

MINNESOTA

Licensure Terms

Class A and Class F Home Care Providers

General Approach

The state does not license assisted living as a distinct category. Instead, the state defines assisted living as comprising two elements: a site that is registered annually with the Department of Health as a housing with services establishment, and a licensed Class A or a Class F home care agency¹ that is either the establishment itself or another entity with which the establishment has an arrangement. Only establishments that comply with the relevant statutes' requirements may use the term assisted living.

Adult Foster Care (AFC). Adult foster homes are licensed by the Department of Human Services (DHS) as a residence that provides food and lodging and 24-hour care--including protection, supervision, and household services--to no more than four functionally impaired residents. DHS issues a family adult foster home license if the home is the primary residence of the license holder and the license holder is the primary caregiver, and issues a corporate adult foster home license if the license holder does not live in the home. In addition to holding a DHS family AFC license, a provider may be licensed as a Class A home care provider, which allows the home to offer a higher level of service. The state licenses all corporate homes as Class A providers. A corporate AFC home may also be registered as a housing with services establishment and offer services with a Class F license. *The regulatory provisions for AFC are not included in this profile, but a link to them can found at the end.*

This profile includes summaries of selected regulatory provisions for housing with services establishments and licensed home care providers. The complete regulations are online at the links provided at the end.

Definitions

Housing with services establishments provide sleeping accommodations to one or more adult residents, at least 80 percent of whom are 55 years of age or older, and

¹ Under a new home care law that was passed in the state's 2013 legislative session and updated in the 2014 legislative session, the categories of licensure were changed. The current "Classes" of licenses (i.e., Class A, B, C, and F) will be replaced by two types of home care licenses: either Basic or Comprehensive. Current providers continue to operate under their existing license and current law until their renewal date occurring between July 1, 2014, and June 30, 2015. See link to the new regulations at the end of the profile.

offer or provide one or more regularly scheduled health-related services or two or more regularly scheduled supportive services. Services may be offered or provided directly by the establishment or by another entity arranged for by the establishment.

Health-related services include professional nursing services, home health aide tasks, and home care aide tasks as identified in the relevant administrative rules. Health-related services must be provided by a Class A or a Class F home care agency in a manner that complies with applicable home care licensure requirements.

Supportive services means help with personal laundry; handling or assisting with residents' personal funds; or arranging for medical services, health-related services, social services, or transportation to medical or social services appointments. Arranging for services does not include making referrals, assisting a resident in contacting a service provider of the resident's choice, or contacting a service provider in an emergency.

Assisted living is a service or package of services advertised, marketed, or otherwise described, offered, or promoted using the phrase "assisted living" either alone or in combination with other words, whether orally or in writing, and which is subject to the requirements of Minnesota statutes.

Resident Agreements

Contracts between the housing with services operator and residents include a statement describing the: (1) establishment's registration and licensure status and any provider furnishing health-related or supportive services under an arrangement with the establishment; (2) services provided in the base rate and fee schedules for any additional services; (3) process for modifying, amending, or terminating the contract, including whether a move to a different room or sharing a room would be required in the event that the resident can no longer pay the current rent; (4) complaint process; and (5) criteria for determining who may reside in the establishment. The contract must also include a statement regarding residents' ability to receive services from providers that do not have an arrangement with the establishment and a statement regarding the availability of public funds to pay for room and board and services.

Home care provider licensing regulations cover the service agreement, which includes a description of the services to be provided and the frequency of each service, the persons or category of persons who will provide the service, the schedule or frequency of sessions of supervision or monitoring, fees for each service, and a plan for contingency action if scheduled services cannot be provided.

Disclosure Provisions

In addition to the contract, the state requires the provision of a separate Uniform Consumer Information Guide that includes information about services offered by the provider, service costs, and other relevant provider-specific information, which must be made available to all current and prospective residents in a required format.

