental disorder resulting in ongoing behavior which would upset the general resident group, would require a greater amount of care and supervision than the other residents in the facility, or cannot generally benefit from the program of services available in the facility.
- E. **MEDICAL OR NURSING CARE: Yes.**
 - If the resident requires 24-hour, skilled nursing or intermediate care.
 - If resident requires catheter care except as specified in Section 87707; colostomy/ileostomy care except as specified in Section 87705; enemas, suppositories, and/or fecal impaction removal except as specified in Section 87706; gastrostomy care;

RESTRICTIONS (CONT.)

injections except as specified in Section 87711; intermittent positive pressure breathing machine use except as specified in Section 87704; administration of oxygen except as specified in Section 87703; use of liquid oxygen; naso-gastric tubes; and tracheostomies, wound care except as specified in Section 87713. 22 C.C.R. §§ 87701(a).

FUNCTIONAL ABILITY**F. UNABLE TO DIRECT SELF CARE: Yes.**

If resident depends on others to perform all activities of daily living for them as set forth in Section 87584; 22 C.C.R. §§ 87701(a).

G. INCONTINENT: Yes.

If resident has incontinence of bowel and/or bladder except as specified in Section 87708. 22 C.C.R. §§ 87701(a).

H. BEDFAST: Yes.

If the resident is bedridden, other than for a temporary illness or for recovery from surgery.

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: Yes.**

If the resident is not elderly and either has needs which are in conflict with the other residents or the program of services offered, or requires more care and supervision than other residents.

**RESIDENT
PARTICIPATION**

Does the state require a resident council or similar for resident involvement? Yes.

"Every licensed residential care facility for the elderly, at the request of a majority of its residents, shall assist the residents in establishing and maintaining a resident-oriented facility council." Note: facilities may not prohibit the formation of a family council.

**RESIDENT BILL OF
RIGHTS**

Does the statute include a resident bill of rights? Yes, by statute.

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

The right to receive or reject medical care, or other services.

B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.

The right to be free from corporal or unusual punishment, humiliation, intimidation, mental abuse, or other actions of a punitive nature, such as withholding of monetary allowances or

**ENUMERATED RIGHTS
(CONT.)**

interfering with daily living functions such as eating or sleeping patterns or elimination.

PRIVACY/CONFIDENTIALITY**C. PRIVACY: Yes.**

The right to mail and receive unopened correspondence in a prompt manner.

D. CONFIDENTIALITY: No.**GRIEVANCE****E. GRIEVANCE: Yes.**

The right to:

- Be informed by the licensee of the provisions of law regarding complaints and of procedures to confidentially register complaints, including, but not limited to, the address and telephone number of the complaint receiving unit of the licensing agency.
- Have communications to the facility from his or her family and responsible persons answered promptly and appropriately.

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

The right to:

- Be accorded dignity in his or her personal relationships with staff, residents, and other persons.
- Be accorded safe, healthful and comfortable accommodations, furnishings and equipment.
- Leave or depart the facility at any time and to not be locked into any room, building, or on facility premises by day or night. This does not prohibit the establishment of house rules, such as the locking of doors at night, for the protection of residents; nor does it prohibit, with permission of the licensing agency, the barring of windows against intruders.
- Have his or her family or responsible persons regularly informed by the facility of activities related to his care or services including ongoing evaluations, as appropriate to the resident's needs.
- Receive assistance in exercising the right to vote.
- Move from the facility.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.

The right to have the freedom of attending religious services or activities of his or her choice and to have visits from the spiritual advisor of his or her choice. Attendance at religious services, either in or outside the facility, shall be on a completely voluntary basis.

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

The right to:

- Visit the facility prior to residence along with his or her family and responsible persons.
- Be informed of the facility's policy concerning family visits and other communications with residents, as specified in Health & Safety Code Section 1569.313.
- Have his or her visitors, including ombudspersons and advocacy representative permitted to visit privately during reasonable hours and without notice, provided that the rights of other residents are not infringed upon.

**ENUMERATED RIGHTS
(CONT.)**

- Wear his or her own clothes; to keep and use his or her own personal possessions, including his or her toilet articles; and to keep and be allowed to spend his or her own money.
- Have access to individual storage space for private use.
- Have reasonable access to telephone, to both make and receive confidential calls. The licensee may require reimbursement for long distance calls.

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.

Facilities licensed for 7 or more resident must prominently post a copy of the rights, or instructions on how to obtain additional copies, in areas accessible to residents and their relatives.

WITHIN RESIDENT'S CONTRACT: No.

PROVIDED AS SEPARATE WRITING: Yes.

Resident and resident's responsible person or conservator are personally advised and given a list of the rights. A signed copy shall be included in the resident's record.

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.**

If the resident's primary need for care and supervision results from dementia or a mental disorder resulting in ongoing behavior which would upset the general resident group, would require a greater amount of care and supervision than the other residents in the facility, or cannot generally benefit from the program of services available in the facility.

B. **HEALTH STATUS: Yes.**

- If the resident is bedridden, other than for a temporary illness or for recovery from surgery.
- If resident has active communicable tuberculosis.
- If the resident requires 24-hour, skilled nursing or intermediate care.
- If the resident is not elderly and either has needs which are in conflict with the other residents or the program of services offered, or requires more care and supervision than other residents.
- If resident requires catheter care except as specified in Section 87707; colostomy/ileostomy care except as specified in Section 87705; enemas, suppositories, and/or fecal impaction removal except as specified in Section 87706; gastrostomy care; injections except as specified in Section 87711; intermittent positive pressure breathing machine use except as specified in Section 87704; administration of oxygen except as specified

REASON(S) (CONT.)

in Section 87703; use of liquid oxygen; naso-gastric tubes; and tracheostomies, wound care except as specified in Section 87713. 22 C.C.R. §§ 87701(a).

- If resident has contractures except as specified in Section 87709; dermal ulcers, except as specified in Section 87713; diabetes except as specified in Section 87710; incontinence of bowel and/or bladder except as specified in Section 87708; staph infection or other serious infection.
- If resident depends on others to perform all activities of daily living for them as set forth in Section 87584. 22 C.C.R. §§ 87701(a).

- C. NONPAYMENT: No.
- D. NONCOMPLIANCE: No.
- E. FACILITY CEASES TO OPERATE: No.
- F. OTHER: No.

**RESIDENT
NOTIFICATION**

- A. TIMING/DISTRIBUTION:
Notification to the resident and the resident's responsible person. Timing not specified, but the relocation process may not exceed 30 days.
- B. CONTENT OF NOTIFICATION: Not specified.
- C. RELOCATION ASSISTANCE: Yes.
Facility must prepare a separate, written relocation plan for each resident which the Department requires relocation because of health condition(s) exceeding the facility's licensed capability or requiring inpatient care in a licensed health facility. Immediate relocations do not require a relocation plan.

APPEAL RIGHTS

Not specified.

CONTRACT

Does the state require a written contract? Yes, by regulation.

"Prior to accepting a resident for care and in order to evaluate his or her suitability, the facility shall ... execute the admissions agreement."

**DISCLOSURE(S)
REQUIRED IN THE
CONTRACT****SERVICES & ASSOCIATED CHARGES**

- A. SERVICES & ASSOCIATED CHARGES: Yes.
Basic services to be made available. Payment provisions including basic services rate (including any exempt income allowance, if the resident agrees to such charge), payor, due date, and funding source (provided that the resident may refuse to disclose such source).
- B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: Yes.
Optional services which are available and payment provisions. Any services available (including charges) that are not specified in the admission agreement must be posted in a location accessible to residents.

RESIDENT RIGHTS: No.

CONTRACT MODIFICATION: Yes.

Modification conditions, including requirement for provision of at least 30-day prior written

**DISCLOSURE(S)
REQUIRED IN THE
CONTRACT (CONT.)**

notice to the resident of any basic rate change, or for SSI/SSP rate changes, as soon as the facility is notified. Agreements involving persons whose care is funded at government-prescribed rates may specify that operative dates of government modifications shall be considered operative dates for basic service rate modifications.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: Yes.

Those actions, circumstances, or conditions specified in Section 87589 which may result in the resident's eviction from the facility. Except for general facility policies developed pursuant to Section 87589(a)(3), the eviction provisions shall not be modified. Other conditions under which the agreement may be terminated.

OTHER

- A. GRIEVANCE PROCEDURE: No.
- B. MEDICATION POLICY: No.
- C. RESIDENT NEED ASSESSMENT: No.
- D. SERVICES NOT AVAILABLE: No.
- E. STAFF: No.
- F. REFUND POLICY: Yes.

Refund conditions. When the Department orders relocation of a resident under the provisions of Section 87701.1(a), the resident shall not be held responsible for meeting any advance notice requirement imposed by the licensee in the admission agreement. The licensee shall refund any money to which the resident would have been entitled had notice been given as required by the admission agreement.

- G. OTHER ADDITIONAL: Yes.
 - That the department or licensing agency has the authority to examine residents' records as a part of their evaluation of the facility.
 - General facility policies which are for the purpose of making it possible for residents to live together.
 - The facility's policy concerning family visits and other communication with residents, pursuant to Health and Safety Code Section 1569.313. 22 C.C.R. §§ 87567(c)(9).

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: Yes.

Facilities with six or fewer persons with nonresident owners must establish a grievance procedure.

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

Do the regulations call for keeping data on residents? No.

***SPECIAL CARE
ENVIRONMENTS***

Does the state set guidelines for special care environments? Yes, by statute and regulation.

- C.H.S.C. §§ 1569.698-.699 (rule mandate – secured/locked premises).
- C.H.S.C. §§ 1569.6991 (regulating security window bars).
- 22 C.C.R. §§ 87724 (planning, environment, staffing).

PLANNING: Yes.

A written plan of operation, a disaster/mass casualty plan, and annual resident medical assessments/appraisals.

STAFFING/STAFF TRAINING: Yes.

Adequate supervision (16 to 1 at night) and special training.

ENVIRONMENT: Yes.

Appropriate non-ambulatory fire clearance, physical plant safety, fencing, optional secured perimeters (fencing, locked exit doors, time-delayed egress control devices).

ACTIVITIES: No.

DISCLOSURE: No.

OTHER: No.

COLORADO

CLASSIFICATION "PERSONAL CARE BOARDING HOME"

A residential facility that makes available to three or more adults not related to the owner of such facility, either directly or indirectly through a provider agreement, room and board and personal services, protective oversight, and social care due to impaired capacity to live independently, but not to the extent that regular 24-hour medical or nursing care is required.

AUTHORITY

STATUTE Colo. Rev. Stat. §§§§ 25-27-101 to -112. (1998) *Personal Care Boarding Homes*.

REGULATION 6 Colo. Code Regs. §§ 1011-1 et seq (1999). *Residential Care Facilities*.

OVERSIGHT AGENCY

Department of Health & Environment, Health Facilities Division.

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

LICENSURE "On or after July 1, 1986, it is unlawful ... to conduct or maintain a personal care boarding home without having obtained a license ..."

REGISTRATION No.

CERTIFICATION No.

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

If resident has a communicable disease or infection (unless receiving medical/drug treatment for the condition).

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

D. COGNITIVE IMPAIRMENT: No.

E. MEDICAL OR NURSING CARE: Yes.

If needs medical care or nursing services on a 24-hour basis (except for care provided by a psychiatric nurse in facilities licensed for mentally ill residents).

FUNCTIONAL ABILITY

F. UNABLE TO DIRECT SELF CARE: No.

RESTRICTIONS (CONT.)

G. INCONTINENT: Yes.

If consistently, uncontrollably incontinent of bladder (unless resident/staff can prevent health hazard or resident has urinary catheter that he/she can maintain and manage) or bowel (unless resident is totally capable of self-care).

H. BEDFAST: Yes.

If totally bedfast with limited potential for improvement.

BEHAVIORAL/SOCIAL

I. DANGER TO SELF OR OTHERS: No.

J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: Yes.

If needs restraints of any kind (except those provided for facilities licensed for mentally ill residents).

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? Yes, by regulation.

A resident's council must be established in facilities with 17 or more beds.

**RESIDENT BILL OF
RIGHTS**

Does the statute include a resident bill of rights? Yes, by regulation.

"The facility shall adopt and follow a written policy of resident's rights [which] shall not exclude, take precedence over, or in any way abrogate legal and constitutional rights enjoyed by all adult citizens ..."

ENUMERATED RIGHTS**FREEDOM**

A. FREEDOM OF CHOICE: No.

B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.

The right not be isolated or kept apart from other residents; not to be sexually, verbally, physically, or psychologically abused, humiliated, intimidated, or punished; and to live free from involuntary confinement, financial exploitation, and physical or chemical restraints (except as provided for in facilities licensed for mentally ill residents).

PRIVACY/CONFIDENTIALITY

C. PRIVACY: Yes.

The right to:

- Privacy.
- Communicate privately including but not limited to mail or telephone.
- Privacy with visitors.

D. CONFIDENTIALITY: No.

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

The right to voice grievances and recommend changes in policies and services.

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

The right to:

- Be treated with respect and dignity.
- Be reimbursed for work performed at the facility for the benefit of the facility.
- Make decisions and choices in the management of personal affairs, funds, or property.
- Provider cooperation in achieving the maximum degree of benefit from those services made available by the facility.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.

The right to choose to attend and participate in religious activities or social activities.

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

The right to:

- Full use of the facility common areas.
- Reasonable use of the telephone, including access to operator assistance for placing collect calls, and with one telephone accessible to residents using an auxiliary aid for facilities with at least one such resident.
- Have visitors, in accordance with house rules.
- Make visits outside the facility (operator and resident share responsibility for scheduling).
- Have advocates, including members of community organizations whose purposes include rendering assistance to residents.
- Wear clothing of choice unless otherwise indicated in facility rules.

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 make decisions and choices in the management of personal affairs, funds, or property.

M. OTHER ADDITIONAL: Yes.

The right to 30-day written notice of changes in services/charges provided by the facility.

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

Posted in a conspicuous place.

WITHIN RESIDENT'S CONTRACT: Yes.**PROVIDED AS SEPARATE WRITING: Yes.**

Resident must read or have explained.

ORAL EXPLANATION: Yes.

But only if resident is unable to read.

OTHER: No.

TRANSFER & DISCHARGE Does the state set guidelines for involuntary transfer and/or discharge? Yes, regulations list those residents that the facility may not retain.

- REASON(S)**
- A. **BEHAVIOR: Yes.**
If resident poses a danger to self or other residents.
 - B. **HEALTH STATUS: Yes.**
 - If consistently, uncontrollably incontinent of bladder (unless resident/staff can prevent health hazard or resident has urinary catheter that is he/she can maintain and manage) or bowel (unless resident is totally capable of self-care).
 - If totally bedfast with limited potential for improvement.
 - If needs restraints of any kind (except those provided for facilities licensed for mentally ill residents).
 - If resident has a communicable disease or infection (unless receiving medical/drug treatment for the condition).
 - If needs medical care or nursing services on a 24-hour basis (except for care provided by a psychiatric nurse in facilities licensed for mentally ill residents).
 - If facility is no longer able to meet the resident's identified needs.
 - C. **NONPAYMENT: Yes.**
For nonpayment for basic services (per provider agreement).
 - D. **NONCOMPLIANCE: Yes.**
For failure to comply with written policy or rules containing notice that discharge, transfer, or eviction may result from violation of such policy or rule.
 - E. **FACILITY CEASES TO OPERATE: No.**
 - F. **OTHER: No.**

- RESIDENT NOTIFICATION**
- A. **TIMING/DISTRIBUTION:**
30-day advance written notice to the resident or legal guardian. In cases of medical emergency, physical safety of the resident or others, or nonpayment of rent, notification must be as soon as possible.
 - B. **CONTENT OF NOTIFICATION: Not specified.**
 - C. **RELOCATION ASSISTANCE: No.**

APPEAL RIGHTS Not specified.

CONTRACT Does the state require a written contract? Yes, by regulation.
"A written agreement shall be executed between the licensee and the resident at the time of admission."

- DISCLOSURE(S) REQUIRED IN THE CONTRACT**
- SERVICES & ASSOCIATED CHARGES**
- A. **SERVICES & ASSOCIATED CHARGES: Yes.**
 - Services included in the rates and charges.
 - Type of services provided.

**DISCLOSURE(S)
REQUIRED IN THE
CONTRACT (CONT.)**

B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: Yes.
Optional services and charges.

RESIDENT RIGHTS: Yes.

CONTRACT MODIFICATION: Yes.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: Yes.
Retention, discharge, eviction, and termination policies.

OTHER

A. GRIEVANCE PROCEDURE: Yes.

Grievance policies and house rules.

B. MEDICATION POLICY: No.

C. RESIDENT NEEDS ASSESSMENT: Yes.

Board and care plan outlining functional capability and needs.

D. SERVICES NOT AVAILABLE: Yes.

Those services that are not provided and those with the facility will assist resident in obtaining.

E. STAFF: No.

F. REFUND POLICY: Yes, refund policy.

G. OTHER ADDITIONAL: Yes.

- Admission and deposit policies.
- Policies/procedures for facility management of resident's personal funds.
- Status of the facility regarding installation of automatic extinguishment system.

PROVISIONS PROHIBITED No.

**GRIEVANCE
PROCEDURE**

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

FACILITY DISCRETION: Yes.

"The facility shall establish a written grievance procedure that shall be posted in a conspicuous place and in the resident's record ..."

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 Do the regulations call for keeping data on residents? No.

SPECIAL CARE ENVIRONMENTS Does the state have specific guidelines for special care environments? Yes, by regulation.
Secured units for serving residents with early stage Alzheimer's disease.

PLANNING: Yes.

Submission of physical plant and exit locking device plans to the licensing agency before the unit is opened.

STAFFING/STAFF TRAINING: Yes.

A sufficient number of trained staff members.

ENVIRONMENT: Yes.

A safe / secure outdoor area provided year-round and regulatory compliant exit locking devices.

ACTIVITIES: No.

DISCLOSURE: Yes.

Pre-admission disclosure to the resident (or resident representative) of the types of resident diagnoses / behaviors the facility serves and is trained to provide services for.

OTHER: Yes.

- Legal authority for admission established by guardianship, court order, medical durable power of attorney, health care proxy, or other legal means.
- 30-day written notice of involuntary transfer/discharge.
- Mentally ill or developmentally disabled may not be admitted (exception) 6 C.C.R. §§§§ 20.8 20.9.

CONNECTICUT

CLASSIFICATION “ASSISTED LIVING SERVICES AGENCY”

An institution that provides, among other things, nursing services and assistance with activities of daily living to a population that is chronic and stable. C.G.S. §§ 19a-490(l). Provides assisted living services. C.A.R. §§ 19-13-D105(a)(3).

AUTHORITY

STATUTE Conn. Gen. Stat. §§ 19a-490 to -560 (West 1998). *Health Care Institutions*.

REGULATION Conn. Agency Regs. §§ 19-13-D105 et seq. *Coordination, Assessment, and Monitoring Agency Licensure Regulations*.

OVERSIGHT AGENCY Department of Public Health and Addiction Services.

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

LICENSURE Yes, “No person ... shall establish, conduct, operate, or maintain an institution ... without a license ...”

REGISTRATION No.

CERTIFICATION No, but a certificate of need may be a prerequisite to licensing if determined by the appropriate state agency.

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

ADMISSION CRITERIA Does the state restrict who can be admitted? No.
Each agency must establish written criteria for admission but shall not impose unreasonable restrictions which screen out clients whose needs may be met by the agency.

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? No.
However, if a managed residential community (MRS) is served by an assisted living services agency, then the MRS must establish a tenant council, ensuring that a private space is provided to the group for meetings and providing assistance and responding to written requests that result from group meetings.

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

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

- Information regarding the right to participate in the planning of (or any changes in) the care to be furnished, the frequency of visits proposed, the nurse supervising care, and the manner in which the nurse may be contacted.
- Client responsibility for participation in the development and implementation of the client service program and the client's right to refuse recommended services.
- The client's right to have services provided by an individual or entity other than via an assisted living services agency.
- The client's right to make individual arrangements with an assisted living services agency which does not have a formal contract with the managed residential community in which he/she resides.
- The client's right to terminate or reduce services provided by an assisted living services agency at any time.

B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.

Right of the client to be free from physical and mental abuse and exploitation and to have personal property treated with respect.

PRIVACY/CONFIDENTIALITY**C. PRIVACY: No.****D. CONFIDENTIALITY: Yes.**

- Explanation of confidential treatment of all client information retained in the agency and the requirement for written consent for release of information to persons not otherwise authorized under law to receive it.
- Policy regarding client access to his or her service record.