Housing with services establishments that secure, segregate, or provide a special program or special unit for residents with a diagnosis of probable Alzheimer's disease or another type of dementia, or that advertise, market--or otherwise promote the establishment as providing specialized care for such individuals--are considered "special care units" (SCUs). Before an agreement to provide care is entered into, all SCUs must provide a written disclosure to: (1) the Commissioner of Health, if requested; (2) the Office of Ombudsman for Older Minnesotans; and (3) each person seeking placement within a SCU or the person's authorized representative. Written disclosure must include, but is not limited to, the following:

- A statement of the overall service philosophy and how it reflects the special needs of residents with Alzheimer's disease or other dementias.
- The criteria for determining who may reside in the SCU.
- The process used for assessment and establishment of the service plan or agreement, including how the plan is responsive to changes in the resident's condition.
- Staffing credentials, job descriptions, and staff duties and availability, including any dementia-specific training.
- The physical environment as well as design and security features that specifically address the needs of residents with Alzheimer's disease or other dementias.
- Frequency and type of programs and activities for SCU residents.
- Fee schedules for additional services provided to SCU residents.
- Family involvement in resident care and the availability of family support programs.

Admission and Retention Policy

A person or entity offering assisted living may determine which services it will provide and may offer assisted living to all or only some of the residents of a housing with services establishment. Housing with services establishments and home care providers are not required to offer or continue to provide services under a service

agreement or service plan to prospective or current residents, if they determine that they cannot meet their needs.

Health care services provided by an arranged home care provider may be terminated without affecting the resident's housing status. Thirty days' notice, with certain exceptions, must be given prior to terminating health care services and assistance must be offered to find another health care provider.

Services

The state restricts the use of the phrase "assisted living" to housing with services establishments that provide or make available the following services at a minimum:

- Health-related services under a Class A or a Class F home care agency that include assistance with self-administration of medication or medication administration, assistance with at least three activities of daily living (ADLs), and assessments of the residents' physical and cognitive needs by a registered nurse (RN).
- Weekly housekeeping and laundry service.
- Periodic opportunities for socialization and reasonable assistance with arranging transportation to medical and social services appointments and accessing community resources.

The licensed home care agency providing the health care services must provide all services required by the resident's current service agreement or service plan. The housing with services establishment must have a system for RN delegation of health care activities to unlicensed assistive health care personnel, which includes supervision and evaluation of the delegated activities.

Service Planning

Establishments must offer to arrange an assessment by an RN of a prospective resident's physical and cognitive needs and propose a service agreement or service plan prior to the date on which the prospective resident executes a contract or the date on which he or she moves in, whichever is earlier.²

² An arranged home care provider is not obligated to conduct a nursing assessment by a RN when requested by a prospective resident if either the geographic distance between the prospective resident and the provider, or urgent or unexpected circumstances, do not permit the assessment to be conducted prior to the date on which the prospective resident executes a contract or moves in, whichever is earlier. When such circumstances occur, the arranged home care provider may offer to conduct a telephone conference whenever reasonably possible.

Third-Party Providers

The establishment must have an arrangement with a Minnesota Class A or Class F licensed home care agency or use its own Class A or Class F licensed home care agency to provide home care services. Minnesota Class A home care agencies may provide professional nursing and home health aide tasks; physical, speech, respiratory, and occupational therapy; and medical social services, and may also provide medical supplies and equipment when accompanied by the provision of a home care service. Minnesota Class F home care agencies may provide nursing services, and delegated nursing services or other services performed by unlicensed personnel.

Residents may receive services from providers that do not have an arrangement with the establishment.

Medication Provisions

At a minimum, an establishment representing itself as assisted living must offer to provide or arrange for assistance with self-administration of medications or administration of medications. Staff administering medications must be instructed by an RN, the instructions must be written, and the person must demonstrate competence in following the instructions.

Standards for medication management--which includes medication administration--may vary according to the nature of the services provided, the setting in which the services are provided, and the resident's status.

Food Service and Dietary Provisions

Housing with services establishments that use the term assisted living must provide two meals per day.

Staffing Requirements

Type of Staff. The housing with services establishment must provide staff access to an on call *registered nurse* 24 hours per day, 7 days per week; must maintain a system to check on each assisted living resident at least daily; and must provide a means for residents to request assistance for health and safety needs 24 hours per day, 7 days per week from the establishment or a person or entity with which the establishment has made arrangements.