GRIEVANCE**E. GRIEVANCES: Yes.**

- Explanation of the complaint procedure and right to file a complaint without discrimination or reprisal from the agency regarding the provision of care and services, any allegation of physical or mental abuse or exploitation or the lack of respect for property by anyone providing agency services.
- Agency's responsibility to promptly investigate the complaints made by a client or his or her family regarding the provision of care and services, any allegations of physical or mental abuse or exploitation or lack of respect for the client's property by anyone providing agency services.
- Procedure for registering complaints with the commissioner including the address and phone number of the department.

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: Yes.**

A description of Medicare-covered services and billing and payment requirements for such

**ENUMERATED RIGHTS
(CONT.)**

services.

- K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: **Yes.**
Information advising the client of his or her rights under state law to make decisions about medical care, including the right to formulate advance directives such as living wills and durable power of attorney for health care decisions.
- L. MANAGE PERSONAL FINANCIAL AFFAIRS: **No.**
- M. OTHER ADDITIONAL: **Yes.**
- Description of available services, charges and billing mechanisms with the assurance that any changes shall be given to the client orally and in writing as soon as possible but no less than fifteen working days prior to the date such changes become effective.
 - Criteria for admission to services.
 - The circumstances under which the client may be discharged from the agency or may not be permitted to receive services from the assisted living services agency.

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

Provided to each client at the time of admission and given a written copy of any changes.

ORAL EXPLANATION: **Yes.**

Explained to each client at the time of admission.

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

Each agency must develop written policies for the discharge of clients according to defined categories.

REASON(S)

- A. BEHAVIOR: **Yes.**
- B. HEALTH STATUS: **Yes.**
Client's condition is no longer chronic and stable or goals of care have been met and client no longer requires assisted living services.
- C. NONPAYMENT: **Yes.**
Client's insurance benefits or financial resources are exhausted.
- D. NONCOMPLIANCE: **No.**
- E. FACILITY CEASES TO OPERATE: **Yes.**
- F. OTHER: **Yes.**
Safety issues place client or agency staff in immediate jeopardy and prevent agency from delivering assisted living services or goals of care have not been met and client continues to require assisted living services.

RESIDENT NOTIFICATION

- A. TIMING/DISTRIBUTION: **Yes.**

RESIDENT NOTIFICATION
(CONT.)

- B. CONTENT OF NOTIFICATION: Yes.
Reason for the transfer/discharge and notice of resident's right to appeal.
- C. RELOCATION ASSISTANCE: Yes.
The facility must assist the resident in finding appropriate placement and provide a discharge plan indicating resident's individual needs.

APPEAL RIGHTS

- A. WITHIN FACILITY: No.
- B. STATE AGENCY: Yes.
Resident may request a hearing before the Commissioner of Public Health.

CONTRACT Does the state require a written contract? No.

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

FACILITY DISCRETION: No.

STATE MANDATED

- A. INTERNAL PROCEDURES: Yes.
A written complaint procedure regarding the provision of care and services, any allegations of physical or mental abuse or exploitation or the lack of respect for a client's property by anyone providing agency services.
- B. EXTERNAL PROCEDURES: Yes.

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? Not specifically.
But the client has the right to participate in the development and implementation of his or her service plan and to refuse recommended services.

DATA COLLECTION Do the regulations call for keeping data on residents? No.

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

DELAWARE

CLASSIFICATION “ASSISTED LIVING AGENCY”

A residential arrangement for free for dependent elderly and adults with disabilities which provides assistance with activities of daily living and other services that promote consumer quality of life.

AUTHORITY

STATUTE Del. Code Tit. 16, §§§§ 1101 et seq. *Nursing Facilities & Similar Facilities - Licensing by the State.*

REGULATION Del. Reg. §§ 63.1 et seq. *Assisted Living Agencies.*

OVERSIGHT AGENCY Department of Health and Social Services, Division of Public Health.

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

LICENSURE The facilities to be licensed pursuant to Chapter 11 include but are not limited to the following: nursing facilities (commonly referred to as nursing homes); assisted living facilities; intermediate care facilities for persons with mental retardation; neighborhood group homes; family care homes; and rest residential facilities.

REGISTRATION No.

CERTIFICATION No.

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

“...Each facility licensed under this chapter shall, at a minimum, provide quality care in accordance with this chapter and the regulations promulgated thereunder. Components of quality of care and quality of life addressed by this Chapter and regulations promulgated thereunder include: access to care; continuity of care; comprehensiveness of care, including activities; coordination of services; humaneness of treatment and respect for the dignity of each resident; safety of the environment; and qualifications of caregivers. ... The consumer protection goal of ensuring that residents of nursing facilities and similar facilities receive quality care shall be strived for in the following ways: (1) Monitoring the factors relating to the health, safety, welfare and dignity of each resident; (2) Providing effective remedies and requiring their prompt imposition for noncompliance with licensing standards; and (3) Providing the public with information concerning the operation of nursing facilities and related facilities in this State.

“Assisted living is a major component of a comprehensive community-based residential long term care continuum that provides the necessary level of services to a dependent elderly or persons with disabilities in the appropriate environment. The services are provided based on a

PHILOSOPHY (CONT.) social philosophy of care and must include oversight, food, shelter, and the provision or coordination of a range of services that promote the quality of life of the individual. The social philosophy of care promotes the consumer's independence, privacy, [and] dignity, and is provided a homelike environment. These regulations shall be construed to be consistent with this section."

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: Yes.
If consumer engages in illegal drug use.
- D. COGNITIVE IMPAIRMENT: No.
- E. MEDICAL OR NURSING CARE: Yes.
If consumer needs 24-hour nursing services (unless physician certified needs may be safely met by service agreement).

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: Yes.
If consumer needs transfer assistance by more one person and a mechanical device (unless special staff arranged to ensure safe care and evacuation).
- G. INCONTINENT: No.
- H. BEDFAST: Yes.
If consumer is bedridden for 14 consecutive days (unless physician certified needs may be safely met by service agreement).

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: Yes.
If consumer presents a danger to self or others.
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: No.

NEEDS EXCEED FACILITY LICENSURE: Yes.

If consumer has conditions that exceed program capabilities.

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.

- The right to receive the attending or resident physician's complete, current, understandable information concerning the patient's diagnosis, treatment, and prognosis unless medically inadvisable and to participate in the planning of his or her medical treatment.
- The right to have the facility place, at his or her bedside, and maintain the name, address, and telephone number of the physician responsible for his or her care.
- The right to choose a personal attending physician.

B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.

- The right to be free from chemical and physical restraints imposed for purposes of discipline and convenience, and not necessary to treat the patient's medical condition.
- The right to be free from verbal, physical, or mental abuse, cruel and unusual punishment, involuntary seclusion, withholding of monetary allowance, withholding of food and deprivation of sleep.

PRIVACY/CONFIDENTIALITY

C. PRIVACY: Yes.

- The right to receive respect and privacy in his or her own medical care program.
- The right to associate and communicate privately and without restriction with persons and groups of the patient's or resident's own choice (on the patient's or resident's own or their initiative) at any reasonable hour; may send and shall receive mail promptly and unopened; shall have access at any reasonable hour to a telephone where the patient may speak privately; and shall have access to writing instruments, stationery, and postage.
- If married, the right to privacy in visits by his or her spouse.
- The right of privacy in his or her room.

D. CONFIDENTIALITY: Yes.

- The right to confidentiality of personal and medical records.
- The right to inspect all records pertaining to him/her, upon oral or written request within 24 hours of notice to the facility and to purchase photocopies of such records or any portion of them, at a cost not to exceed the community standard, upon written request and two working days advance notice to the facility.

GRIEVANCE

E. GRIEVANCE: Yes.

- The right to receive from the administrator or staff of the facility a courteous, timely and reasonable response to requests, and the facility shall make prompt efforts to resolve grievances. Responses to requests and grievances shall be made in writing upon written request by the patient or resident.
- The right, personally or through other persons or in combination with others, to exercise his or her rights; to present grievances; to recommend changes in facility policies or services on behalf of himself/herself or others; to present complaints or petitions to the facility's staff or administrator, to the Division of Services for Aging and

**ENUMERATED RIGHTS
(CONT.)**

Adults with Physical Disabilities or to other persons or groups without fear of reprisal, restraint, interference, coercion, or discrimination.

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

- The right to receive considerate, respectful, and appropriate care, treatment, and services, in compliance with relevant federal and state law and regulations, recognizing each person's basic personal and property rights which include dignity and individuality.
- The right to receive reasonable continuity of care.
- The right to not be transferred or discharged out of a facility except for medical reasons; the patient's or resident's own welfare or the welfare of the other patients; or for nonpayment of justified charges. If good cause for transferral is reasonably believed to exist, the patient or resident shall be given at least 30-day advance notice of the proposed action, together with the reasons for the decision, and the patient or resident shall have the opportunity for an impartial hearing to challenge such action if he/she so desires. In emergency situations such notice need not be given.
- The right to make choices regarding activities, schedules, health care, and other aspects of his or her life that are significant to the patient or resident, as long as such choices are consistent with the patient's or resident's interests, assessments, and plan of care and do not compromise the health or safety of the individual or other patients or residents within the facility.
- The right to receive notice before non-emergency room or roommate changes.
- The right to be encouraged to exercise his or her rights as a citizen of the state and country.
- The right to request and receive information regarding minimum acceptable staffing levels as it relates to his or her care.
- The right, where a patient or resident is adjudicated incompetent, determined to be incompetent by his or her attending physician, or unable to communicate, to have his or her rights devolve to his or her next of kin, guardian or representative.
- The right not to be required to perform services for the facility.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.

- The right to participate in an ongoing program of activities designed to meet, in accordance with his or her assessments and plan of care, the patient's or resident's interests and physical, mental and psychosocial well-being.
- The right to participate in social, religious and community activities that do not interfere with the rights of other patients or residents.

H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: Yes.

The right to examine the results of the most recent survey of the facility conducted by federal and/or state surveyors and any plan of correction in effect with respect to the facility. Survey results shall be posted by the facility in a place readily accessible to patients and residents.

I. ACCESS AND VISITATION: Yes.

- The right to be provided with information as to any relationship the facility has with other healthcare and related institutions and/or service providers, including, but not limited to, pharmacy and rehabilitation services, to the extent the patient is offered

**ENUMERATED RIGHTS
(CONT.)**

care and/or services from these related entities.

- If married and if both are inpatients of the facility, the right to be afforded the opportunity where feasible to share a room, unless medically contraindicated.
- The right to retain and use his or her personal clothing and possessions where reasonable, and the right to security in the storage and use of such clothing and possessions.
- The right to receive information from agencies acting as client advocates and be afforded the opportunity to contact those agencies.
- The right to request and receive the names and positions of staff members providing care to the patient or resident.
- The right to request and receive an organizational chart outlining the facility's chain of command for purposes of making requests and asserting grievances.

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

K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: Yes.

The right to be fully informed, in language he/she can understand, of his or her rights and all rules and regulations governing patient or resident conduct and his or her responsibilities during the stay at the facility.

L. MANAGE PERSONAL FINANCIAL AFFAIRS: Yes.

- The right to receive, before or at admission, a written statement of the services provided by the facility, including those required to be offered on an "as needed" basis, and related charges for services not covered by Medicare, Medicaid, or the facility's basic per diem rate.
- The right to receive, on a monthly basis, a written, detailed, itemized statement of the charges and expenses the patient or resident incurred during the previous month.
- The right to manage his or her financial affairs.

M. OTHER ADDITIONAL: No.

**METHOD(S) OF
DISCLOSURE:**

POSTED WITHIN FACILITY: Yes.

Posted conspicuously in a public place.

WITHIN RESIDENT'S CONTRACT: No.

PROVIDED AS SEPARATE WRITING: Yes.

Copies shall be furnished to the patient or resident upon admittance to the facility, all patients and residents currently residing in the facility, and the next of kin, guardian, representative, sponsoring agency, or representative payee of the patient and resident.

ORAL EXPLANATION: No.

OTHER: No.

**TRANSFER &
DISCHARGE**

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

REASON(S)

A. BEHAVIOR: Yes.

If consumer presents a danger to self or others.

B. HEALTH STATUS: Yes.

For medical reasons, generally (D.R. §§ 63.720(A)), but specifically if consumer:

REASON(S) (CONT.)

- Needs transfer assistance by more one person and a mechanical device (unless special staff arranged to ensure safe care and evacuation).
 - Is bedridden for 14 consecutive days (unless physician certified needs may be safely met by service agreement).
 - Engages in illegal drug use.
 - Needs 24-hour nursing services (unless physician certified needs may be safely met by service agreement).
 - Has conditions that exceed program capabilities.
- C. NONPAYMENT: Yes.
For nonpayment of justified charges.
- D. NONCOMPLIANCE: No.
- E. FACILITY CEASES TO OPERATE: No.
- F. OTHER: Yes.
- For consumer's own welfare or the welfare of the other consumers.
 - For failure to negotiate a service agreement or managed risk agreement where applicable.

RESIDENT NOTIFICATION

- A. TIMING/DISTRIBUTION:
30-day advance notice to the consumer except in emergency situations.
- B. CONTENT OF NOTIFICATION:
The reasons for the actions and the right to request a hearing.
- C. RELOCATION ASSISTANCE: No.

APPEAL RIGHTS

- A. WITHIN FACILITY: No.
- B. STATE AGENCY: Yes.
Consumer may request an impartial hearing.

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

**DISCLOSURE(S)
REQUIRED IN THE
CONTRACT****SERVICES & ASSOCIATED CHARGES**

- A. SERVICES & ASSOCIATED CHARGES: Yes.
Rate structure and payment provisions that are clear on covered/non-covered services, service packages and fee for services, regular and extra fees, fees and payment arrangements for any third-party providers, a 60-day notice provision for rate increases or fee changes, the minimum notification a consumer must furnish when moving out, the provisions regarding payment during unavoidable/optional absences; the provision of fair and reasonable billing, payment, and credit policies, and the procedure if consumer can no long pay for services.

- B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: Yes.
See 'SERVICES & ASSOCIATED CHARGES.'

RESIDENT RIGHTS: Yes.
Consumer rights.

**DISCLOSURE(S)
REQUIRED IN THE
CONTRACT****CONTRACT MODIFICATION:** No.**TRANSFER, DISCHARGE, AND CONTRACT TERMINATION:** Yes.
Clear and specific transfer and discharge procedures.**OTHER**A. **GRIEVANCE PROCEDURE:** Yes.

Explanation of grievance/complaint procedure and appeals process.

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

- Clear and specific admission procedures.
- Division of responsibility between assisted living agency and consumer.
- Disclosure that assisted living agency shall not provide services to consumers whose admission is prohibited under section 63.505.

PROVISIONS PROHIBITED No.**GRIEVANCE
PROCEDURE****Does state require the facility to have a grievance procedure for resident concerns?** Yes, by regulation.**FACILITY DISCRETION:** Yes.

The assisted living agency shall develop a formal internal grievance/complaint process which protects consumers from reprisal from employees.

STATE MANDATEDA. **INTERNAL PROCEDURES:** No.B. **EXTERNAL PROCEDURES:** Yes.**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 it is included in regulation.**DATA COLLECTION****Do the regulations call for keeping data on residents?** No.**SPECIAL CARE
ENVIRONMENTS****Does the state have specific guidelines for special care environments?** No.

DISTRICT OF COLUMBIA

CLASSIFICATION **"COMMUNITY RESIDENCE FACILITY"**

A facility that provides a sheltered living environment for individuals who desire or need such an environment because of their physical, mental, familial, social, or other circumstances, and who are not in the custody of the Department of Corrections [and are at least] 18 years of age. May be classified as a "Group Home for Mentally Retarded Persons" when providing "a homelike atmosphere for [four to eight] related or unrelated individuals who, on account of mental retardation, require specialized living arrangements, and maintains the necessary staff, programs, support services, and equipment for their care and habilitation."

AUTHORITY

STATUTE D.C. Code Ann. §§§§ 32-1301 to -1462 (West 1999). *Healthcare & Community Residence Facility, Hospice and Home Care Licensure.*

REGULATION 22 D.C. Municipal Reg. §§ 3400 to 3442. *Community Residence Facilities.*

**OVERSIGHT
AGENCY**

Department of Consumer & Regulatory Affairs.

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

LICENSURE "Except as provided in subsections (b), (c), and (d) of this section, it shall be unlawful to operate a facility or agency ... without being licensed."

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY **Does the statute include a statement of philosophy?** 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: Yes.
Residents must be free of communicable disease.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: No.
- D. COGNITIVE IMPAIRMENT: No.
- E. MEDICAL OR NURSING CARE: Yes.
Residents must not be in need of professional nursing care.

RESTRICTIONS (CONT.) FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: **Yes.**
- Residents must be: able to perform the activities of daily living, with minimal assistance; and, assisted safely and adequately.
 - Unless special permission is obtained, residents must be: generally oriented as to person/place; and, capable of proper judgement in taking action for self-preservation in emergency situations.
- 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, but only disclosure requirements. The regulation lists the residents rights.**

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: **No.**
- B. FREEDOM FROM ABUSE & RESTRAINTS: **Yes.**
Physical and mental harassment or abuse is prohibited.

PRIVACY/CONFIDENTIALITY

- C. PRIVACY: **Yes.**
The right to
- be permitted to receive visitors in an area permitting private conversation;
 - have the right of privacy in their rooms; and,
 - receive mail delivered unopened, generally.
- D. CONFIDENTIALITY: **No.**

GRIEVANCE

- E. GRIEVANCE: **Yes.**
The right to registration and disposition of complaints without intimidation or fear of retaliation.

**ENUMERATED RIGHTS
(CONT.)****OTHER**

- F. ACCOMMODATION OF INDIVIDUAL NEEDS: **No.**
- G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **Yes.**
The right to provisions for spiritual needs.
- H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: **No.**
- I. ACCESS AND VISITATION: **Yes.**
The right to
- to receive visitors at any reasonable hour;
 - access to a phone; and,
 - be provided with the address and telephone number of the licensing agency.
- J. SERVICES INCLUDED IN MEDICARE OR MEDICAID PAYMENT: **Not specified.**
- K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: **Not specified.**
- L. MANAGE PERSONAL FINANCIAL AFFAIRS: **Not specified.**
- M. OTHER ADDITIONAL: **Not specified.**

**METHOD(S) OF
DISCLOSURE**

POSTED WITHIN FACILITY: **Yes.**

Facility must post a copy.

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

PROVIDED AS SEPARATE WRITING: **Yes.**

"Community residence facilities shall distribute a copy ... to each resident's parents, guardian, or other responsible person acting on his or her behalf ... [and agencies] shall distribute a copy ... to each patient/client upon initial delivery of services."

ORAL EXPLANATION: **No.**

OTHER: **No.**

**TRANSFER &
DISCHARGE**

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

REASON(S)

- A. **BEHAVIOR:** **Yes.**
If essential to safeguard the resident or other resident(s) from physical or emotional injury.
- B. **HEALTH STATUS:** **Yes.**
If essential to meet resident's documented health care needs or to be in accordance with resident's prescribed level of care.
- C. **NONPAYMENT:** **Yes.**
On account of nonpayment for resident's maintenance except if that district Medicaid provider may not involuntarily transfer, discharge, or relocate a resident due to the resident's conversion from private pay/Medicare to Medicaid status or due to temporary hospitalization if payment for the resident's bed continues to be made available.
- D. **NONCOMPLIANCE:** **No.**

REASON(S) (CONT.)

- E. FACILITY CEASES TO OPERATE: Yes.
By the Mayor if (a) the facility is operating without a license or with a suspended, revoked, or refused for renewal license; (b) if the facility is closing or intends to close (and adequate relocation arrangements have not been made at least calendar 30 days before the anticipated closure date); or (c) if the Mayor determines an emergency exists which poses an immediate danger of death or serious physical injury to the resident.
- F. OTHER: Yes.
If essential to meet the facility's reasonable administrative needs and no practical alternative is available.

RESIDENT NOTIFICATION

- A. TIMING/DISTRIBUTION: Yes.
Oral and written notice to the resident and the resident's representative as least 21 days before transfer/discharge, except when more immediate is necessitated by resident's urgent medical needs as explicitly determined by attending physician's orders.
- B. CONTENT OF NOTIFICATION: Yes.
Notice includes specific reason and proposed effective date.
- C. RELOCATION ASSISTANCE: Yes.
Resident will be offered counseling services by the facility staff, assistance from the District government, and, at resident's request, additional support from the Long Term Care Ombudsman program.

APPEAL RIGHTS Yes, and must be stipulated in the resident's notification.

- A. WITHIN FACILITY: No.
- B. STATE AGENCY: Yes, a hearing.

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.

PRIVATE RIGHT OF ACTION Does state permit private right of action against the facility? Yes, by statute.
A resident or resident's representative may bring an action in court for injunctive relief, mandamus, or to recover actual or punitive damages for injury.

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

DATA COLLECTION Do the regulations call for keeping data on residents? No.

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

FLORIDA

CLASSIFICATION "ASSISTED LIVING FACILITY"

Any building or buildings section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator. (Three levels: standard, limited nursing service / mental health, and extended congregate care.)

Also

"ADULT FAMILY CARE HOME"

Full-time, family type living arrangement, in a private home, where owner provides room, board, and one or more personal services on a 24-hour basis, for no more than five disabled adults or frail elders who are not relatives.)

AUTHORITY

STATUTE Fla. Stat. Ann. §§ 400.401 et seq. (1998) *Assisted Living Facilities*.

REGULATION Fla. Admin. Code Ann. R. 58A-5 et seq. (1999) *Assisted Living Facilities*.

OVERSIGHT AGENCY

Agency for Health Care Administration.

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

LICENSURE "A license issued by the Agency for Health Care Administration."

REGISTRATION No.

CERTIFICATION No.

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

ADMISSION CRITERIA

RESTRICTIONS HEALTH/MENTAL HEALTH

- A. CHRONIC HEALTH CONDITION: No.
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: Yes.
If shows signs or symptoms of communicable disease.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: Yes.
If requires 24-hour licensed professional mental health treatment.

RESTRICTIONS (CONT.)

- D. COGNITIVE IMPAIRMENT: No.
- E. MEDICAL OR NURSING CARE: Yes.
Requires 24-hour nursing supervision.

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: Yes.
If resident is unable to perform supervised/assisted ADL, self-medicate (unless facility has staff licensed to administer or resident contracts with outside agency to administer), or self-preserve with assistance. For extended congregate facilities, resident must be totally dependent in at least 4 of 5 activities (eating, bathing, dressing, grooming, and toileting).
- G. INCONTINENT: No.
- H. BEDFAST: Yes.
If bedridden.

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: Yes.
If 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: Yes.
If special dietary needs can not be met by facility.
- L. COURT DETERMINED INCOMPETENCE: Yes.
If legally incapacitated and has not legal guardian or other legal surrogate.
- M. OTHER ADDITIONAL: Yes.
If resident
 - Has bed sores or stage 2, 3, or 4 pressure ulcers.
 - Is unable to participate in social and leisure activities.
 - Is medically unstable and for whom a regimen of therapy has not been established (extended congregate facility only).

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? Yes.

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 access to adequate and appropriate health care consistent with established and recognized standards within the community.
- B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.
The right to live in a safe and decent living environment, free from abuse and neglect.

**ENUMERATED RIGHTS
(CONT.)****PRIVACY/CONFIDENTIALITY****C. PRIVACY: Yes.**

The right to unrestricted private communication.

D. CONFIDENTIALITY: No.**GRIEVANCE****E. GRIEVANCE: Yes.**

The right to present grievances and recommend changes in policies, procedures, and services to the staff of the facility, governing agencies, or any other person without restraint, interference, coercion, discrimination, or reprisal.

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

The right to

- Be treated with consideration and respect and with due recognition of personal dignity, individuality, and the need for privacy.
- Reasonable opportunity for regular exercise several times a week and to be outdoors at regular and frequent intervals.
- Exercise civil and religious liberties.
- At least 30-day notice of relocation or termination of residency, unless medical emergency requires moving to higher level of care, or unless conduct harmful or offensive to others. Notice in writing. No notice, must show good cause in court of competent jurisdiction.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.

The right to participate in and benefit from community services and activities and to achieve the highest possible level of independence, autonomy, and interaction within the community.

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

The right to

- Retain and use his or her own clothes and other personal property in his or her immediate living quarters unless facility demonstrates that such would be unsafe, impractical, or an infringement of other residents' rights.
- Share a room with his or her spouse if both are facility residents.

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 unless authorizes facility administrator to provide safekeeping for funds as provided in section 400.427, F.S.A. §§ 400.428(1)(f).

M. OTHER ADDITIONAL: No.**METHOD(S) OF
DISCLOSURE****POSTED WITHIN FACILITY: Yes.**

Posted in a prominent place.

WITHIN RESIDENT'S CONTRACT: Yes.

The resident's right, duties, and responsibilities.

METHOD(S) OF DISCLOSURE (CONT.) PROVIDED AS SEPARATE WRITING: No.
 ORAL EXPLANATION: No.
 Except it must be read or explained to residents who cannot read.
 OTHER: No.

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

- REASON(S)**
- A. BEHAVIOR: Yes.
If a danger to self or others.
 - B. HEALTH STATUS: Yes.
If resident
 - Is unable to perform supervised/assisted ADL, self-medicate (unless facility has staff licensed to administer or resident contracts with outside agency to administer), or self-preserve with assistance.
 - Is bedridden more than 7 consecutive days. Must be bedridden for 14 consecutive days in extended congregate care facilities.
 - Special dietary needs can not be met by facility.
 - Shows signs or symptoms of communicable disease.
 - Requires 24-hour licensed professional mental health treatment.
 - Requires 24-hour nursing supervision.
 - Has bed sores or stage 2, 3, or 4 pressure ulcers.
 - C. NONPAYMENT: No.
 - D. NONCOMPLIANCE: No.
 - E. FACILITY CEASES TO OPERATE: No.
 - F. OTHER: Yes.
If resident is
 - Legally incapacitated and has no legal guardian or other legal surrogate.
 - Unable to participate in social and leisure activities.

- RESIDENT NOTIFICATION**
- A. TIMING/DISTRIBUTION:
30-day notice except for emergency relocations (medical, resident engages in a pattern of conduct harmful or offensive to other residents).
 - B. CONTENT OF NOTIFICATION:
Reasons for relocation.
 - C. RELOCATION ASSISTANCE: No.

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

CONTRACT Does the state require a written contract? Yes, by statute.

**DISCLOSURE(S)
REQUIRED IN THE
CONTRACT****SERVICES & ASSOCIATED CHARGES**

A. SERVICES & ASSOCIATED CHARGES: **Yes.**
Services and accommodations to be provided by the facility and the rates or charges.

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

RESIDENT RIGHTS: Yes.

The resident's rights, duties, and obligations other than those specified in section 400.428, F.S.A. §§ 400.424(2).

CONTRACT MODIFICATION: Yes.

A 30-day (minimum) written notice provision for rate increases.

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.**

The refund policy to be implemented at resident's transfer, discharge, or death, and the refund policy for the return of advance payments.

G. OTHER ADDITIONAL: **Yes.**

- The purpose of any advance payment. F.S.A. §§ 400.424(3)(c) other matters that the parties deem appropriate.
- Statement of facility's religious affiliation.

PROVISIONS PROHIBITED None specified.

**GRIEVANCE
PROCEDURE**

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

FACILITY DISCRETION: Yes.

The facility must establish a grievance procedure to facilitate the resident's right to present grievances and recommend changes.

STATE MANDATED

A. INTERNAL PROCEDURES: **No.**

B. EXTERNAL PROCEDURES: **No.**

**PRIVATE RIGHT
OF ACTION**

Does state permit private right of action against the facility? Yes.
A resident may have a cause of action when his or her rights are violated. The action may be brought in a court of competent jurisdiction for enforcement of the right(s) and to recover actual and punitive damages, reasonable attorney's fees, and costs of the action.

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

MANAGED RISK:

Process by which facility staff discuss the service plan and the needs of the resident with the resident, and if applicable, with the resident's representative or designee or surrogate, guardian, or attorney in fact, in such a way that the consequences of a decision, including any inherent risk, are explained to all parties and reviewed periodically in conjunction with the service plan, taking into account changes in the resident's status and the ability of the facility to respond accordingly.

DATA COLLECTION Do the regulations call for keeping data on residents? Yes.
To gather and maintain data on living arrangements which meet the special needs of the elderly and to disseminate such information to the public. Include types of facilities, cost of care, services provided, and possible sources of help in meeting the cost of care for indigent individuals.

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

The statute sets guidelines for special care to persons with Alzheimer's disease or other related disorders.

PLANNING: Yes.

Emergency management plan must identify residents with Alzheimer's disease and other related dementia.

STAFFING/STAFF TRAINING: Yes.

The facility must employ staff who have completed training (initial 8 hours program pre-approved by the department) and the required continuing education (4 hours annually). The facility must have an awake staff member on duty 24 hours/day (or, if less than 17 residents, mechanisms to monitor and ensure resident safety).

ENVIRONMENT: Yes.

A physical environment that provides for the safety and welfare of the facility's residents.

ACTIVITIES: Yes.

The facility must offer activities specifically designed for persons who are cognitively impaired.

DISCLOSURE: Yes.

The facility must disclose in its advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for such persons. The facility must provide a copy of these advertisements or documents must be given to each person requesting information about programs and services for such persons and must maintain a copy in its records (for Agency review as part of licensure renewal).

OTHER: No.

GEORGIA

CLASSIFICATION "PERSONAL CARE HOME"

Any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal services for two or more adults who are not related to the owner or administrator by blood or marriage.

AUTHORITY

STATUTE Ga. Code Ann. §§§§ 31-7-1 et seq. (1982-1998) *Regulation & Construction of Hospitals & Other Health Care.*

Ga. Code Ann. §§§§ 31-8-130 to -139 (1982-1998) *Remedies for Residents of Personal Care Homes Act.*

REGULATION Ga. Comp. R. & Regs. §§§§ 290-5-35-.01 to -.32 (1998). *Personal Care Homes.*

**OVERSIGHT
AGENCY** Department of Human Resources

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

LICENSURE All personal care homes shall be licensed as provided for in Section 31-7-3 [except those operating at two or three bed capacity].

REGISTRATION In lieu of licensure, the Department may require persons who operate personal care homes with two or three beds for non-family adults to comply with registration requirements delineated by the Department.

CERTIFICATION No.

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

"... persons residing within personal care homes are often isolated from the community and often lack the means to assert fully their rights as individual citizens. ... in order for the rights of residents ... to be fully protected, residents must be afforded the means of recourse when such rights have been denied. It is the intent of the General Assembly to preserve the dignity and personal integrity of residents of personal care homes by providing access to a legal process to hear and redress the grievances of such residents regarding their legal rights."

**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.**
Persons who require continuous medical or nursing care and treatment.

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: **No.**
- G. INCONTINENT: **No.**
- H. BEDFAST: **Yes**, persons who are confined to bed.

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: **No.**
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: **Yes.**
Persons who require the use of physical or chemical restraints.

NEEDS EXCEED FACILITY LICENSURE: Yes.

Persons who need care beyond which the facility is permitted to provide.

OTHER

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

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

But residents have the right to form a resident council and have a meeting in the home outside the presence of the owners, management, or staff members.

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? No.

But the statute incorporates bill of rights enumerated in the regulation.

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: **Yes.**
The right to
 - Receive or reject medical care.
 - Choose and retain the services of a personal physician and any other health care professional or service.
 - Fully participate in the planning of his or her care.

**ENUMERATED RIGHTS
(CONT.)****B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.**

The right to

- Not be punished or harassed by the facility.
- Be free from mental, verbal, sexual, and physical abuse, neglect, and exploitation and to be free from actual or threatened physical or chemical restraints.

PRIVACY/CONFIDENTIALITY**C. PRIVACY: Yes.**

The right to

- Enjoy privacy.
- Be treated with respect and be given privacy in the provision of personal care.
- Mail delivered unopened on the day delivered to the facility.

D. CONFIDENTIALITY: Yes.

The right to inspect his or her records on request.

GRIEVANCE**E. GRIEVANCE: No.****OTHER****F. ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.**

The right to

- Receive care and services which are adequate, appropriate, and compliant with federal/state laws and regulations.
- Exercise constitutional rights.
- Choose activities and schedules consistent with the resident's interests and assessments.
- Interact with members of the community.
- Make choices about aspects of his or her life in the home.
- Not have religious beliefs or practices imposed.
- Discharge or transfer his or herself upon notification to the home.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.

The right to form a resident council and have a meeting in the home outside the presence of the owners, management, or staff members.

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

The right to

- Share a room with spouse if also a resident.
- Use, keep, and control his or her own personal property and possessions.
- Access a telephone and to have a private telephone at his or her own expense.
- Immediate access to residents by others who are visiting with the consent of the resident.
- Access to the state long term care ombudsman program.

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

**ENUMERATED RIGHTS
(CONT.)**

- L. **MANAGE PERSONAL FINANCIAL AFFAIRS: Yes.**
The right to
- Manage his or her own financial affairs.
 - A personal needs allowance.
- M. **OTHER: No.**

**METHOD(S) OF
DISCLOSURE**

- POSTED WITHIN FACILITY: No.**
- WITHIN RESIDENT'S CONTRACT: No.**
- PROVIDED AS SEPARATE WRITING: Yes.**
Provided to the resident at the time of admission to the home.
- 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.**
Resident's continuing behavior or condition directly and substantially threatens the health, safety, and welfare of the resident or other residents.
- B. **HEALTH STATUS: Yes**
Resident requires continuous medical or nursing care or resident's needs cannot be met by the home.
- C. **NONPAYMENT: No.**
- D. **NONCOMPLIANCE: No.**
- E. **FACILITY CEASES TO OPERATE: No.**
- F. **OTHER: No.**

RESIDENT NOTIFICATION

- A. **TIMING/DISTRIBUTION:**
30-day notice to both the resident and the resident's representative or legal surrogate except where immediate transfer is required.
- B. **CONTENT OF NOTIFICATION: Not specified.**
- C. **RELOCATION ASSISTANCE: Yes**
Identify facility, provide copy of resident documentation, and, if immediate transfer, refund any security deposit.

APPEAL RIGHTS

- A. **WITHIN FACILITY: No.**
But resident may file a grievance to administrator through the normal grievance process.
- B. **STATE AGENCY: No.**
But the resident may file of grievance to the ombudsman or Department or request a hearing.

CONTRACT Does the state require a written contract? Yes, by regulation.
A written admission agreement between the governing body and the resident.

**DISCLOSURE(S)
REQUIRED IN THE
CONTRACT** SERVICES & ASSOCIATED CHARGES

- A. SERVICES & ASSOCIATED CHARGES: Yes.
A current statement of all fees and daily, weekly, or monthly charges.
- B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: Yes.
Any other services which are available on an additional fee basis.

RESIDENT RIGHTS: No.

CONTRACT MODIFICATION: Yes.
A 60-day notice provision for changes in charges or services.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: No.

OTHER

- A. GRIEVANCE PROCEDURE: No.
- B. MEDICATION POLICY: No.
- C. RESIDENT NEEDS ASSESSMENT: Yes.
A provision for continuous assessment of the resident's needs and referral for appropriate services or transfer/discharge.
- D. SERVICES NOT AVAILABLE: No.
- E. STAFF: No.
- F. REFUND POLICY: Yes.
A statement of the home's refund policy when a resident is transferred/discharged.
- G. OTHER: Yes.
 - The resident's authorization and consent to release medical information to the home as needed.
 - Provision for transportation of residents for shopping, recreation, rehabilitation, and medical services.
 - A statement that residents may not be required to perform services for the home except as Provided for in the admission agreement.
 - A copy of the house rules.

PROVISIONS PROHIBITED No.

**GRIEVANCE
PROCEDURE** Does state require the facility to have a grievance procedure for resident concerns? Yes.
For residents who believe his or her rights have been violated by a personal care home or its governing body, administrator, or employee(s).

FACILITY DISCRETION: No.

**GRIEVANCE
PROCEDURE
(CONT.)**

STATE MANDATED:

- A. INTERNAL PROCEDURES: Yes.
The resident may submit an oral or written grievance to the administrator or the administrator's designee.
- B. EXTERNAL PROCEDURES: Yes.
The resident may submit an oral or written grievance to the state or community ombudsman and also has the right to request a hearing.

**PRIVATE RIGHT
OF ACTION**

- Does state permit private right of action against the facility? Yes.**
When the home violates a resident's right(s), the resident may bring an action in a court of competent jurisdiction:
- To recover actual and punitive damages resulting from the violation,
 - For a temporary restraining order, preliminary injunction, or permanent injunction to stop the violation, or
 - For a mandamus to order the Department to comply with state/federal law relevant to the operation of the home or the care of its residents.

NEGOTIATED RISK

- Does the statute include reference to negotiated risk agreement? No.**
But the resident has the right to reject medical care, dental care, or other services except as required by law or regulation.

DATA COLLECTION

- Do the regulations call for keeping data on residents? No.**

**SPECIAL CARE
ENVIRONMENTS**

- Does the state have specific guidelines for special care environments? Yes.**
Statute provides guidelines for facilities that advertise, market, or offer to provide specialized care, treatment, or therapeutic activities for one or more persons with Alzheimer's disease or related dementia.

PLANNING: No.

STAFFING/STAFF TRAINING: No.

ENVIRONMENT: No.

ACTIVITIES: No.

DISCLOSURE: Yes.

Disclosure to consumers using state developed form and including:

- Overall philosophy and mission;
- Admission, discharge, and emergency procedures;
- Definition of the programs of service;
- Staffing and staff training;
- Physical environment;

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

- Resident activities;
- Outside agency involvement;
- Rate structure.

OTHER: No.

HAWAII

CLASSIFICATION "ASSISTED LIVING FACILITY"

A combination of housing, health care service, and personalized supportive services designed to respond to individual needs, to promote choice, responsibility, independence, privacy, dignity, and individuality.

"ADULT RESIDENTIAL CARE HOME"

Any facility providing 24-hour living accommodations, for a fee, to adults unrelated to the family, who require at least minimal assistance in the activities of daily living, personal care services, protection, and health care services, but who do not need the professional health services provided in an intermediate, skilled nursing, acute care facility.

"ADULT RESIDENTIAL CARE HOME - TYPE I"

5 or fewer residents.

"ADULT RESIDENTIAL CARE HOME - TYPE II"

6 or more residents.

"EXPANDED ADULT RESIDENTIAL CARE HOME"

(Effective 7/1/99). Any facility providing 24-hour living accommodations, for a fee, to adults unrelated to the family, who require at least minimal assistance in the activities of daily living, personal care services, protection, and health care services, and who may need the professional health services provided in an intermediate or skilled nursing facility.

"EXPANDED ADULT RESIDENTIAL CARE HOME - TYPE I"

5 or fewer residents.

"EXPANDED ADULT RESIDENTIAL CARE HOME - TYPE II"

6 or more residents.

AUTHORITY

STATUTE Hawaii Rev. Stat. Ann. §§§§ 321-15.1 to –15.62 (West 1999). *Dept. of Health: General & Administrative Provisions.*

REGULATION Hawaii Admin. Rules §§§§ 11-90-1 *et seq.* (1997, Not published). *Assisted Living Facilities.*
Hawaii Admin. Rules §§§§ 11-101-1 *et seq.* (1997, Not published). *Adult Residential Care Homes.*

**OVERSIGHT
AGENCY**

Department of Health, Hospital & Medical Facilities Branch.

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

LICENSURE Adult Residential Care Homes pursuant to H.S.R.A. §§ 321-15.6 and Expanded Residential Care Homes pursuant to H.S.R.A. §§ 321-15.62.

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy? 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: No.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: No.
- D. COGNITIVE IMPAIRMENT: No.
- E. MEDICAL OR NURSING CARE: Yes.
Adult resident care home applicants who need the professional health services provided in an intermediate, skilled nursing, acute care facility.

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 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.
If behavior imposes an imminent danger to self or others (assisted living facilities).
 - B. HEALTH STATUS: Yes.
If facility cannot meet the resident's service needs (for facilities with over 15 beds, but may be waived for facilities for the mentally ill or for mixed facilities).
 - C. NONPAYMENT: No.
 - D. NONCOMPLIANCE: Yes.
If established pattern of resident noncompliance (for facilities with over 15 beds, but may be waived for facilities for the mentally ill or for mixed facilities).
 - E. FACILITY CEASES TO OPERATE: No.
 - F. OTHER: No.

- RESIDENT NOTIFICATION***
- A. TIMING/DISTRIBUTION:
14-day 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? 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 the state permit private right of action against the facility? No.

NEGOTIATED RISK Does the statute include reference to negotiated risk agreement? No.
However, service agreements are developed using negotiated risk principles.

DATA COLLECTION Do the regulations call for keeping data on residents? No.

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

IDAHO

CLASSIFICATION "RESIDENTIAL CARE FACILITY"

One or more buildings constituting a facility or residence, however named, operated on either a profit or nonprofit basis, for the purpose of providing twenty-four (24) hour nonmedical care for 3 or more persons, not related to the owner, eighteen (18) years of age or older, who need personal care or assistance and supervision essential for sustaining activities of daily living or for the protection of the individual.

Categorized as:

"RESIDENTIAL CARE FACILITY FOR THE ELDERLY"

Serving elderly individuals.

"RESIDENTIAL CARE FACILITY FOR INDIVIDUALS WITH MENTAL ILLNESS, DEVELOPMENTAL DISABILITY, OR PHYSICAL DISABILITY"

Serving individuals with mental illness, developmental disability, or physical disability.