Staff Ratios. *No minimum ratios.* Housing with services establishments must provide adequate staff to meet residents' needs. Unless they meet the criteria for

exemption for awake staff described in statute,³ housing with services establishments are required to have a person(s) available 24 hours per day, 7 days per week, who: (1) is responsible for responding to assisted living residents' requests for assistance with health or safety needs; (2) must be awake and located in the same building, in an attached building, or on a contiguous campus with the housing with services establishment in order to respond within a reasonable amount of time; (3) is capable of communicating with assisted living residents and capable of recognizing the need for assistance; and (4) is capable of providing either the assistance required or summoning the appropriate assistance, and capable of following directions.

Training Requirements

The person primarily responsible for oversight and management of a housing with services establishment must have at least 30 hours of continuing education every 2 years in topics relevant to the operations of the establishment and residents' needs. Continuing education earned to maintain a professional license, such as a nursing home administrator or nursing license, can be used to complete this requirement. In addition, the continuing education must include at least 4 hours of documented training on dementia care topics within 160 working hours of hire, and 2 hours of training on these topics annually.

Each person who provides direct care, supervision of direct care, or who manages services for a licensee, must receive an orientation to home care requirements covering: (1) the general approach of the statute and regulations; (2) handling of emergencies; (3) reporting abuse/neglect; (4) the home care bill of rights; (5) handling and reporting complaints; and (6) ombudsman services.

Training and a competency evaluation are required for unlicensed staff who perform assisted living home care tasks. In addition to the orientation topics listed above, the curriculum includes: (1) observation, reporting, and documentation of resident status and of the care or services provided; (2) basic infection control and maintenance of a clean, safe, and healthy environment; (3) communication skills; (4) basic elements of body functioning and changes in body function that must be reported to an appropriate health care professional; and (5) the residents' physical, emotional, and developmental needs.

Staff who provide medication administration and active assistance with medications must complete the above training program, pass a competency test, and

³ A housing with services establishment with a maximum capacity to serve 12 assisted living residents is exempt from the requirement of 24-hour awake staff if the person or persons available and responsible for responding to requests for assistance are physically present within the establishment, and the establishment has a system in place that is compatible with the health, safety, and welfare of the assisted living residents. The establishment's housing with services contract must include a statement disclosing the establishment's qualification for, and intention to rely upon, this exemption.

be instructed by an RN in the procedures for administering medications specific to each resident.

In addition to the above requirements, supervisors of direct care staff in a housing with services establishment must complete at least 4 hours of initial training on dementia care topics within 120 working hours of the employment start date and 2 hours annually. Direct care staff must complete at least 4 hours of initial training on dementia care topics within 160 working hours of the employment start date and 2 hours annually. Until these initial training requirements are completed, an employee must not provide direct care unless there is another employee on-site who has completed the initial 4 hours of training and who can act as a resource and assist if issues arise.

Staff providing home management tasks (housekeeping, meal preparation, and shopping) must receive training on the bill of rights and orientation on the aging process and the needs and concerns of elderly and disabled persons. They must also complete at least 4 hours of initial training on dementia care topics within 160 working hours of the employment start date and 2 hours annually.

Dementia care topics for all staff include: (1) an explanation of Alzheimer's disease and other dementias; (2) assistance with ADLs; (3) problem solving with challenging behaviors; and (4) communication skills.

Provisions for Apartments and Private Units

Apartment-style units are not required. Units may be shared by resident choice.

Provisions for Serving Persons with Dementia

Dementia Care Staff and Facility Requirements. No provisions identified.

Dementia Staff Training. The *manager* of a SCU and the *direct care staff* must complete double the amount of initial dementia training as staff in all establishments. The areas of required training are the same.

Background Checks

Owners, managers, employees, contractors, and volunteers of a home care provider are subject to a criminal background check. A license may be denied or suspended for conviction of any of 15 types of crimes listed in the regulations. Each employee with direct contact with residents must sign a statement disclosing convictions of all crimes, except minor traffic violations. Employees may be required to sign a

release statement authorizing local authorities to provide the commissioner a history of criminal convictions.

Inspection and Monitoring

The state evaluates, monitors, and licenses home care providers in accordance with the relevant statutes and administrative rules, which include the right to inspect the office and records of a provider during regular business hours without advance notice, and the right to visit the home where services are being provided, with the consent of the resident. Home care providers are surveyed before a license is approved or renewed.

Public Financing

The state uses several Medicaid 1915(c) Waiver programs (Elderly, Traumatic Brain Injury, Community Alternatives for Disabled Adults, and Community Alternative Care) to pay for one or more of the following three services: AFC, customized living, and 24-hour customized living.