"RESIDENTIAL CARE MIXED FACILITY"

Serving a mixed population of elderly individuals and individuals with mental illness, developmental disability, or physical disability.

AUTHORITY**STATUTE**

Idaho Code §§§§ 39-3301 et seq. *Idaho Board and Care Act.*

Idaho Code §§§§ 39-3501 et seq. (West 1999). *Residential Care for the Elderly.*

REGULATION

Idaho Admin. Code §§§§ 16.03.22.000 et seq. (West 1999) *Licensed Facilities/Certified Homes.*

**OVERSIGHT
AGENCY**

Department of Health and Welfare.

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

LICENSURE

Pursuant to I.C. §§ 39-3540, however, a special waiver may be granted if deemed in the best interests of individuals and with due consideration of:

- The individuals are residents of a facility operated by a nonprofit health care and/or housing organization established as such in the state of Idaho and satisfying the requirements of U.S. Internal Revenue Code Section 501(c);
- The support services required by the individuals are furnished by an entity approved to provide such services in the state of Idaho in good standing as demonstrated by routine inspections required for the type of entity providing services;
- Facilities seeking such waivers and providing meal service shall be inspected and licensed as a food service establishment by the district Health Department unless the meal service is provided by a kitchen already part of a facility licensed by the department;

LICENSURE (CONT.)

- The costs of obtaining the needed services from another source are significantly greater and/or would pose a significant hardship on these individuals.
- Distinct segments of a facility may be licensed separately if each segment meets all applicable rules.

REGISTRATION No.**CERTIFICATION** No.**PHILOSOPHY****Does the statute include a statement of philosophy?** Yes.

"[T]o provide a humane, safe, and homelike housing and living arrangement for persons who are elderly who need some assistance with activities of daily living and personal care and to delay the need for a more expensive nursing facility or other institutional care as long as possible. Occupancy in a residential care facility for the elderly will be considered the person's primary residence.

It is the intent of the legislature that residential care facilities for the elderly be available to meet the needs of those residing in these facilities by recognizing the capabilities of individuals to direct their care and self-medication or to use supervised self-medication techniques when ordered and approved by an individual licensed to prescribe medication.

Nothing in this chapter is intended to reduce or eliminate any duty of the Department or any other public or private entity for provision of services for any resident."

ADMISSION CRITERIA**Does the state restrict who can be admitted?** Yes, by statute and regulation.**RESTRICTIONS****HEALTH/MENTAL HEALTH**

- CHRONIC HEALTH CONDITION: No.
- COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: No.
- ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: No.
- COGNITIVE IMPAIRMENT: No.
- MEDICAL OR NURSING CARE: Yes.
Residents who require
 - Ongoing skilled nursing, intermediate care, or care not within the legally licensed/certified authority of the facility.
 - Nursing judgment for an ongoing unstable health condition.
 - The continuing involvement of technical or professional personnel to appropriately evaluate, plan, and deliver resident care.

FUNCTIONAL ABILITY

- UNABLE TO DIRECT SELF CARE: Yes.
Residents who are unable to feed themselves.
- INCONTINENT: No.

RESTRICTIONS (CONT.)

- H. BEDFAST: Yes.
Residents who are bedfast.

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: Yes.
Residents who are violent or a danger to self or others.
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: Yes.
Residents who require restraints, including bed rails.

NEEDS EXCEED FACILITY LICENSURE: Yes.

Residents who

- Require a level/type of service for which the facility is not licensed/certified, does not provide, or does not have the staff appropriate to provide.
- Are beyond the level of fire safety provided by the facility/home.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: No.
- L. COURT DETERMINED INCOMPETENCE: No.
- M. OTHER ADDITIONAL: Yes.
Residents
- With decubitus ulcers/pressure sores or open wounds.
 - Whose physical, emotional, or social needs are not homogenous with the other residents in the facility/home.

RESIDENT PARTICIPATION

Does the state require a resident council or similar for resident involvement? Yes.

Every licensed facility over fifteen (15) beds must assist the residents in establishing and maintaining a resident council composed of residents of the facility. Councils may include family members, advocates, friends and others.

A residential care facility for individuals with mental illness, developmental illness, or physical disability or a residential care mixed facility may waive this requirement under I.A.C. §§§§ 16.03.22.604(03), .704(02)-(04) if:

- The operator meets regularly with residents;
- Residents decline to participate in a formal council; and
- Appropriate documentation exists to indicate the residents' decision.

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 control his receipt of health-related services and to be informed, in writing, regarding formulation of an advanced directive to include applicable state law.

**ENUMERATED RIGHTS
(CONT.)****B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.**

The right to be free from physical, mental or sexual abuse, neglect, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience.

PRIVACY/CONFIDENTIALITY**C. PRIVACY: Yes.**

The right to privacy with regard to accommodations, medical and other treatment, written and telephone communications, visits, and meetings of family and resident groups.

D. CONFIDENTIALITY: Yes.

The right to confidentiality of personal and clinical records.

GRIEVANCE**E. GRIEVANCE: Yes.**

The right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances and the right to prompt efforts by the facility to resolve grievances.

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

The right to

- Have a resident record maintained and kept current.
- Humane care and environment (dignity and respect).
- Wear own clothing and determine dress or hair style.
- Refuse to perform services for the facility except as contracted for by the resident and the operator of the facility.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.

The right to

- Practice the religion of choice or to abstain from religious practice and be free from the imposition of the religious practices of others.
- Organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility.
- Participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: Yes.

The right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Department with respect to the facility and any plan of correction in effect with respect to the facility.

I. ACCESS AND VISITATION: Yes.

The right to

- Retain and use resident's own personal property in own living area so as to maintain individuality and personal dignity, and be provided a separate storage area in own living area.
- To immediate/reasonable access to any resident by person visiting with resident's consent.

**ENUMERATED RIGHTS
(CONT.)**

- 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 personal funds and to manage personal funds.
- M. OTHER ADDITIONAL: **Yes.**
The right to any other right established by the Department.

**METHOD(S) OF
DISCLOSURE**

- POSTED WITHIN FACILITY: **Yes.**
Conspicuously posted in the facility at all times.
- WITHIN RESIDENT'S CONTRACT: **No.**
- PROVIDED AS SEPARATE WRITING: **Yes.**
Inform each resident in writing at the time of admission
- ORAL EXPLANATION: **Yes.**
Inform each resident orally at the time of admission.
- 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.**
The resident's mental or physical condition deteriorates to a level requiring evaluation, service, or both that cannot be provided in a facility/home.
- C. NONPAYMENT: **Yes.**
For nonpayment of the resident's bill.
- D. NONCOMPLIANCE: **No.**
- E. FACILITY CEASES TO OPERATE: **No.**
- F. OTHER: **Yes.**
To protect the resident or other residents in the facility from harm.

RESIDENT NOTIFICATION

- TIMING/DISTRIBUTION:
15-day written notice unless emergency conditions require immediate transfer for the protection of resident or other residents
- CONTENT OF NOTIFICATION: **Not specified.**
- RELOCATION ASSISTANCE: **No.**

APPEAL RIGHTS

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

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

**DISCLOSURE(S)
REQUIRED IN THE
CONTRACT**

SERVICES & ASSOCIATED CHARGES

- A. SERVICES & ASSOCIATED CHARGES: Yes.
Services that the facility/home shall provide and arrangements for payments.
- B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: No.

RESIDENT RIGHTS: No.

CONTRACT MODIFICATION: No.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: Yes.

15-day written notice prior to transfer or discharge on the part of either party and the conditions under which emergency transfers shall be made.

OTHER

- A. GRIEVANCE PROCEDURE: No.
- B. MEDICATION POLICY: Yes.
Whether or not the resident shall assume responsibility for his own medication including reporting missed medication or medication taken on a PRN basis.
- C. RESIDENT NEEDS ASSESSMENT: Yes.
The level and category of resident that shall be admitted to the facility/home.
- D. SERVICES NOT AVAILABLE: No.
- E. STAFF: No.
- F. REFUND POLICY: Yes.
How a partial month's refund shall be handled.
- G. OTHER ADDITIONAL: Yes.
- Whether or not the facility/home shall accept responsibility for the residents' personal funds.
 - Responsibility for valuables belonging to the resident and provision for the return of residents' valuables should the resident leave the facility/home.
 - Permission to transfer pertinent information from the resident's medical record to an acute care facility, nursing facility, residential care facility/adult foster care home.
 - Resident responsibilities as appropriate.
 - Other information as may be appropriate.

PROVISIONS PROHIBITED Not specified.

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

FACILITY DISCRETION: No.

STATE MANDATED

- A. INTERNAL PROCEDURES: Yes.

**GRIEVANCE
PROCEDURE
(CONT.)**

A written incident and complaint policy and procedure including, but not limited to:

- A method of assuring that the owner, administrator/sponsor, or person designated by the owner or administrator/sponsor is notified of all incidents or complaints;
- That the owner, administrator/sponsor, or person designated by the owner or administrator/sponsor has personally investigated and prepared a written report of finding for each incident or complaint;
- That the person making the complaint or reporting the incident has received a response of action taken to resolve the matter or a reason why no action needs to be taken; and
- In the case of an anonymous complaint, the administrator/sponsor shall document the action taken or a reason why no action needs to be taken.

Each facility/home must establish a regular time when the owner, administrator/sponsor, or person designated by the owner or administrator/sponsor shall be present to personally respond to such incidents or complaints. Each facility/home must also establish and maintain a separate complaint log which shall be made available for annual review during the survey.

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.

A negotiated service agreement. Based on the following, but not limited to:

- Assessment;
- Service needs for activities of daily living;
- Need for limited nursing services;
- Need for medication assistance;
- Frequency of needed services;
- Level of assistance;
- Habilitation/training needs, to specify the program being used;
- Behavioral management needs, to include a specific plan which identifies situations that trigger inappropriate behavior;
- Physician's signed and dated orders;
- Admission records;
- Community support systems;
- Resident's desires;
- Transfer/discharge; and
- Other identified needs.

The admission agreement may be integrated with the negotiated service agreement provided that all requirements for the negotiated service agreement and admission agreement are met.

DATA COLLECTION

Do the regulations call for keeping data on residents? No.

**SPECIAL CARE
ENVIRONMENTS**

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

The facility/unit caring for Alzheimer's/dementia residents shall meet the requirements of *Rules for Residential Care Facilities for the Elderly in Idaho*, Section 700 through Subsection 722.06. All facilities, who have a Level III resident with a diagnosis of Alzheimer's or an equivalent dementing illness shall meet the requirements of *Specialized Care Units/Facilities for Alzheimer's/Dementia Residents*, Section 750. (7-1-96)

PLANNING: Yes.

A synopsis of the program of care to be offered by the special care unit/facility for the elderly shall be submitted to the Department for approval before a Specialized Residential Care Facility for the Elderly License is issued.

STAFFING/STAFF TRAINING: Yes.

Each specialized residential care facility for the elderly offering specialized care units/facilities for Alzheimer's/dementia residents shall develop an orientation training program, for staff providing care and supervision to these residents. Staff shall have at least six (6) additional hours of orientation training prior to service to include, but not be limited to Section 707. Four (4) hours of the required sixteen (16) hours per year of continuing training shall be in the provision of services to residents with Alzheimer's disease or dementia disorders.

ENVIRONMENT: No.

ACTIVITIES: Yes.

Habilitation services, activity program, and behavior management shall be provided to meet the needs of the resident according to their individualized negotiated service agreement.

DISCLOSURE: No.

OTHER: Yes.

Each residential care facility for the elderly offering special care units/facilities for Alzheimer's/dementia shall develop and implement a written admission policy governing the acceptance of individuals.

ILLINOIS

CLASSIFICATION “ASSISTED LIVING ESTABLISHMENT”

A home, building, residence, or any other place where sleeping accommodations are provided for at least 3 unrelated adults (at least 80% are age 55 or older) and where the following are provided consistent with the purposes of this Act:

- Services consistent with a social model that is based on the premise that the resident’s unit is his or her home;
- Community-based residential care for persons who need assistance with activities of daily living, including personal, supportive, and intermittent health-related services available 24-hours per day, if needed, to meet the scheduled and unscheduled needs of the resident;
- Mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or resident’s representative.

A physical environment that is a homelike setting that includes the following and such other elements as established by the Department in conjunction with the Assisted Living and Shared Housing Advisory Board: individual living units each of which shall accommodate small kitchen appliances and contain private bathing, washing, and toilet facilities, or private washing and toilet facilities with a common bathing readily accessible to each resident. Units shall be maintained for single occupancy except in cases in which 2 residents choose to share a unit. Sufficient common space shall exist to permit individual and group activities.

“SHARED HOUSING ESTABLISHMENT”

A publicly or privately operating freestanding residence, for 12 or fewer persons (at least 80% are age 55 or older) who are unrelated to the owners and one manager of the residence, where the following are provided:

- Services consistent with a social model that is based on the premise that the resident’s unit is his or her own home;
- Community-based residential care for persons who need assistance with activities of daily living, including housing and personal, supportive, and intermittent health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of the resident; and
- Mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or the resident’s representative.

“SHELTERED CARE FACILITY”

A private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code (55 ILCS 5) or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care, or nursing for three or more persons not related to the applicant or owner by blood or marriage.

AUTHORITY

STATUTE 1999 Ill. H.B. 427 (Passed 5/27/99). *Assisted Living & Shared Housing Act*.
 Ill Rev. Stat. Ch. 210, && 35/1 *et seq.* (West's 1999). *Community Living Facilities Licensing Act*.
 Ill. Rev. Stat. Ch. 210, && 45/1-101 to /3A-101 (West's Smith-Hurd 1998). *Nursing Home Care Act*.
 Amended 1999 by the *Assisted Living & Shared Housing Act* to exclude assisted living & shared housing.

REGULATION Ill. Admin. Code tit. 77, §§ 330.110 *et seq.* *Sheltered Care Facilities*.

**OVERSIGHT
AGENCY**

Department of Public Health, Division of Health Care Facilities and Programs.

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

LICENSURE Effective 1/1/2001, "... no person may establish, operate, maintain, or offer an establishment as an assisted living establishment or shared housing establishment unless and until he/she obtains a valid license, which remains unsuspended, unrevoked, and unexpired."

REGISTRATION No.

CERTIFICATION No.

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

**ADMISSION
CRITERIA**

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

For assisted living/shared housing establishments and sheltered care facilities. Restrictions for assisted living/shared housing establishments generally do not apply to terminally ill resident who receive or would qualify for hospice care and to quadriplegic, paraplegic, or individuals with neuromuscular diseases.

RESTRICTIONS **HEALTH/MENTAL HEALTH**

A. CHRONIC HEALTH CONDITION: No.

B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: Yes.

If individual has a communicable, contagious or infectious disease as set forth in §§ 330.1130. 77 I.A.C. §§ 330.720(a)(5).

C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: Yes.

- Persons mentally ill, in need of mental treatment, and at risk because the person is reasonably expected to self-inflict serious physical harm or to inflict serious physical harm on another person in the near future as a mental illness, as determined by professional evaluation or has serious mental or emotional problems based on medical diagnosis.

RESTRICTIONS (CONT.)

- Persons with severe mental illness (characterized by the presence of a major mental disorder where the individual is substantially disabled in areas of self-maintenance, social functioning, activities of community living, and work skills) which is expected to be present for at least 1 year but does not mean Alzheimer's disease or other forms of dementia based on organic or physical disorders (assisted living/shared housing establishments).

D. COGNITIVE IMPAIRMENT: No.

E. MEDICAL OR NURSING CARE: Yes.

- If determined by professional evaluation to be in need of nursing care.
- Persons requiring intravenous therapy or feeding, gastrostomy feeding, catheter maintenance (except routine maintenance of urinary catheters), sterile wound care, sliding scale insulin administration, routine insulin injections, treatment of stage 3 or 4 decubitus ulcers or exfoliative dermatitis, or 5 or more skilled nursing visits per week for 3 or more consecutive weeks for conditions not previously listed (except for treatment certified as temporary by a physician). **Exception:** self-administered or administered by qualified, licensed healthcare professional. (Assisted living/shared housing establishments)

FUNCTIONAL ABILITY

F. UNABLE TO DIRECT SELF CARE: Yes.

- Persons unable to communicate his or her needs and having no resident representative (with a prior relationship to the resident and residing in the establishment) appointed to direct the provision of services. (Assisted living/shared housing establishments)
- Persons requiring total assistance with 2 or more activities of daily living, the assistance of more than one paid caregiver at any given time with an activity of daily living, or more than minimal assistance in moving to a safe area in an emergency. (Assisted living/shared housing establishments)

G. INCONTINENT: No.

H. BEDFAST: No.

BEHAVIORAL/SOCIAL

I. DANGER TO SELF OR OTHERS: Yes.

- If person is reasonably expected to self-inflict serious physical harm or to inflict serious physical harm on another person in the near future as a mental illness, as determined by professional evaluation or is destructive of property or himself.
- If the person poses a serious threat to himself/herself or to others. (Assisted living/shared housing establishments)

J. PHYSICAL/CHEMICAL RESTRAINTS OR CONFINEMENT: No.

NEEDS EXCEED FACILITY LICENSURE: Yes.

Individuals requiring a level or type of service for which the establishment is not licensed or does not provide or does not have the staff appropriate in numbers and skill to provide.

OTHER

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

L. COURT DETERMINED INCOMPETENCE: No.

- RESTRICTIONS (CONT.)** M. OTHER ADDITIONAL: Yes.
Minors. (Assisted living/shared housing establishments)

RESIDENT PARTICIPATION Does the state require a resident council or similar for resident involvement? Yes, by statute.
Each facility shall establish a residents' advisory council consisting of at least five resident members. If there are not five residents capable of functioning on the resident's advisory council, as determined by the Interdisciplinary Team, residents' representatives shall take the place of the required number of residents. The administrator shall designate another member of the facility staff other than the administrator to coordinate the establishment of, and render assistance to, the council. In facilities of 50 beds or less, the resident advisory council may consist of all the residents of the facility, if the residents choose to operate this way. Some facilities may wish to establish mini-resident advisory councils for various smaller units within the facility.

RESIDENT BILL OF RIGHTS Does the statute include a resident bill of rights? Yes.
A bill of rights is included in the regulations.

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: Yes.
The right to refuse services and to be advised of the consequences of that refusal.
- B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.
The right to be free of chemical/physical restraints, abuse, or neglect.

PRIVACY/CONFIDENTIALITY

- C. PRIVACY: Yes.
The right to
- Respect for bodily privacy and dignity at all time, especially during care and treatment.
 - Privacy with regard to mail, phone calls, and visitors.
- D. CONFIDENTIALITY: Yes.
The right to confidentiality of and of access and the right to copy the resident's personal records.

GRIEVANCE

- E. GRIEVANCE: Yes.
The right to be free of retaliation for criticizing the establishment or making complaints to appropriate agencies.

OTHER

- F. ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.
The right to
- Refuse to perform labor.
 - A minimum of 90-day notice of a planned establishment closure and a minimum of 30-day notice of an involuntary residency termination, except in emergency situations, and the right to appeal involuntary termination.

**ENUMERATED RIGHTS
(CONT.)**

- A 30-day notice of delinquency and at least 15 days right to cure delinquency.
- G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **Yes.**
The right to free exercise of religion.
- H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: **No.**
- I. ACCESS AND VISITATION: **Yes.**
The right to
 - Retain and use personal property and a place to store personal items that is locked and secure.
 - Uncensored access to the state ombudsman or his or her designee.
 - 24-hour access to the establishment.
- 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.**

**TRANSFER &
DISCHARGE**

Does the state set guidelines for involuntary transfer and/or discharge? Yes.
By statute for assisted living/shared housing establishments and sheltered care facilities.

REASON(S)

- A. BEHAVIOR: **Yes.**
For posing a serious threat to self or others; as specified in H.B. 427 §§ 75(c)(1) — assisted living/shared housing establishments.
- B. HEALTH STATUS: **Yes.**
Applicable to assisted living/shared housing establishment residents:
 - Requiring total assistance with 2 or more activities of daily living, the assistance of more than one paid caregiver at any given time with an activity of daily living, or more than minimal assistance in moving to a safe area in an emergency.
 - With severe mental illness (characterized by the presence of a major mental disorder where the individual is substantially disabled in areas of self-maintenance, social functioning, activities of community living and work skills) which is expected to be present for at least 1 year but does not mean Alzheimer's disease or other forms of dementia based on organic or physical disorders.
 - Requiring intravenous therapy or feeding, gastrostomy feeding, catheter maintenance (except routine maintenance of urinary catheters), sterile wound care, sliding scale insulin administration, routine insulin injections, treatment of stage 3 or 4 decubitus ulcers or exfoliative dermatitis, or 5 or more skilled nursing visits per week for 3 or more consecutive weeks for conditions not previously listed (except for treatment certified as temporary by a physician). Exception: self-administered or administered by qualified, licensed healthcare professional.
 - Requiring a level or type of service for which the establishment is not licensed or does not provide or does not have the staff appropriate in numbers and skill to provide.
- C. NONPAYMENT: **Yes.**
For nonpayment of contracted charges after receiving 30-day written notice of delinquency

- REASON(S) (CONT.)** and having at least 15 days to cure the delinquency, as specified in S.B. 427 §§ 80(a)(2) – assisted living/shared housing establishments.
- D. **NONCOMPLIANCE: Yes.**
For failure to execute a service delivery contract or to substantially comply with its terms and conditions, comply with the assessment requirements, substantially comply with the terms and conditions of the lease agreement; as specified in S.B. 427 §§ 80(a)(3) – assisted living/shared housing establishments.
- E. **FACILITY CEASES TO OPERATE: No.**
- F. **OTHER: No.**

RESIDENT NOTIFICATION **FOR ASSISTED LIVING/SHARED HOUSING ESTABLISHMENTS.**

- A. **TIMING/DISTRIBUTION:**
- 30-day (or less in emergency situations) written notice of involuntary termination to resident, resident's representative, and the long term care ombudsman.
 - 90-day notice of voluntary closure of all or part of establishment to Department, residents who must be terminated and their representative and family members.
- B. **CONTENT OF NOTIFICATION:**
- Involuntary termination: Reason for residency termination, date of proposed move, and a notice of the resident's right to appeal (including appeal procedures).
 - Voluntary closure of establishment: Proposed closing date and the reason for closing.
- C. **RELOCATION ASSISTANCE: Yes.**
The establishment shall offer the resident residency termination and relocation assistance including information on available alternative placement and the Department may offer assistance in the preparation of residency and termination plans to assure safe and orderly transition and to protect the resident's health, safety, welfare, and rights.

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

CONTRACT **Does the state require a written contract? Yes, by statute.**
For assisted living/shared housing establishments.

- DISCLOSURE(S) REQUIRED IN THE CONTRACT** **SERVICES & ASSOCIATED CHARGES**
- A. **SERVICES & ASSOCIATED CHARGES: Yes.**
The base rate and description of corresponding services, and billing/payment procedures and requirements.
- B. **ADDITIONAL SERVICES & ASSOCIATED CHARGES: Yes.**
A description of additional services for an additional fee and the corresponding fee schedule.

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

- A statement affirming resident's right to receive services from services providers with whom the establishment does not have a contractual arrangement.
- A listing of rights.

CONTRACT MODIFICATION: Yes.

A description of the process for contract modification, amendment.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: Yes.

- A description of the process for contract termination.
- Detailed statement of residency termination criteria and procedures.

OTHER**A. GRIEVANCE PROCEDURE: Yes.**

A description of the compliant resolution process available to residents and the availability of the Department on Aging's Senior Helpline for complaints.

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

- Names and address of appropriate parties.
- License status.
- Duration of contract.
- Resident's obligations.
- Detailed statement of admission and risk management criteria and procedures.
- Detailed statement of Department's annual on-site review process.

PROVISIONS PROHIBITED Not specified.

**GRIEVANCE
PROCEDURE**

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

FACILITY DISCRETION: No.**STATE MANDATED****A. INTERNAL PROCEDURES: Yes.**

The resident may present grievances to the administrator and the residents' advisory council.

B. EXTERNAL PROCEDURES: Yes.

The resident may present grievances to the Long-Term Care Facility Advisory Board and the state governmental agencies.

PRIVATE RIGHT OF ACTION Does the state permit private right of action against the facility? Yes. Sheltered care facility residents have the right to maintain a private right of action (for actual damages, injunctive or declaratory relief, or any other relief permitted by law) against the facility for any intentional or negligent act or omission which injures the resident.

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, by statute.
For special programs or units for persons with Alzheimer's disease and related disorders.

PLANNING: Yes.

- Develop and implement policies and procedures that ensure the continued safety of all residents.
- Provide an appropriate number of staff.
- Develop emergency procedures and staffing patterns to respond to resident needs.

STAFFING/STAFF TRAINING: Yes.

Require director or administrator and direct care staff to complete sufficient comprehensive and on-going dementia and cognitive deficit training.

ENVIRONMENT: No.

ACTIVITIES: Yes.

Provide cognitive stimulation and activities to maximize functioning.

DISCLOSURE: Yes.

Disclose to the Department and to a potential or actual resident information as specified under the Alzheimer's Special Care Disclosure Act.

OTHER: Yes.

Ensure that a resident's representative is designated for the resident and provide coordination of communications with resident, resident's representative, relatives, and other persons identified in the resident's service plan.

INDIANA

CLASSIFICATION "RESIDENTIAL CARE FACILITY"

A facility that provides room, food, laundry, and occasional assistance in daily living for residents who need less service than the degree of service provided by a comprehensive care facility. There is an overall general supervision of health care, medications, and diets as defined in the written policies of the facility.

AUTHORITY

STATUTE Ind. Code Ann. § 16-28-2-1 et seq. (West 1999). *Licensure of Health Facilities*.

REGULATION Ind. Admin. Code §§ 410:16.2-5-1 et seq. (1999). *Residential Care Facilities*.

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

LICENSURE A person must obtain a license from the director before the person may operate a health facility. A state institution or municipal corporation may specifically request licensure and upon compliance with this chapter may be licensed 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? 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, by regulation.

ENUMERATED RIGHTS FREEDOM

A. FREEDOM OF CHOICE: Yes.

The right to participate in treatment plan development, choose physician and other providers, be fully informed of medical condition by physician, refuse treatment, and be informed of consequences of treatment refusal.

**ENUMERATED RIGHTS
(CONT.)**

- B. FREEDOM FROM ABUSE & RESTRAINTS: **Yes.**
The right to be free from physical and mental abuse.

PRIVACY/CONFIDENTIALITY

- C. PRIVACY: **Yes.**
The right to privacy during resident council meetings.
- D. CONFIDENTIALITY: **Yes.**
The right to confidentiality of treatment and personal records.

GRIEVANCE

- E. GRIEVANCE: **No.**

OTHER

- F. ACCOMMODATION OF INDIVIDUAL NEEDS: **Yes.**
The right to
- Be treated with consideration, respect, and recognition of their dignity and individuality.
 - Appropriate housing assignments.
 - Continuity of care when transfer/discharge is proposed and be permitted to remain in facility except if stipulated situations exist.
 - Exercise rights as residents and citizens.
 - Be treated as individuals with consideration of and respect for privacy.
 - Not be required to perform services for the facility.
 - Choose with whom to associate.
 - Individual expression through retention of personal clothing and belongings as space and rights of others permits.
 - Exercise rights without restraint, interference, coercion, discrimination, or threat of reprisal.
- G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **Yes.**
The right to
- Form and participate in a resident council.
 - Participate in social, religious, community services, and other activities.
- 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. MANAGEMENT OF PERSONAL FINANCIAL AFFAIRS: **Yes.**
To manage personal affairs and funds.
- M. OTHER ADDITIONAL: **Yes.**
The right to
- Be provided, at admission, a written notice of rates, services, related charges, and policies on admission, readmission, and discharge.
 - 30-day notice of changes in the rates or services.

**METHOD(S) OF
DISCLOSURE** POSTED WITHIN FACILITY: **No.**

METHOD(S) OF DISCLOSURE (CONT.)

WITHIN RESIDENT'S CONTRACT: No.

PROVIDED AS SEPARATE WRITING: No.

ORAL EXPLANATION: No.

OTHER: Yes.
The resident must be advised prior to admission.

TRANSFER & DISCHARGE

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

REASON(S)

A. **BEHAVIOR:** No.

B. **HEALTH STATUS:** Yes.

- When necessary for the resident's welfare and the resident's need cannot be met in the facility.
- When resident's health has improved sufficiently so that the resident no longer needs the services provided.

C. **NONPAYMENT:** Yes.
When resident has failed to pay, after reasonable and appropriate notice, for a stay at the facility.

D. **NONCOMPLIANCE:** No.

E. **FACILITY CEASES TO OPERATE:** Yes.
When the facility ceases to operate

F. **OTHER:** Yes.
When the safety or health of individuals in the facility is endangered.

RESIDENT NOTIFICATION

TIMING/DISTRIBUTION:
30-day written notice to the resident, a family member, resident's legal representative, local long-term care ombudsman program, and the person/agency responsible for the resident's placement, regional office of the Division of Disability, Aging, and Rehabilitative Services (if resident is developmentally disabled), and the resident's physician. In emergency transfers, notice may be made as soon as practical.

CONTENT OF NOTIFICATION:
Reason for transfer/discharge; effective date; location to which transferred/discharged; a statement of resident's right to appeal; director's address and phone; hearing request; ombudsman's address and phone, and address/phone of the protection & advocacy services commission (for residents with developmental disabilities or who are mentally ill).

RELOCATION ASSISTANCE:
Determines location to which resident will be located.

APPEAL RIGHTS

A. **WITHIN FACILITY:** No.

B. **STATE AGENCY:** Yes.
Written request for a hearing.

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.

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

Statute provides guidelines for any health facility that "locks, secures, segregates, or provides a special program or special unit for residents with Alzheimer's disease, related disorders, or dementia and advertises, markets, or promotes the health facility as providing Alzheimer's care services, dementia care, or both."

PLANNING: No.

STAFFING/STAFF TRAINING: Yes.

Regulation requires that staff be trained in the care of cognitively impaired residents.

ENVIRONMENT: No.

ACTIVITIES: No.

DISCLOSURE: Yes.

- Written disclosure (licensing agency standardized form) to the licensing agency and consumers of the facility's mission or philosophy concerning residents needs.
- Process and criteria for placement, transfer, or discharge.
- Process for assessment, establishment, and implementation of care plan.
- Staffing information (staff-to-patient ratio, positions, classifications, initial training/ special education, quality/amount of continuing education and in-service training).
- Unit description and design features.
- Frequency and types of resident activities.

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

- Family support programs and family input.
- Guidelines for using physical and chemical restraints.
- Itemized charges and fees.
- Any other distinguishing features, services, or characteristics.

OTHER: No.

IOWA

CLASSIFICATION "ASSISTED LIVING"

Provision of housing with services which may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living to six or more tenants in a physical structure which provides a homelike environment. [It] also includes encouragement of family involvement, tenant self-direction, and tenant participation in decisions that emphasize choice, dignity, privacy, individuality, shared risk, and independence. "Assisted living" does not include the provision of housing and assistance with instrumental activities of daily living which does not also include provision of personal care or health-related care.

AUTHORITY

STATUTE Iowa Code §§231C.1 - .5 (West 2000). *Assisted Living Programs*. Enacted 5/17/96.

REGULATION 321 Iowa Admin. Code 27.1 - .13 (West 2000), *Assisted Living Programs*. Effective 7/1/97.

OVERSIGHT AGENCY Department of Elder Affairs.

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

LICENSURE No.

REGISTRATION No.

CERTIFICATION Yes. Each program must be certified with the department or voluntarily accredited.

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

1. The general assembly finds that assisted living is an important part of the long-term care system in this state. Assisted living emphasizes the independence and dignity of the individual while providing services in a cost-effective manner.
2. The purposes of establishing an assisted living program include all of the following:
 - a. To encourage the establishment and maintenance of a safe and homelike environment for individuals of all income levels who require assistance to live independently but who do not require health-related care on a continuous twenty-four hour per day basis.
 - b. To establish standards for assisted living programs that allow flexibility in design which promotes a social model of service delivery by focusing on individual independence, individual needs and desires, and consumer-driven quality of service.
 - c. To encourage general public participation in the development of assisted living programs for individuals of all income levels.

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: **Yes.**
A tenant who is in an acute state of alcoholism, drug addiction, or mental illness.
- D. COGNITIVE IMPAIRMENT: **No.**
- E. MEDICAL OR NURSING CARE: **Yes.**
A tenant who requires more than part-time or intermittent health related care.

FUNCTIONAL ABILITY

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

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: **Yes.**
A tenant who is dangerous to self or others.
- J. PHYSICAL/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.**
A tenant who is under age 18 or who meets the assisted living program's transfer criteria.

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, by regulation.**

- REASON(S)**
- A. BEHAVIOR: **Yes.**
Tenant who is a danger to self or others.
 - B. HEALTH STATUS: **Yes, tenant who**
 - Requires more than part-time or intermittent health-related care; and,
 - Is in an acute stage of alcoholism, drug addiction, or mental illness.

- REASON(S) (CONT.)**
- C. NONPAYMENT: No.
 - D. NONCOMPLIANCE: No.
 - E. FACILITY CEASES TO OPERATE: No.
 - F. OTHER: Yes.
Tenant meets the assisted living program's transfer criteria.

- RESIDENT NOTIFICATION**
- A. TIMING/DISTRIBUTION: No.
 - B. CONTENT OF NOTIFICATION: No.
 - C. RELOCATION ASSISTANCE: Yes, transfer planning.
The program must assist tenant in making arrangements for care in an alternative setting.

- APPEAL RIGHTS**
- A. WITHIN FACILITY: No.
 - B. STATE AGENCY: No.
However, a tenant may file a complaint with the Department of Elder Affairs.

CONTRACT Does the state require a written contract? Yes, by regulation..
Each tenant must sign an "occupancy agreement" prior to occupancy.

- DISCLOSURE(S) REQUIRED IN THE CONTRACT**
- SERVICES & ASSOCIATED CHARGES**
- A. SERVICES & ASSOCIATED CHARGES: Yes.
All fees, charges and rates describing tenancy and basic services covered. Also:
 - A statement regarding the impact of the fee structure on third party payments and whether third party payments and resources will be accepted by the assisted living program;
 - Procedure for nonpayment of fees; and,
 - Identification of party responsible for payment of fees.
 - B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: Yes.
Any additional and optional services and related costs.
- RESIDENT RIGHTS: Yes.**
Rights and responsibilities of the tenant and of the provider.
- CONTRACT MODIFICATION: Yes.**
A guarantee of at least 30-day written notification of any changes to the occupancy agreement.
- TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: Yes, transfer criteria.**
- OTHER**
- A. GRIEVANCE PROCEDURE: No.
 - B. MEDICATION POLICY: No.
 - C. RESIDENT NEED ASSESSMENT: No.
 - D. SERVICES NOT AVAILABLE: No.

**DISCLOSURE(S)
REQUIRED IN THE
CONTRACT (CONT.)**

- E. STAFF: Yes.
The staffing policy (including whether staff is/is not available 24 hours a day, whether task delegation will/will not be used, and how staffing will be adapted to changing tenant needs).
- F. REFUND POLICY: No.
- G. OTHER ADDITIONAL: Yes.
- A guarantee that all tenant information will be maintained in a confidential manner to the extent allowable under state and federal law;
 - Occupancy criteria; and,
 - Emergency response policy.

PROVISIONS PROHIBITED None.

**GRIEVANCE
PROCEDURE**

Does state require the facility to have a grievance procedure for resident concerns? No, but a written complaint may be filed with the Department of Elder Affairs.

FACILITY DISCRETION: No.

STATE MANDATED

- A. INTERNAL PROCEDURES: No.
- B. EXTERNAL PROCEDURES: No.
A written complaint may be filed with the Department of Elder Affairs.

**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 it is included in the regulation.
Each tenant must sign a "managed risk statement" prior to occupancy. The statement must include the tenant's, or responsible person, signed acknowledgement of shared responsibility for identifying and meeting needs and the process for managing risk and upholding tenant autonomy when tenant decision making may result in poor outcomes for the tenant and others.

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.

KANSAS

CLASSIFICATION “ASSISTED LIVING FACILITY”

Any place or facility caring for six or more individuals not related within the third degree of relationship to the Administrator, operator, or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24-hours a day, seven days a week for the support of resident independence. The provision of skilled nursing procedures to a resident in an assisted living facility is not prohibited by this act. Generally, the skilled services provided in an assisted living facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis. Also known as an “adult care home” (any nursing facility, nursing facility for mental health, intermediate care facility for the mentally retarded, assisted living facility, residential health care facility, home plus, boarding care home and adult day care facility...).

AUTHORITY

STATUTE Kan. Stat. Ann. §§ 39-923 to -953b. *Adult Care Homes Licensure*.

REGULATION Kan. Admin. Regs. 2839-144 to 2839-174. *Licensure of Adult Care Homes*.

**OVERSIGHT
AGENCY**

Department of Health and Environment.

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

LICENSURE

A license is required as a prerequisite to operating a facility.

Exempted: Adult care homes operated by a bona fide nonprofit religious order exclusively for the care of members of such order, and no rules, regulations, or standards shall be made or established under this act for any adult care home, conducted in accordance with the practice and principles of the body known as the Church of Christ Scientist, except as to the construction, sanitary and safe conditions of the premises, cleanliness of operation, and its physical equipment.

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

NEEDS EXCEED FACILITY LICENSURE: Yes.

Physical, mental, and psychosocial needs can be met within the accommodations and services available in the adult care 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.**
But it is included in section 28-39-147 of the regulations.

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: **Yes.**
 - The right to be fully informed of the resident total health status including ... medical condition.
 - The right to free choice in a personal physician, participating in the development of an individual care plan or negotiated service agreement, refusing treatment, and the pharmacy where prescribed medications are purchased.
 - The right to notification of changes [including injuries from accidents potentially requiring] a physician's intervention, significant changes in the resident's physical, mental, or psychosocial status, [significant alteration of] treatment, a decision to transfer or discharge the resident from the adult care home, or changes in room or roommate assignment.

**ENUMERATED RIGHTS
(CONT.)**

- The right to self-administer drugs in a nursing facility unless the resident's attending physician and the interdisciplinary team has determined that this practice is unsafe. In assisted living, residential health care, home plus and adult day care facilities, a resident may self-administer drugs unless a registered professional nurse or a physician has determined that this practice is unsafe.

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

PRIVACY/CONFIDENTIALITY

C. PRIVACY: **Yes.**

The right to personal privacy during:

- Medical and nursing treatment, ... [and] personal care visits.
- Written and telephone communications [including] the right to send and receive unopened mail promptly, have access to stationery, postage and writing implements at the resident's own expense, and have outgoing mail mailed promptly.
- Meetings of family and resident groups.

D. CONFIDENTIALITY: **Yes.**

The right to confidentiality of personal and clinical records [and to] a signed release of resident records to anyone outside the adult care home, except in the case of transfer to another health care institution or as required by law.

GRIEVANCE

E. GRIEVANCE: **Yes.**

The right to voice grievances with respect to treatment or care that was or was not furnished, be free from discrimination of reprisal for voicing the grievances, and receive prompt efforts by the adult care home to resolve grievances the resident may have, including any grievance with respect to the behavior of other residents.

OTHER

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

The right to refuse to perform services for the adult care home.

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

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

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

- The right to inspect records pertaining to the resident [including] photocopies within two working days of the request [and at] a fee ... not [exceeding] community standards.
- The right to immediate access to any resident by any representative of the secretary of the Kansas Department of Health and Environment, the resident's individual physician, the state long-term care ombudsman, any representative of the Secretary of the Kansas Department of Social and Rehabilitation Services, immediate family or other relatives of the resident, or others who are visiting with the consent of the resident subject to reasonable restrictions.
- The right to deny or withdraw consent for visitation by any person at anytime.
- The right to reasonable access to a telephone in a place where call can be made without being overheard.
- The right to retain and use personal possessions, including furnishings and appropriate clothing as space permits, unless doing so would infringe upon the rights or health and

**ENUMERATED RIGHTS
(CONT.)**

safety of other residents.

- The right to share a room with the resident's spouse when married residents live in the same adult care home and both spouses consent.

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

K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: Yes.

The right to exercise rights as a resident of the adult care home and as a citizen [and] to be free from interference, coercion, discrimination, or reprisal from the adult care home in exercising [these] rights.

L. MANAGED PERSONAL FINANCIAL AFFAIRS: Yes.

The right to manage personal financial affairs and [not be required] to deposit personal funds with the adult care home.

M. OTHER ADDITIONAL: No.

**METHOD(S) OF
DISCLOSURE**

POSTED WITHIN FACILITY: No.

WITHIN RESIDENT'S CONTRACT: No.

PROVIDED AS SEPARATE WRITING: Yes.

In writing, before admission and in a language the resident understands.

ORAL EXPLANATION: Yes.

Orally, before admission and in a language the resident understands.

OTHER: No.

**TRANSFER &
DISCHARGE**

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

Under section 28-39-148 of the regulations.

REASON(S)

A. BEHAVIOR: Yes.

The safety [or health] of other individuals in the adult care home is endangered (documented by any physician).

B. HEALTH STATUS: Yes.

Necessary for the resident's welfare and the resident's needs cannot be met in the current adult care home (documented by the resident's physician).

C. NONPAYMENT: Yes.

The resident has failed, after reasonable and appropriate notice, to pay the rates and charges imposed by the adult care home.