Customized living services (formerly called assisted living services) are a package of component services individually designed to meet the assessed needs of a waiver participant that can include home management tasks, supportive services, home care aide tasks, home health aide tasks, incidental nursing services, and supervision. The same component services are included in 24-hour customized living services (formerly called assisted living plus services) with the addition of 24-hour supervision and oversight.

Room and Board Policy

The state provides an optional state supplement to Supplemental Security Income (SSI) recipients residing in group residential facilities. The maximum payment in 2014 was \$250 a month. Residents receiving SSI benefits were permitted to retain a personal needs allowance of \$95 per month.

The state does not cap room and board charges for Medicaid participants and family members may supplement the resident's payment.

Location of Licensing, Certification, or Other Requirements

Minnesota Department of Health website: Class A Licensed Home Care Provider. [2014]
<http://www.health.state.mn.us/divs/fpc/profinfo/lic/licclassa.htm>

Minnesota Department of Health website: Class F Licensed Home Care Provider. [2014]
<http://www.health.state.mn.us/divs/fpc/profinfo/lic/alhcp.htm>

Minnesota Department of Health website: Comprehensive Home Care Provider Licensing. [2014] *This website is being updated as additions and changes occur.*
<http://www.health.state.mn.us/divs/fpc/comphomecare/>

Minnesota Department of Health website: Housing with Services Establishments/Assisted Living Designation. [2014]
<http://www.health.state.mn.us/divs/fpc/profinfo/lic/lichws.htm>

Minnesota Statutes, Chapter 144D: Housing with Services Establishments. [2014]
<https://www.revisor.mn.gov/statutes/?id=144D&view=chapter>

Minnesota Statutes, Chapter 144G: Assisted Living Services. [2014]
<https://www.revisor.mn.gov/statutes/?id=144G&view=chapter>

Minnesota Statutes, Chapter 325F.72: Disclosure of Special Care Status. [2014]
<https://www.revisor.mn.gov/statutes/?id=325F.72>

Minnesota Administrative Rules, Rule 203, Parts 9555.5105 to 9555.6265: Administration of Adult Foster Care Services and Licensure of Adult Foster Homes. [October 8, 2007]
<https://www.revisor.mn.gov/rules/?id=9555>

Information Sources

Lisa Rotegard
Manager
Home and Community-Based Services Policy and Integration for Seniors
Aging and Adult Services Division
Department of Human Services

COMPENDIUM OF RESIDENTIAL CARE AND ASSISTED LIVING REGULATIONS AND POLICY: 2015 EDITION

Files Available for This Report

FULL REPORT

Executive Summary	http://aspe.hhs.gov/execsum/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-executive-summary
HTML	http://aspe.hhs.gov/basic-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition
PDF	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition

SEPARATE STATE PROFILES

[**NOTE:** These profiles are available in the full HTML and PDF versions, as well as each state available as a separate PDF listed below.]

Alabama	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-alabama-profile
Alaska	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-alaska-profile
Arizona	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-arizona-profile
Arkansas	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-arkansas-profile
California	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-california-profile
Colorado	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-colorado-profile
Connecticut	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-connecticut-profile
Delaware	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-delaware-profile
District of Columbia	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-district-columbia-profile
Florida	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-florida-profile

Georgia	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-georgia-profile
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Illinois	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-illinois-profile
Indiana	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-indiana-profile
Iowa	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-iowa-profile
Kansas	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-kansas-profile
Kentucky	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-kentucky-profile
Louisiana	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-louisiana-profile
Maine	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-maine-profile
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Montana	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-montana-profile
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Nevada	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-nevada-profile
New Hampshire	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-new-hampshire-profile
New Jersey	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-new-jersey-profile

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New York	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-new-york-profile
North Carolina	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-north-carolina-profile
North Dakota	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-north-dakota-profile
Ohio	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-ohio-profile
Oklahoma	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-oklahoma-profile
Oregon	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-oregon-profile
Pennsylvania	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-pennsylvania-profile
Rhode Island	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-rhode-island-profile
South Carolina	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-south-carolina-profile
South Dakota	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-south-dakota-profile
Tennessee	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-tennessee-profile
Texas	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-texas-profile
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Wyoming	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-wyoming-profile