D. NONCOMPLIANCE: No.

E. FACILITY CEASES TO OPERATE: Yes.

The adult care home ceases to operate.

F. OTHER: No.

RESIDENT NOTIFICATION

A. TIMING/DISTRIBUTION:

30-day written notice to the resident and, if known, to a family member or resident's

**RESIDENT NOTIFICATION
(CONT.)**

legal representative except in emergencies where the safety of other residents is endangered or the resident's urgent medical needs require an immediate transfer to another healthcare facility.

- B. CONTENT OF NOTIFICATION: Not specified.
- C. RELOCATION ASSISTANCE: Not specified.

APPEAL RIGHTS

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

CONTRACT

Does the state require a written contract? Yes.
Under section 28-39-148 of the regulations.

**DISCLOSURE(S)
REQUIRED IN THE
CONTRACT****SERVICES & ASSOCIATED CHARGES**

- A. SERVICES & ASSOCIATED CHARGES: Yes.
Services and goods the resident will receive.
- B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: No.

RESIDENT RIGHTS: No.

CONTRACT MODIFICATION: No.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: No.

OTHER

- A. GRIEVANCE PROCEDURE: No.
- B. MEDICATION POLICY: No.
- C. RESIDENT NEED ASSESSMENT: No.
- D. SERVICES NOT AVAILABLE: No.
- E. STAFF: No.
- F. REFUND POLICY: No.
- G. OTHER ADDITIONAL: Yes.
Obligations that the resident has toward the adult care home.

PROVISIONS PROHIBITED

A general waiver of liability for the health and safety of residents.

**GRIEVANCE
PROCEDURE**

Does state require the facility to have a grievance procedure for resident concerns? 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? Yes.
For assisted living or residential health care facilities which admit residents with dementia.

PLANNING: No.

STAFFING/STAFF TRAINING: Yes.

In-service education must include treatment of behavioral symptoms of residents with dementia.

ENVIRONMENT: No.

ACTIVITIES: No.

DISCLOSURE: No.

OTHER: No.

KENTUCKY

CLASSIFICATION “ASSISTED LIVING RESIDENCE”

An apartment or home-style housing unit residence which promotes assisted living (to 2 or more adults unrelated within third degree of consanguinity to the owner or operator) and provides supportive services within the residence or on the grounds of the residence.

“RESIDENTIAL CARE HOME”

“PERSONAL CARE HOME”

A place devoted primarily to the maintenance and operation of facilities for the care of aged or invalid persons who do not require intensive care normally provided in a hospital or nursing home but who do require care in excess of room, board, and laundry. Serves 2-3 residents.

“FAMILY CARE HOME”

Serves 4 or more residents.

AUTHORITY

STATUTE *Ky. Rev. Stat. Ann. §§ 216-510 to -593.* Health Facilities & Services — Long Term Care Facilities.

Ky. Rev. Stat. Ann. §§ 216-610 to -780. Health Facilities & Services — Housing for the Elderly.

REGULATION 900 Ky. Admin. Regs. § 2:050 (not published).
900 Ky. Admin. Regs. §§ 20:008, :031, :036, :041 (not published).

OVERSIGHT AGENCY

Department of Health Services.

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

LICENSURE No.

REGISTRATION No.

CERTIFICATION Voluntary certification for assisted living residences.

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: **Yes.**
Has a communicable disease.
- 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: **Yes.**
Non-ambulatory or cannot manage most activities of daily living.
- G. INCONTINENT: **No.**
- H. BEDFAST: **No.**

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: **No.**
- J. PHYSICAL/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, by statute.**

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: **Yes.**
The right to
 - Choice of a physician.
 - Be fully informed of resident's medical condition.
- B. FREEDOM FROM ABUSE & RESTRAINTS: **Yes.**
The right to
 - Be free from mental/physical abuse and chemical/physical restraints, except in emergencies or by physician justification.
 - Not be detained against resident's will.

ENUMERATED RIGHTS (CONT.) **PRIVACY/CONFIDENTIALITY****C. PRIVACY: Yes.**

The right to

- Privacy during spouse visits.
- Associate and communicate privately with person of resident's choice.
- At least visual privacy in multi-bed rooms and in tub, shower, and toilet rooms.

D. CONFIDENTIALITY: No.**GRIEVANCE****E. GRIEVANCE: Yes.**

The right to voice grievances and recommend changes free from restraint, interference, coercion, discrimination, or reprisal.

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

The right to

- Be transferred/discharged only for medical, welfare, or nonpayment reasons and then only with reasonable notice.
- Be encouraged and assisted to exercise rights as resident and citizen.
- Be treated with consideration, respect, and full recognition of dignity and individuality.
- Be suitably dressed at all times.
- Not be required to perform services for the facility.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.

The right to participate in activities of social, religious, and community groups.

H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: Yes.

The right to access all inspection reports on the facility.

I. ACCESS AND VISITATION: Yes.

The right to

- Share a room with spouse (if spouse is also a resident and requires the same level of care).
- Retain the use of resident's personal clothing.
- Access to telephone at a convenient location within the facility.

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

The right to be fully informed in writing of all resident's responsibilities and rights.

L. MANAGE PERSONAL FINANCIAL AFFAIRS: Yes.

The right to manage the use of personal funds.

M. OTHER ADDITIONAL: Yes.

The right to

- Be fully informed in writing of all services available at the facility and all service charges for which the resident is responsible for paying.
- Immediate notification to the resident's responsible party/family member or guardian of any accident, sudden illness, disease, unexplained absence, or anything unusual involving the resident.

METHOD(S) OF DISCLOSURE POSTED WITHIN FACILITY: Yes.
Conspicuously posted throughout the facility.
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.

REASON(S) A. BEHAVIOR: No.
B. HEALTH STATUS: Yes.
For medical reasons or resident's or other resident's welfare.
C. NONPAYMENT: Yes.
For nonpayment.
D. NONCOMPLIANCE: No.
E. FACILITY CEASES TO OPERATE: Yes, facility ceases to operate.
F. OTHER: No.

RESIDENT NOTIFICATION A. TIMING/DISTRIBUTION:
30-day notice to resident and the responsible party or his responsible family member or guardian unless certain factors are met.
B. CONTENT OF NOTIFICATION: Not specified.
C. RELOCATION ASSISTANCE: No.

APPEAL RIGHTS A. WITHIN FACILITY: No.
B. STATE AGENCY: Yes.
Resident is entitled to a hearing before the Department.

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, by statute.

FACILITY DISCRETION: Yes.
The facility must establish written procedures for the submission and resolution of complaints and recommendations.

- 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?

Yes.

Any resident whose rights are deprived or infringed upon shall have a cause of action against any facility responsible for the violation in any court of competent jurisdiction to enforce the right and recover actual/punitive damages and, if prevailing, reasonable attorneys fees.

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.

LOUISIANA

CLASSIFICATION “ASSISTED LIVING HOME / FACILITY”

An Adult Residential Care Facility that provides room, board, and personal services, for compensation, to 2 or more residents that reside in individual living units which contain, at a minimum, one room with a kitchenette and a private bathroom. An Adult Residential Care Facility is a publicly or privately operated residence that provides personal assistance, lodging, and meals for compensation to two or more adults who are unrelated to the residence licensee, operator, or Administrator.

AUTHORITY

STATUTE La. Rev. Stat. Ann §§ 2151-2163. (1998) *Adult Residential Care Licensing Law*.
La. Rev. Stat. Ann §§ 2171-2175. *Medicaid Funded Adult Residential Assisted Living Pilot Project*.

REGULATION La. Admin. Code tit. 48, §§ 7901-7933 (not available).

OVERSIGHT**AGENCY**

Department of Social Services.

Also:

Department of Health and Hospitals — oversight of the Medicaid funded adult residential assisted living pilot project.

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

LICENSURE All adult residential care homes, including facilities or agencies owned or operated by any governmental, profit, nonprofit, private, or church agency, shall be licensed.

REGISTRATION No.

CERTIFICATION No.

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

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.

RESTRICTIONS (CONT.) D. COGNITIVE IMPAIRMENT: No.

E. MEDICAL OR NURSING CARE: No.

FUNCTIONAL ABILITY

F. UNABLE TO DIRECT SELF CARE: No.

G. INCONTINENT: No.

H. BEDFAST: Yes.

Persons who are bedfast.

BEHAVIORAL/SOCIAL

I. DANGER TO SELF OR OTHERS: Yes.

Persons whose presence would seriously damage the ongoing functioning of the provider or other residents.

J. PHYSICAL/CHEMICAL RESTRAINTS OR CONFINEMENT: No.

NEEDS EXCEED FACILITY LICENSURE: Yes.

Persons whose needs the facility cannot meet.

OTHER

K. DIETARY, RELIGIOUS, 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.
But it is included in the regulation.

ENUMERATED RIGHTS FREEDOM

A. FREEDOM OF CHOICE: No.

B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.

The right to be free from abuse and neglect.

PRIVACY/CONFIDENTIALITY

C. PRIVACY: Yes.

The right to send and receive unopened mail.

D. CONFIDENTIALITY: No.

GRIEVANCE

E. GRIEVANCE: Yes.

The right to voice grievances.

OTHER

F. ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.

**ENUMERATED RIGHTS
(CONT.)**

The right to civil rights.

- G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **Yes.**
The right to participate in recreational activities and to attend, or not attend, religious services of own choice.
- H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: **No.**
- I. ACCESS AND VISITATION: **Yes.**
The right to access a telephone and to have visitors.
- 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? **Yes, by regulation.**

REASON(S)

- A. BEHAVIOR: **No.**
- B. HEALTH STATUS: **Yes.**
If the resident becomes bedfast.
- 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, by regulation.**
A placement agreement.

**DISCLOSURE(S)
REQUIRED IN THE
CONTRACT****SERVICES & ASSOCIATED CHARGES**

- A. SERVICES & ASSOCIATED CHARGES: No.
- B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: No.

RESIDENT RIGHTS: No.

CONTRACT MODIFICATION: No.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: No.

OTHER

- A. GRIEVANCE PROCEDURE: No.
- B. MEDICATION POLICY: No.
- C. RESIDENT NEED ASSESSMENT: No.
- D. SERVICES NOT AVAILABLE: No.
- E. STAFF: No.
- F. REFUND POLICY: No.
- G. OTHER ADDITIONAL: Yes.

A discussion of expectations, respective responsibilities, authorization of care for resident, authorization to obtain medical care for resident, and a provision of notification to responsible person of accident, emergency, or illness.

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 any facility (nursing facility, residential care/assisted living facility, adult congregate living facility, home health agency, adult day care center, hospice, or continuing care retirement community) that "segregates or provides a special program or special unit for residents with a probable diagnosis of Alzheimer's disease or a related disorder."

PLANNING: No.

STAFFING/STAFF TRAINING: No.

ENVIRONMENT: No.

ACTIVITIES: No.

DISCLOSURE: Yes.

Written disclosure (state form) to the state licensing agency, the state ombudsman (optional), 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.
- Staffing patterns, 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.

MAINE

CLASSIFICATION “ASSISTED LIVING SERVICES PROGRAM”

A program that provides assisted living services. This includes:

“CONGREGATE HOUSING SERVICES PROGRAM”

A comprehensive program of supportive services including meal delivery, housekeeping and chore assistance, case management and other services that are delivered at the site of *congregate housing* and that assist occupants to manage the activities of daily living and the instrumental activities of daily living. Congregate housing services may also include personal care assistance, with or without supervision, and assistance in the administration of medication and nursing services, subject to the licensing requirements of these regulations.

“RESIDENTIAL CARE FACILITY”

A facility licensed pursuant to Title 22, M.R.S.A. §7801 [which] includes those entities formerly known as Adult Foster Homes and Boarding Homes, but excludes Adult Family Care Homes. A residential care facility is a house or other place that is maintained wholly or partly for the purpose of providing residents with Assisted Living Services as defined in Section 1090. There are two types of residential care facilities governed by these regulations:

“LEVEL I RESIDENTIAL CARE FACILITY”

A residential care facility with a licensed capacity for six (6) or fewer residents, that is not otherwise licensed as an Adult Family Care Home.

“LEVEL II RESIDENTIAL CARE FACILITY”

A residential care facility with a licensed capacity for seven (7) or more residents.

AUTHORITY

STATUTE Me. Rev. Stat. Ann. tit. 22, §§ 7801-8005. (1999) *Facilities for Children & Adults*.

REGULATION Code Me. R. §§ 10-144-113-500 to 10-144-113-5140.3 (1999). *Licensing & Functioning of Assisted Living Facilities*. Replaces the “Regulations for Licensing and Operation of Boarding Facilities,” “Rules and Procedures for Licensing and Operation of Adult Foster Facilities,” and “Bureau of Elder & Adult Services Policy Manual, Section 62.03 Requirements for Congregate Housing Services Program Certification.” These rules **do not** replace the separate existing regulations governing the licensing of adult family care homes, which will continue to govern adult family care homes.

OVERSIGHT AGENCY

Department of Human Services, Bureau of Medical Services, Division of Residential Care.

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

LICENSURE Except that a license is not required for facilities providing care to no more 2 residents (unless the license is required for the facility to receive payment from available state funds) or providers operating congregate housing, and is optional for providers operating congregate housing with personal care.

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? Yes, by statute.
The Administrator shall assist residents in establishing a resident's council, if the residents choose to establish one. If there is no council, at least once each year residents must be given the choice to establish one.

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

ENUMERATED RIGHTS FREEDOM

A. FREEDOM OF CHOICE: Yes.

The right to

- Select the provider of resident's choice.
- Choose to refuse medications, treatments, or any services offered.

B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.

The right to be free from mental, verbal, and physical abuse, neglect, and exploitation and physical, chemical, psychological, or mechanical restraints or aversive conditioning.

PRIVACY/CONFIDENTIALITY

C. PRIVACY: Yes.

The right to

- Be treated with consideration and respect in full recognition of resident's individuality.
- Communicate privately with persons of choice.
- Privacy when visiting or talking on the telephone.

D. CONFIDENTIALITY: Yes.

The right to have resident's records and information pertaining to personal, medical, and mental health status kept confidential.

ENUMERATED RIGHTS **GRIEVANCE**
(CONT.)

E. GRIEVANCE: Yes.

The right to communicate grievances and recommend changes.

OTHER

F. ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.

The right to

- Continued residence whenever a valid contract for services is in force and to not be transferred/discharged involuntarily except for violation of the admission contract, a direct threat to the health or safety of others, intentional behavior that has resulted in substantial physical damage, nonpayment of residential services, the essential nature of the program must be modified for the resident to remain, or the program's license is revoked, not renewed, or voluntarily surrendered.
- 30-day advance written notice of non-emergency transfer or discharge and to assist in the transfer or discharge process and to produce a safe or orderly discharge plan and assistance in locating an appropriate placement in the event of emergency transfer or discharge.
- Return to the program after a leave of absence if payment for services was continued in accordance with the contract.
- Assistance in finding alternative placement if the resident chooses to relocate.
- Be encouraged and assisted in exercising his or her rights as residents and citizens.
- Be free from discrimination.
- Reasonable modifications and accommodations for individuals with disabilities.
- Commence a civil action in Superior Court for injunctive/declaratory relief for rights violation.
- Appeal an involuntary transfer or discharge.
- Have rights exercised by resident's legal representative if resident is adjudicated incompetent.
- Refuse to perform services for the facility.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.

The right to

- Participate in activities of social, political, religious, and community groups at their discretion that do not infringe on the rights of others.
- A residential council in facilities of at least 5 beds.

H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: Yes.

The right to be fully informed of the most recent survey conducted by the Department.

I. ACCESS AND VISITATION: Yes.

The right to

- Personal clothing and possessions as space permits and not infringing on the rights of other residents.
- Receive visitors at any time.

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

K. NOTIFICATION OF RIGHTS AND RESPONSIBILITIES: Yes.

The right to be informed, prior to or at admission or within 30 days of any changes:

- Of the residents' rights and a copy provided.

**ENUMERATED RIGHTS
(CONT.)**

- Of the rights for persons with mental retardation, if applicable.
 - And the right to mandatory reporting of rights violations.
- L. **MANAGE PERSONAL FINANCIAL AFFAIRS: Yes.**
The right to manage resident's own financial affairs, unless there is a representative payee, other legal representative appointed, or other person designated by the resident.
- M. **OTHER ADDITIONAL: Yes.**
The right to
- Be fully informed of items or services provided.
 - A reasonable plan of service.

**METHOD(S) OF
DISCLOSURE**

POSTED WITHIN FACILITY: No.

WITHIN RESIDENT'S CONTRACT: Yes.

PROVIDED AS SEPARATE WRITING: Yes.
Informed prior to or at admission or within 30 days of any changes and a copy provided.

ORAL EXPLANATION: No.

OTHER: No.

**TRANSFER &
DISCHARGE
REASON(S)**

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

Defined within the residents' bill of rights.

- A. **BEHAVIOR: Yes.**
Direct threat to the health or safety of others or substantial physical damage to facility property or others residing or working within the facility.
- B. **HEALTH STATUS: No.**
- C. **NONPAYMENT: Yes.**
Nonpayment of residential services.
- D. **NONCOMPLIANCE: Yes.**
Violation of the admission contract.
- E. **FACILITY CEASES TO OPERATE: Yes.**
Facility's license has been revoked, not renewed, or voluntarily surrendered.
- F. **OTHER: Yes.**
Modification of the program's essential nature is required for the resident to remain.

RESIDENT NOTIFICATION

- A. **TIMING/DISTRIBUTION:**
30-days written notice to the resident or guardian.
- B. **CONTENT OF NOTIFICATION: Yes.**
Reason(s), effective date, right to appeal, ombudsman contact information, right to be represented by legal counsel, relative, friend or other spokesman.
- C. **RELOCATION ASSISTANCE: Yes.**
Assist in the process, produce a safe and orderly discharge plan, and provide appropriate information for transfer with the resident.

- APPEAL RIGHTS**
- A. WITHIN FACILITY: No.
 - B. STATE AGENCY: Yes, administrative hearing.

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

**DISCLOSURE(S)
REQUIRED IN THE
CONTRACT**

SERVICES & ASSOCIATED CHARGES

- A. SERVICES & ASSOCIATED CHARGES: Yes.
The services and accommodations to be provided and associated the rates and charges.
- B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: Yes.
Any other related charges not covered by the program's basic rate.

RESIDENT RIGHTS: Yes.

Residents' rights as described in section 4000 of the regulation.

CONTRACT MODIFICATION: Yes.

60-day notice prior to any changes in rates, responsibilities, services to be provided, or any other item included in the contract or agreement.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: No.

OTHER

- A. GRIEVANCE PROCEDURE: Yes, facility grievance procedure.
- B. MEDICATION POLICY: No.
- C. RESIDENT NEED ASSESSMENT: No.
- D. SERVICES NOT AVAILABLE: No.
- E. STAFF: No.
- F. REFUND POLICY: No.
- G. OTHER ADDITIONAL: Yes.
Tenancy obligations, if any, and a copy of the admissions policy.

PROVISIONS PROHIBITED Yes.

A provision

- For resident discharge which is inconsistent with state law or rule.
- Requiring or implying a lesser standard of care or responsibility than is required by law or rule.
- Requiring a deposit or other prepayment, except one month's rent in a CHSP that may be used as a security deposit.
- Providing for the payment of attorney fees or any other cost of collecting payments from the resident.
- Requiring or encouraging anyone other than the resident to obligate himself/herself for the payment of the resident's expenses.

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

**GRIEVANCE
PROCEDURE
(CONT.)**

FACILITY DISCRETION: Yes.

Establish and implement a procedure for the timely review and disposition of grievances.

STATE MANDATED

A. **INTERNAL PROCEDURES:** Yes.

The procedure shall include a written request to the grievant describing disposition of the complaint.

B. **EXTERNAL PROCEDURES:** No.

**PRIVATE RIGHT
OF ACTION**

Does the state permit private right of action against the facility? Yes.

The resident has the right to commence a civil action in Superior Court for injunctive/declaratory relief for rights violation.

NEGOTIATED RISK

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

But the resident has the right to refuse medications, treatments, or any services offered.

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.

State provides guidelines for any residential care facility, skilled nursing / intermediate care facility, hospice program, or other facility (such as assisted living, adult daycare, congregate housing, eating/lodging) that provides a special program or secure, locked or segregated unit for individuals with probable Alzheimer's or related disorder and that advertises, markets, or otherwise promotes that it provides specialized Alzheimer's or dementia 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:

- 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.

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

- Family involvement and the availability of family support programs.
- Itemized costs of care and any additional fees.
- Security measures provided.

OTHER: No.

MARYLAND

CLASSIFICATION "ASSISTED LIVING PROGRAM"

Residential or facility-based program that provides housing and supportive services, supervision, personalized assistance, health-related services, or a combination thereof that meets the needs of individuals who are unable to perform or who need assistance in performing the activities of daily living or instrumental activities of daily living in a way that promotes optimum dignity and independence for the individuals.

AUTHORITY

STATUTE Md. Code Ann., Health-Gen. § 1-101. (1978-1998) *Definitions*.
Md. Code Ann., Health-Gen. § 19-1801 et seq. (1978-1998) *Assisted Living Programs*.

REGULATION Md. Regs. Code tit. 10, § 7.14 (1999). *Assisted Living Programs*.

OVERSIGHT AGENCY

Department of Health & Mental Hygiene. M.C.A.H-G. §§ 1-101(c), 19-1802.

Also:

Department of Aging. M.C.A.H-G. § 19-1804.

Department of Human Resources. M.C.A.H-G. § 19-1804.

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

LICENSURE Programs are licensed according to level of care provided.

REGISTRATION No.

CERTIFICATION No.

PHILOSOPHY Does the statute include a statement of philosophy of assisted living? No (yes, in regulations).

To maximize independence and promote the principles of individuality, personal dignity, freedom of choice, and fairness for all individuals residing in assisted living programs.

ADMISSION CRITERIA

Does the state restrict who can be admitted? Yes.

Regulations limit who may be admitted to assisted living programs that are not certified to provide services to any person with HIV/AIDS or resident who is not under hospice program which ensures delivery of one or more of these services (except those listed under restriction '1.d. and restriction '1.m. Other').

RESTRICTIONS HEALTH/MENTAL HEALTH

A. CHRONIC HEALTH CONDITION: Yes.

RESTRICTIONS (CONT.)

Monitoring of a chronic medical condition that is not controllable through readily available medications and treatments.

- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: **Yes.**
 - Treatment of stage three or four skin ulcers
 - Treatment of an active reportable communicable disease.
 - Treatment for a disease which requires more than contact isolation.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: **No.**
- D. COGNITIVE IMPAIRMENT: **No.**
- E. MEDICAL OR NURSING CARE: **Yes.**
 - Requires more than intermittent nursing care.
 - Ventilator services.
 - Treatment with intravenous therapies or medications.
 - Skilled monitoring, testing and aggressive adjustment of medications and treatments where there is the presence of or risk for a fluctuating acute condition.

FUNCTIONAL ABILITY

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

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: **Yes.**
Where assisted living program is unable to eliminate such danger through use of appropriate treatment modalities.
- J. PHYSICAL/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.**
At high risk for health or safety complications that cannot be adequately managed.

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** (yes, in regulations). The statute requires that the Department establish a resident bill of rights, but it is actually provided in the regulations.

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: **Yes.**
 - The right to participate in planning service plan and medical treatment.

ENUMERATED RIGHTS
(CONT.)

- The right to refuse treatment after the possible consequences of refusing treatment are fully explained.

B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.

- The right to be free from mental, verbal, sexual, and physical abuse, neglect, involuntary seclusion, and exploitation.
- The right to be free from physical and chemical restraints.

PRIVACY/CONFIDENTIALITY

C. PRIVACY: Yes.

- The right to privacy, including the right to have a staff member knock on the resident's door before entering unless the staff member knows that the resident is asleep.
- The right to meet or visit privately with any individual the resident chooses, subject to reasonable restrictions on visiting hours and places, which shall be posted by the manager.
- The right to receive and send correspondence without delay, and with the correspondence being opened, censored, controlled, or restricted, except on the request of the resident, or written request of the resident's representative.
- The right to have reasonable access to the private use of a common telephone within the facility.

D. CONFIDENTIALITY: Yes.

The right to confidentiality.

GRIEVANCE

E. GRIEVANCE: Yes.

- The right to make suggestions, complaints, or present grievances on behalf of himself/herself or others to the manager, governmental agencies, or other persons without threat or fear of retaliation.
- The right to receive a prompt response, through an established complaint or grievance procedure, to any complaints, suggestions, or grievances the resident may have.

OTHER

F. ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.

- The right to manage personal financial affairs.
- The right to possess and use own clothing and other personal effects to a reasonable extent, and to have reasonable security for those effects in accordance with the program's security policy.
- The right to determine dress, hair style, or other personal effects according to individual preference, unless the personal hygiene of the resident is compromised.
- The right to receive a prompt, reasonable response from an assisted living provider to a personal request of the resident.
- The right to receive notice before the resident's roommate is changed, and, to the extent possible, have input into the choice of roommate.
- The right to be treated with consideration, respect, and full recognition of the resident's human dignity and individuality.
- Receive treatment, care, and services that are adequate, appropriate, and in compliance with relevant state, local, and federal laws and regulations.

**ENUMERATED RIGHTS
(CONT.)**

- G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: **Yes.**
The right to attend or not attend religious services as resident chooses and receive visits from members of the clergy.
- H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: **No.**
- I. ACCESS AND VISITATION: **Yes.**
- The right to maintain legal counsel.
 - The right to have access to the procedures for making complaints to: (a) the Ombudsman Program of Office on Aging as set forth in COMAR 14.11.05; (b) the Adult Protective Services of the local Department of Social Services; (c) the Licensing and Certification Administration of the Department; and (d) the protection and advocacy agencies.
 - The right to retain personal clothing and possessions as space permits with the understanding that the assisted living program may limit the number of personal possessions retained at the facility for the health and safety of other residents.
 - The right to have access to writing instruments, stationery, and postage.
- 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.**
Place a copy ... in a conspicuous location, plainly visible and easily read by residents, staff, and visitors.
- WITHIN RESIDENT'S CONTRACT: No.**
- PROVIDED AS SEPARATE WRITING: Yes.**
Provide a copy to each resident and resident's representative upon admission.
- ORAL EXPLANATION: No.**
- OTHER: No.**

**TRANSFER &
DISCHARGE**

- Does the state set guidelines for involuntary transfer and/or discharge? Yes.**
State regulations prohibits the assisted living program from relocating residents except according to the terms and conditions of the respective resident agreements.

REASON(S)

- A. BEHAVIOR: **No.**
- B. HEALTH STATUS: **Yes.**
If a resident's level of care, after admission, exceeds the level of care for which the licensee is permitted to provide and a waiver for the [resident's] continued stay has not been granted.
- C. NONPAYMENT: **No.**
- D. NONCOMPLIANCE: **No.**
- E. FACILITY CEASES TO OPERATE: **No.**
- F. OTHER: **No.**

- RESIDENT NOTIFICATION**
- A. TIMING/DISTRIBUTION:
Notify resident and the resident's representative at least 5 days before relocation, except with consent or in an emergency. M.R.C. 10.07.14.24A. For discharge, a 30-day notice except if health emergency or substantial risk to health and safety of other residents or staff.
 - B. CONTENT OF NOTIFICATION: No.
 - C. RELOCATION ASSISTANCE: Yes.
When a resident is discharged to another facility and in the event of an emergency.

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

CONTRACT Does the state require a written contract? Yes.
State regulation requires the resident or resident's agent and the assisted living manager sign, before or at the time of admission, a resident agreement. Where services are provided as part of a continuing care retirement community (CCRC), a separate agreement is not required if CCRC agreement complies with this section.

DISCLOSURE(S) REQUIRED IN THE CONTRACT

SERVICES & ASSOCIATED CHARGES

- A. SERVICES & ASSOCIATED CHARGES: Yes.
A listing of services provided.

B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: No.

RESIDENT RIGHTS: No.

CONTRACT MODIFICATION: No.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: Yes.

- A statement that if a resident's level of care, after admission, exceeds the level of care for which the licensee is permitted to provide and a waiver for the [resident's] continued stay has not been granted, the assisted living program will discharge the resident.
- Admission and discharge policies and procedures.

OTHER

- A. GRIEVANCE PROCEDURE: Yes.
An explanation of the ... complaint or grievance procedure.
- B. MEDICATION POLICY: No.
- C. RESIDENT NEED ASSESSMENT: Yes.
The level of care needed by the resident, per assessment.
- D. SERVICES NOT AVAILABLE: Yes.
A listing of ... services [not provided].
- E. STAFF: No.
- F. REFUND POLICY: No.

**DISCLOSURE(S)
REQUIRED IN THE
CONTRACT (CONT.)**

G. OTHER ADDITIONAL: Yes.

- Recommends review of the agreement by an attorney or other representative chosen by the resident.
- A statement of level of care for which the assisted living facility is licensed.
- Occupancy provisions, including bed and room assignment, changes to accommodations (room or roommate, number of occupants), locks, safety and security procedures, bed hold policies, emergency services.
- Obligations of the licensee, the resident, or resident's representative.

PROVISIONS PROHIBITED None specified.**GRIEVANCE
PROCEDURE**

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

Indirectly through the resident's bill of rights which provides the right to "prompt response ... through an established complaint or grievance procedure."

FACILITY DISCRETION: Yes.

Facility must establish grievance procedure.

STATE MANDATED

A. INTERNAL PROCEDURES: No.

B. EXTERNAL PROCEDURES: Yes.

Access to the procedures for making complaints to the Ombudsman, Adult Protective Services, Licensing & Certification Administration, and protection and advocacy agencies.

**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.

As necessary to administer this regulation; includes service plan, resident levels of care, other resident information required for licensure, and waivers.

**SPECIAL CARE
ENVIRONMENTS**

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

For providers of congregate housing for the elderly.

PLANNING: No.

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

STAFFING/STAFF TRAINING: Yes.

An in-service education program, as a prerequisite to certification and certification renewal, that includes dementia and dementia management techniques with regard to the resident's physical, intellectual, and behavioral manifestations.

ENVIRONMENT: No.

ACTIVITIES: No.

DISCLOSURE: No.

OTHER: No.

MASSACHUSETTS

CLASSIFICATION "ASSISTED LIVING"

Means any entity, however organized, whether conducted for profit or not for profit, which provides room and board; directly or indirectly provides assistance with daily living for three or more adult residents who are not related by consanguinity or affinity to their care provider; and collects payments or third-party reimbursements from or on behalf of residents to pay for providing assistance with the activities of daily living.

AUTHORITY

STATUTE Mass. Gen. Laws Ann. ch. 19D, §§ 1-18 (West 1999). *Assisted Living*.

REGULATION Mass. Regs. Code tit. 651, § 12. *Assisted Living Residence Application and Certification Procedures and Standards for Assisted Living Residences*.

OVERSIGHT

Executive Office of Elder Affairs.

AGENCY

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

LICENSURE No.

REGISTRATION No.

CERTIFICATION Yes.
By the Executive Office of Elder Affairs.

PHILOSOPHY

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

A homelike residential environment, which promotes privacy, dignity, choice, individuality, and independence of its residents.

ADMISSION

CRITERIA

Does the state restrict who can be admitted? Yes.
Under 19D § 11.

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**.

RESTRICTIONS (CONT.)

Need 24-hour skilled nursing supervision; no skilled nursing care unless (1) care is provided by a licensed or certified home health agency on a part-time, intermittent basis for not more than total of 90 days in any 12-month period, or by a hospice (assisted living staff may not provide the care); and (2) resident receiving care has only a short-term illness (recovery expected within 90 days of skilled nursing care), or a condition requiring skilled nursing treatment on a periodic, scheduled basis (i.e. insulin or other injections).

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/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.

Nine-member state advisory council shall include three representatives of resident consumer interests.

**RESIDENT BILL OF
RIGHTS**

Does the statute include a resident bill of rights? Yes.

ENUMERATED RIGHTS**FREEDOM**

- A. FREEDOM OF CHOICE: **Yes.**
- Directly engage or contract with licensed health care professionals and providers, in own unit or other areas to same extent as if in private home.
 - Informed consent to the extent provided by law.
- B. FREEDOM FROM ABUSE & RESTRAINTS: **No.**

PRIVACY/CONFIDENTIALITY

- C. PRIVACY: **Yes.**
- Privacy, subject to reasonable rules.
 - Private communications.
 - Privacy during medical treatment or other services within capacity of the residence.
- D. CONFIDENTIALITY: **Yes.**
 Confidentiality of records and communications.

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

Present grievances and recommended changes in policies, procedures, and services to the sponsor, manager or staff, government officials (including Ombudsman, Elder Protective Services, and Disabled Persons Protection Commission), without restraint, interference, coercion, discrimination, or reprisal.

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

- To not be evicted except in accordance with the provisions of state landlord tenant law.
- Decent, safe and habitable residential living environment.
- Be treated with consideration and respect and with due recognition of personal dignity, individuality, and the need for privacy.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.

- Freedom to participate in community services and activities and to achieve highest level of independence, autonomy, and interaction within the community.

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

- Retain personal property in living area.
- Manage own financial affairs.
- Exercise civil and religious liberties.
- Request and obtain name of persons in charge of care or coordination of care.
- Receive prompt response to all reasonable requests.
- Obtain information about relationship of care provider to residence.

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

Obtain copy of rules as they apply to conduct as a resident.

L. MANAGE PERSONAL FINANCIAL AFFAIRS: No.**M. OTHER ADDITIONAL: No.****METHOD(S) OF
DISCLOSURE****POSTED WITHIN FACILITY: Yes.**

Posted.

WITHIN RESIDENT'S CONTRACT: Yes.

Included in agreement.

PROVIDED AS SEPARATE WRITING: No.**ORAL EXPLANATION: No.****OTHER: No.****TRANSFER &
DISCHARGE**

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

Guidelines must comply with state landlord-tenant laws.

- REASON(S)**
- A. BEHAVIOR: No.
 - B. HEALTH STATUS: No.
 - C. NONPAYMENT: Yes.
Nonpayment of rent.
 - D. NONCOMPLIANCE: Yes.
 - Violate lease.
 - Nuisance, substantial damage to premises, nuisance or interference with comfort, safety or enjoyment of others.
 - Using unit for illegal purposes.
 - Refusing landlord's reasonable access for repairs.
 - E. FACILITY CEASES TO OPERATE: No.
 - F. OTHER: Yes.
Other just cause.

- 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, by regulation.

- DISCLOSURE(S) REQUIRED IN THE CONTRACT**
- SERVICES & ASSOCIATED CHARGES**
- A. SERVICES & ASSOCIATED CHARGES: Yes.
Charges for all services, lodging and meals, and payment arrangements.
 - B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: Yes.
Agreement of sponsor to provide or arrange for additional services (such as barber/beauty services, personal items), and for local transportation for medical and recreational purposes.
- RESIDENT RIGHTS: Yes.**
Copy of resident rights as stated in regulations
- CONTRACT MODIFICATION: No.**
- TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: No.**
- OTHER**
- A. GRIEVANCE PROCEDURE: Yes.
Grievance procedure
 - B. MEDICATION POLICY: No.
 - C. RESIDENT NEED ASSESSMENT: No.
 - D. SERVICES NOT AVAILABLE: No.
 - E. STAFF: No.

**DISCLOSURE(S)
REQUIRED IN THE
CONTRACT (CONT.)**

- F. REFUND POLICY: No.
- G. OTHER ADDITIONAL: Yes.
- Sponsor's covenant to comply with applicable state and federal laws and regulations regarding consumer protection, protection from abuse, neglect, and exploitation.
 - Conditions under which agreement may be terminated by either party.
 - Reasonable rules for conduct of staff, management, and resident.
 - Residency agreement term limited to one year (13 months if provider receives funding through Mass. Finance Agency), may be renewable on agreement of both parties.

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: Yes.

The facility must have its grievance procedure specified in the written residency agreement.

STATE MANDATED

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

**PRIVATE RIGHT
OF ACTION** Does state permit private right of action against the facility? Yes. Implied, based on landlord tenant law.

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

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.
Provider must file report with state; state to compile data.

**SPECIAL CARE
ENVIRONMENTS** Does the state have specific guidelines for special care environments? No.
But facility must specify in contract how specialized needs of individuals with dementia/ cognitive impairments will be met.

MICHIGAN

CLASSIFICATION “ADULT FOSTER CARE FACILITY”

A governmental or non-governmental establishment that provides foster care to adults. Subject to section 26a(1), adult foster care facility includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Types of adult foster care facilities (“AFCF”) include:

“ADULT FOSTER CARE FAMILY HOME”

A private residence providing foster care for 6 or fewer adults for 5-7 days/week and 2 or more consecutive weeks and where the licensee is a member of the household and occupant of the residence.

“ADULT FOSTER CARE CAMP” OR “ADULT CAMP”

An AFCF with more than 4 adults and located in a natural or rural environment.

“ADULT FOSTER CARE SMALL GROUP HOME”

An AFCF with 12 or fewer adults.

“ADULT FOSTER CARE LARGE GROUP HOME”

An AFCF with 13 to 20 adults.

“ADULT FOSTER CARE CONGREGATE FACILITY”

An AFCF with more than 20 adults.

“HOME FOR THE AGED”

A supervised personal care facility (other than a hotel, adult foster care facility, hospital, nursing home, or county medical care facility) that provides room, board, and supervised personal care to 21 or more unrelated, non-transient individuals age 60 or older. The facility may have 20 or fewer residents if it operates as a distinct part of a nursing home.

AUTHORITY

STATUTE Mich. Comp. Laws Ann. §§ 400.701 et seq. (West 1999). *Adult Foster Care Facility Licensing Act*.
Mich. Comp. Laws Ann. § 333.20106(3); 333.21301 – .21333 (1998). *General Provisions: Homes for the Aged*.

REGULATION Mich. Admin. Code r 400.1401 – .2567 (1999). *Adult Foster Care Licensing Rules*.
Mich. Admin. Code r 325.1801 et seq. *Homes for the Aged*.

OVERSIGHT AGENCY Executive Office of Elder Affairs: Adult Foster Care Facilities.

Department of Community Health: Homes for the Aged.

OVERSIGHT AGENCY (CONT.) Does the state regulate the operation of assisted living facilities? Yes.

LICENSURE An adult foster care facility may not be established or maintained unless licensed by the Department. A home for the aged may not be operated without a license.

REGISTRATION No.

CERTIFICATION Only under 2 circumstances:
AFCFs require a certificate of approval from:

- The state fire marshal (compliance with fire safety standards) — applies to facilities with at least 6 residents.
- The state Department of Mental Health (approval to operate a specialized program for developmentally disabled adults or mentally ill adults).

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: Yes (homes for the aged).
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: Yes (homes for the aged).
- D. COGNITIVE IMPAIRMENT: No.
- E. MEDICAL OR NURSING CARE: Yes (family and small group homes, congregate facilities, and homes for the aged).

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: No.
- G. INCONTINENT: No.
- H. BEDFAST: Yes (congregate facilities).

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: No.
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: Yes (small and large group homes and congregate facilities).

NEEDS EXCEED FACILITY LICENSURE: No.

OTHER

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

- RESTRICTIONS (CONT.)** M. OTHER ADDITIONAL: Yes.
Written assessment (family, small, and large group homes) and care requirements/service needs incompatible with other residents (congregate facilities).

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 (family, small, and large group homes).
B. FREEDOM FROM ABUSE & RESTRAINTS: No.

PRIVACY/CONFIDENTIALITY

- C. PRIVACY: Yes (family, small, and large group homes).
D. CONFIDENTIALITY: Yes (small and large group homes).

GRIEVANCE

- E. GRIEVANCE: Yes (family, small, and large group homes).

OTHER

- F. ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.
Free from discrimination in the provision of services, to exercise constitutional rights, and treated with consideration and respect (family, small, and large group homes).
G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes (family, small, and large group homes).
H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: No.
I. ACCESS AND VISITATION: Yes (family, small, and large group homes).
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 (family, small, and large group homes).
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 homes).
 - B. HEALTH STATUS: Yes (family, small, and large group homes, congregate facilities, and homes for the aged).
 - C. NONPAYMENT: No.
 - D. NONCOMPLIANCE: No.
 - E. FACILITY CEASES TO OPERATE: No.
 - F. OTHER: Yes.
Written assessment (family, small, and large group homes).

- RESIDENT NOTIFICATION***
- A. TIMING/DISTRIBUTION:
30-day written notice, except in emergency transfers.
 - B. CONTENT OF NOTIFICATION: Yes (family, small, and large group homes).
 - C. RELOCATION ASSISTANCE: Yes (family, small, and large group homes and congregate facilities).

- APPEAL RIGHTS***
- A. WITHIN FACILITY: Yes (small and large group homes).
 - B. STATE AGENCY: No.

CONTRACT Does the state require a written contract? Yes.
Except for congregate facilities.

- DISCLOSURE(S) REQUIRED IN THE CONTRACT***
- SERVICES & ASSOCIATED CHARGES**
- A. SERVICES & ASSOCIATED CHARGES: Yes (family, small group, and large group homes).
 - B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: Yes (family, small group, and large group homes).
- RESIDENT RIGHTS:** Yes (large group homes).
- CONTRACT MODIFICATION:** No.
- TRANSFER, DISCHARGE, AND CONTRACT TERMINATION:** Yes (small and large group homes).
- OTHER**
- A. GRIEVANCE PROCEDURE: No.
 - B. MEDICATION POLICY: No.
 - C. RESIDENT NEEDS ASSESSMENT: Yes (small and large group homes).
 - D. SERVICES NOT AVAILABLE: No.
 - E. STAFF: No.
 - F. REFUND POLICY: Yes (small and large group homes).

***DISCLOSURE(S)
REQUIRED IN THE
CONTRACT (CONT.)***

- G. OTHER ADDITIONAL: Yes.
Management of funds & valuables and a statement of home's licensure (small and large group homes).

PROVISIONS PROHIBITED None specified.

***GRIEVANCE
PROCEDURE***

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

FACILITY DISCRETION: No.

STATE MANDATED

- A. INTERNAL PROCEDURES: Yes (congregate facilities).
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.
New admissions and discharges (congregate facilities).

***SPECIAL CARE
ENVIRONMENTS***

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

MINNESOTA

CLASSIFICATION “HOUSING WITH SERVICES ESTABLISHMENT”

An establishment providing sleeping accommodations to one or more adult residents, at least 80 percent of which are 55 years of age or older, and offering or providing, for a fee, one or more regularly scheduled health-related services or two or more regularly scheduled supportive services, whether offered or provided directly by the establishment or by another entity arranged for by the establishment. Housing with Services Establishment does not include:

- Nursing homes (chapter 144A);
- Hospitals, boarding care homes or supervised living facilities (chapters 144.50 — 144.56);
- Board and lodging establishments (chapter 157);
- Family adult foster care homes (Dept. of Human Services);
- Residential settings for persons with mental retardation or related conditions (Minn. Rules 9525.2100 — .2140);
- Condominiums, cooperatives, common interest communities, or owners of the foregoing; or
- Services for persons with developmental disabilities that are not provided under a license (chapter 245B).

“BOARDING CARE HOME”

A licensed facility or unit used to provide care for aged or infirm persons who require only personal or custodial care and related services in accordance with these regulations. A boarding care home license is required if the persons need or receive personal or custodial care only. Nursing services are not required. Examples of personal or custodial care: board, room, laundry, and personal services; supervision over medications which can be safely self-administered; plus a program of activities and supervision required by persons who are not capable of properly caring for themselves.

“SUPERVISED LIVING FACILITY”

A facility in which there is provided supervision, lodging, meals and in accordance with provisions of rules of the Department of Human Services, counseling and developmental habilitative or rehabilitative services to five or more persons who are mentally retarded, chemically dependent, adult mentally ill, or physically handicapped.

AUTHORITY

STATUTE Minn. Stat. Ann. § 144D.01 *et seq.* (West 1998); *Housing with Services Establishment*.

REGULATION Minn. R. 4655.0090 — .9900 (West 1999); *Boarding Care Homes: Operation*.

OVERSIGHT AGENCY

Department of Health.

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

LICENSURE Yes.

A boarding care home license is required if persons need or receive personal or custodial care only. For the purpose of these rules, a state license is required for any facility where nursing, personal, or custodial care is provided for five or more aged or infirm persons who are not acutely ill.

REGISTRATION Yes.

"No entity may establish, operate, conduct, or maintain an elderly housing with services establishment in this state without registering and operating as required in sections 144D.01 to 144D.06. §§ M.S.A. § 400D.02.

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.
CRITERIA**RESTRICTIONS** **HEALTH/MENTAL HEALTH**

- A. CHRONIC HEALTH CONDITION: No.
- B. COMMUNICABLE, CONTAGIOUS, OR INFECTIOUS DISEASE: Yes.
Patients or residents, who in the opinion of the attending physician have or are suspected of having a disease endangering other patients or residents.
- C. ALCOHOL/DRUG ADDICTION OR MENTAL ILLNESS: Yes.
Disturbed mental patients (see part 4655.6600).
- 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: No.
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: No.

NEEDS EXCEED LICENSED CAPACITY: No.

OTHER

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

- RESTRICTIONS (CONT.)**
- M. OTHER ADDITIONAL: Yes.
- Maternity patients.
 - Either sick children or well children for care. For the purpose of these rules, children are defined as persons under 16 years of age.
 - Care cannot be provided in keeping with their known physical, mental, or behavioral condition.

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, by regulation § 144.651.

ENUMERATED RIGHTS FREEDOM

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

PRIVACY/CONFIDENTIALITY

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

GRIEVANCE

- E. GRIEVANCE: Yes.

OTHER

- F. ACCOMMODATION OF INDIVIDUAL NEEDS: Yes.
The right to not be required to perform services for the facility and to be informed of the facility's transfer/discharge policy.
- G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.
- H. EXAMINATION OF SURVEY AND INSPECTION RESULTS: No.
- 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: Yes.
- M. OTHER ADDITIONAL:

METHOD(S) OF DISCLOSURE

POSTED WITHIN FACILITY: No.

WITHIN RESIDENT'S CONTRACT: No.

PROVIDED AS SEPARATE WRITING: No.

ORAL EXPLANATION: Yes.

OTHER: No.

TRANSFER & DISCHARGE Does the state set guidelines for involuntary transfer and/or discharge? No.

- RESIDENT NOTIFICATION***
- A. TIMING/DISTRIBUTION:
Seven to thirty days notice to resident.
 - B. CONTENT OF NOTIFICATION: No.
 - C. RELOCATION ASSISTANCE: No.

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

CONTRACT Does the state require a written contract? Yes.
No elderly housing with services establishment may operate in this state unless a written elderly housing with services contract, as defined in subdivision 2, is executed between the establishment and each resident or resident's representative and unless the establishment operates in accordance with the terms of the contract.

At the time of admission, there shall be a written agreement between the [board and care] home and the patient, resident, the person's agent, or the guardian.

- DISCLOSURE(S) REQUIRED IN THE CONTRACT***
- SERVICES & ASSOCIATED CHARGES**
- A. SERVICES & ASSOCIATED CHARGES: Yes.
The base rate ... [and] obligations concerning payment (board & care homes).
 - B. ADDITIONAL SERVICES & ASSOCIATED CHARGES: Yes.
The extra charges made for care or services [and] obligations concerning payment (board and care homes).

RESIDENT RIGHTS: No.

CONTRACT MODIFICATION: Yes.

TRANSFER, DISCHARGE, AND CONTRACT TERMINATION: Yes.

OTHER

- A. GRIEVANCE PROCEDURE: Yes.
- B. MEDICATION POLICY: No.
- C. RESIDENT NEEDS ASSESSMENT: No.
- D. SERVICES NOT AVAILABLE: No
- E. STAFF: No.
- F. REFUND POLICY: Yes.
The refund policy (board and care homes).
- G. OTHER ADDITIONAL: Yes.

- NOTE** An elderly housing with services contract, which need not be entitled as such to comply with this section, shall include at least the following elements:
- Name, street address, and mailing address of the establishment;
 - The name and mailing address of the owner or owners of the establishment and, if the owner or owners is not a natural person, identification of the type of business entity of the owner or owners;
 - The name and mailing address of the managing agent, through management agreement or lease agreement, of the establishment, if different from the owner or owners;
 - The name and address of at least one natural person who is authorized to accept service on behalf of the owner or owners and managing agent;
 - Statement describing the registration and licensure status of the establishment and any provider providing health-related or supportive services under an arrangement with the establishment;
 - Term of the contract;
 - Description of the services to be provided to the resident in the base rate to be paid by resident;
 - Description of any additional services available for an additional fee from the establishment directly or through arrangements with the establishment;
 - Fee schedules outlining the cost of any additional services;
 - Description of the process through which the contract may be modified, amended, or terminated;
 - Description of the establishment's complaint resolution process available to residents;
 - The resident's designated representative, if any;
 - The establishment's referral procedures if the contract is terminated;
 - Criteria used by the establishment to determine who may continue to reside in the elderly housing with services establishment;
 - Billing and payment procedures and requirements;
 - Statement regarding the ability of residents to receive services from service providers with whom the establishment does not have an arrangement; and
 - Statement regarding the availability of public funds for payment for residence or services in the establishment.

PROVISIONS PROHIBITED None specified.

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

FACILITY DISCRETION: No.

STATE MANDATED

A. INTERNAL PROCEDURES: Yes.

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.

MISSISSIPPI

CLASSIFICATION “INSTITUTIONS FOR THE AGED OR INFIRM”

A place either governmental or private which provides group living arrangements for four (4) or more persons who are unrelated to the operator and who are being provided food, shelter and personal care whether any such place be organized or operated for profit or not. The term “institution for aged or infirm” includes nursing homes, pediatric skilled nursing facilities, psychiatric residential treatment facilities, convalescent homes and homes for the aged, provided that these institutions fall within the scope of the definitions set forth above. The term “institution for the aged or infirm” does not include hospitals, clinics, or mental institutions devoted primarily to providing medical service.

“PERSONAL CARE HOME”

A home or institution which is licensed to give personal care to ambulatory residents who are not in need of nursing care but who, because of advanced age and/or physical/mental infirmities, are in need of assistance with the activities of daily living ordinarily provided by responsible family members. This assistance extends beyond providing shelter, food, and laundry. Examples of such assistance include, but are not limited to, bathing, walking, excretory functions, feeding, personal grooming, dressing, and financial assistance.

AUTHORITY

STATUTE Miss. Code Ann. §§ 43-11-1 to 43-11-27 (West 1999). *Institutions for the Aged or Infirm*.

REGULATION Miss. Reg. §§ 1201.1 et seq. (not available).

**OVERSIGHT
AGENCY**

Department of Health, Health Facilities Licensure & Certification Division.

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

LICENSURE No person, acting severally or jointly with any other person, shall establish, conduct, or maintain an institution for the aged or infirm in this state without a license 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: Yes.
Persons who are not free of communicable disease.
- 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: Yes.
Persons who are non-ambulatory.
- G. INCONTINENT: Yes.
Persons who are incontinent of bowel and bladder.
- H. BEDFAST: No.

BEHAVIORAL/SOCIAL

- I. DANGER TO SELF OR OTHERS: Yes.
Persons who are violent to themselves or others.
- J. PHYSICAL OR CHEMICAL RESTRAINTS OR CONFINEMENT: No.

NEEDS EXCEED FACILITY LICENSURE: Yes.

Persons requiring care beyond the capabilities of the facility or medical and psychiatric conditions(s) are not adequately controlled.

OTHER

- K. DIETARY, RELIGIOUS, OR CULTURAL REGIMEN: Yes.
Persons who do not have a regular 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? 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.
If resident's care is beyond the capability of the facility or medical and psychiatric conditions(s) are not adequately controlled.

- REASON(S) (CONT.)**
- 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 written contract? 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? 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.
But statute gives the state Board the power to develop and implement rules for services providers, caregivers in home settings, or others dealing with persons with Alzheimer's disease or related dementia.

MISSOURI

CLASSIFICATION "RESIDENTIAL CARE FACILITY I"

Any premises, other than a residential care facility II, intermediate care facility, or skilled nursing facility, which is utilized by its owner, operator or manager to provide twenty-four hour care to three or more residents who are not related within the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility and who need or are provided with shelter, board, and with protective oversight, which may include storage and distribution or administration of medications and care during short-term illness or recuperation.

"RESIDENTIAL CARE FACILITY II"

Any premises, other than a residential care facility I, an intermediate care facility, or a skilled nursing facility, which is utilized by its owner, operator or manager to provide twenty-four hour accommodation, board, and care to three or more residents who are not related within the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility, and who need or are provided with supervision of diets, assistance in personal care, storage and distribution or administration of medications, supervision of health care under the direction of a licensed physician, and protective oversight, including care during short-term illness or recuperation.

AUTHORITY

STATUTE Vernon's Ann. Mo. Stat. §§ 198.003 to .186 (West 1999); *Omnibus Nursing Home Act*.

REGULATION Mo. Code Regs. Tit 13, §§ 15-15.012 to .052 (1991; Not published).
Mo. Code Regs. Tit 13 §§ 15-18.010 to .020 (1995; Not published).

OVERSIGHT Department of Social Services.
AGENCY

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

LICENSURE "No person shall establish, conduct or maintain a residential care facility I, residential care facility II, intermediate care facility, or skilled nursing facility in this state without a valid 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? 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.
- D. COGNITIVE IMPAIRMENT: No.
- E. MEDICAL OR NURSING CARE: Yes.
Requires skilled nursing care. Those persons previously qualified for residence who may have a temporary period of incapacity due to illness, surgery, or injury, which period does not exceed forty-five days, may be allowed to remain in a residential care facility II or residential care facility I if approved by a physician.

FUNCTIONAL ABILITY

- F. UNABLE TO DIRECT SELF CARE: Yes.
Incapable mentally and physically of negotiating a normal path to safety using assistive devices or aids when necessary.
- G. INCONTINENT: Yes.
- 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, assisted personal care outside the limitations of 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? Yes.

ENUMERATED RIGHTS FREEDOM

- A. FREEDOM OF CHOICE: Yes.
Resident is fully informed by a physician of his health and medical condition unless medically contraindicated, as documented by a physician in resident record, and is afforded the opportunity to participate in the planning of total care and medical treatment and to refuse treatment, and participates in experimental research only upon informed written consent.

**ENUMERATED RIGHTS
(CONT.)****B. FREEDOM FROM ABUSE & RESTRAINTS: Yes.**

Resident is free from mental and physical abuse, and free from chemical and physical restraints except as follows:

- When used as a part of a total program of care to assist the resident to attain or maintain the highest practicable level of physical, mental or psychosocial well-being;
- When authorized in writing by a physician for a specified period of time; and
- When necessary in an emergency to protect the resident from injury to himself or to others, in which case restraints may be authorized by designated professional personnel who promptly report the action taken to the physician.

When restraints are indicated, devices that are least restrictive, consistent with the resident's total treatment program, shall be used.

PRIVACY/CONFIDENTIALITY**C. PRIVACY: Yes.**

May communicate, associate, and meet privately with persons of choice, unless to do so would infringe upon the rights of other residents, and send and receive personal mail unopened. If married, is ensured privacy for visits by spouse; if both are residents in the facility, they are permitted to share a room.

D. CONFIDENTIALITY: Yes.

Is ensured confidential treatment of all information contained in records, including information contained in an automatic data bank, and written consent shall be required for the release of information to persons not otherwise authorized under law to receive it.

GRIEVANCE**E. GRIEVANCE: Yes.**

Is encouraged and assisted, throughout period of stay, to exercise rights as a resident and as a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff or to outside representatives of choice, free from restraint, interference, coercion, discrimination, or reprisal.

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

- Is treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for his personal needs.
- Is transferred or discharged only for medical reasons or for welfare or that of other residents or for nonpayment for stay.
- May retain and use personal clothing and possessions as space permits.
- Is not required to perform services for the facility.
- Is allowed the option of purchasing or renting goods or services not included in the per diem or monthly rate from a supplier of his own choice.

G. PARTICIPATION IN GROUPS AND OTHER ACTIVITIES: Yes.

May participate in activities of social, religious, and community groups at discretion, unless contraindicated for reasons documented by a physician in the resident's medical record.

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.
Is fully informed of rights and responsibilities as a resident.
- L. MANAGE PERSONAL FINANCIAL AFFAIRS: Yes.
May manage personal financial affairs, and, to the extent that the facility assists in such management, has personal financial affairs managed in accordance with section 198.090.
- M. OTHER ADDITIONAL: Yes.
Is fully informed in writing, prior to or at the time of admission and during stay, of services available in the facility, and of related charges including any charges for services not covered under the federal or state programs or not covered by the facility's basic per diem rate.

**METHOD(S) OF
DISCLOSURE**

- POSTED WITHIN FACILITY: Yes.
"A list of resident rights shall be posted in a conspicuous location in the facility"
- WITHIN RESIDENT'S CONTRACT: No.
- PROVIDED AS A SEPARATE WRITING: Yes.
"Prior to or at the time of admission, a list of resident rights shall be provided to each resident, or his designee, next of kin, or legal guardian."
- 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: Yes.
Nonpayment of stay.
- D. NONCOMPLIANCE: No.
- E. FACILITY CEASES TO OPERATE: No.
- F. OTHER: No.

RESIDENT NOTIFICATION

- A. TIMING/DISTRIBUTION:
30-day notice except in case of an emergency.
- B. CONTENT OF NOTIFICATION: No.
- C. RELOCATION ASSISTANCE: No.

APPEAL RIGHTS

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

CONTRACT Does the state require written contract? 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.

Each facility shall establish written procedures approved by the Department by which complaints and grievances of residents may be heard and considered.

STATE MANDATED

A. INTERNAL: Yes.

B. EXTERNAL: Yes.

The procedures shall provide for referral to the Department of any complaints or grievances not resolved by the facility's grievance procedure.

PRIVATE RIGHT OF ACTION Does the state permit private right of action against the facility? Yes.
Any resident or former resident who is deprived of any right created by sections 198.088 and 198.090, or the estate of a former resident so deprived, may file a written complaint within one hundred eighty days of the alleged deprivation or injury with the office of the attorney general describing the facts surrounding the alleged deprivation. A copy of the complaint shall be sent to the Department by the Attorney General.

The Attorney General shall review each complaint and may initiate legal action as provided under sections 198.003 to 198.186.

If the Attorney General fails to initiate a legal action within sixty days of receipt of the complaint, the complainant may, within two hundred forty days of filing the complaint with the Attorney General, bring a civil action in an appropriate court against any owner, operator, or the agent of any owner or operator to recover actual damages. The court may, in its discretion, award punitive damages which shall be limited to the larger of five hundred dollars or five times the amount of special damages, unless the deprivation complained of is the result of an intentional act or omission causing physical or emotional injury to the resident, and may award to the prevailing party attorney's fees based on the amount of time reasonably expended, and may provide such equitable relief as it deems necessary and proper; except that, an attorney who is paid in whole or part from public funds for his representation in any cause arising under this section shall not be awarded any attorney fees.

No owner or operator who pleads and proves as an affirmative defense that he exercised all care reasonably necessary to prevent the deprivation and injury for which liability is asserted shall be liable under this section.

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

Persons bringing suit to recover against a bond for personal funds pursuant to section 198.096 shall not be required to first file a complaint with the Attorney General pursuant to subsection 1 of this section, nor shall subsection 1 be construed to limit in any way the right to recover on such bond.

Nothing contained in sections 198.003 to 198.186 shall be construed as abrogating, abridging, or otherwise limiting the right of any person to bring appropriate legal actions in any court of competent jurisdiction to insure or enforce any legal right or to seek damages, nor shall any provision of the above-named sections be construed as preventing or discouraging any person from filing a complaint with the Department or notifying the Department of any alleged deficiency or noncompliance on the part of any facility.

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: No.

STAFFING/STAFF TRAINING: No.

ENVIRONMENT: No.

ACTIVITIES: No.

DISCLOSURE: Yes.

1. Any facility which offers to provide or provides care for persons with Alzheimer's disease by means of an Alzheimer's special care unit or Alzheimer's special care program shall be required to disclose the form of care or treatment provided that distinguishes that unit or program as being especially applicable, or suitable for persons with Alzheimer's or dementia. The disclosure shall be made to the department which licenses the facility, agency or center giving the special care. At the time of admission of a patient requiring treatment rendered by the Alzheimer's special care program, a copy of the disclosure made to the department shall be delivered by the facility to the patient and the patient's next of kin, designee, or guardian. The licensing department shall examine all such disclosures in the department's records and verify the information on the disclosure for accuracy as part of the facility's regular license renewal procedure.
2. The Department of Social Services and the Department of Health shall develop a single disclosure form to be completed by the facility, agency or center giving the special care. The information required to be disclosed by subsection 1 of this section on this

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

form shall include, if applicable, an explanation of how the care is different from the rest of the facility in the following areas:

- The Alzheimer's special care unit or program's written statement of its overall philosophy and mission which reflects the need of residents afflicted with dementia;
- The process and criteria for placement in, transfer or discharge from, the unit or program;
- The process used for assessment and establishment of the plan of care and its implementation, including the method by which the plan of care evolves and is responsive to changes in condition;
- Staff training and continuing education practices;
- The physical environment and design features appropriate to support the functioning of cognitively impaired adult residents;
- The frequency and types of resident activities;
- The involvement of families and the availability of family support programs;
- The costs of care and any additional fees; and
- Safety and security measures.

Any facility which offers to provide or provides care for persons with Alzheimer's disease by means of an Alzheimer's special care unit or Alzheimer's special care program shall be required to provide an informational document developed by or approved by the division of aging. The document shall include but is not limited to updated information on selecting an Alzheimer's special care unit or Alzheimer's special care program. The document shall be given to any person seeking information about or placement in an Alzheimer's special care unit or Alzheimer's special care program. The distribution of this document shall be verified by the licensing department as part of the facility's regular license renewal procedure.

OTHER: No.