

## MONTANA

### Licensure Terms

Assisted Living Facilities

### General Approach

The Montana Department of Public Health and Human Services licenses assisted living facilities (ALFs) as a setting for frail, elderly, or disabled persons, which provides supportive health and service coordination to maintain the resident's independence, individuality, privacy, and dignity. Three categories of facilities provide different levels of care, based on the needs of residents, as follows:

- Category A residents can self-medicate, need assistance with no more than three activities of daily living (ADLs), and are generally in good health.
- Category B residents may be in need of nursing services and be consistently and totally dependent in four or more ADLs.
- Category C residents are those with cognitive impairments who are not capable of expressing needs or making basic care decisions.

All facilities are licensed as meeting the applicable requirements for a Category A facility and may additionally be endorsed to provide Category B or Category C services with the approval of the Department. The Montana Medicaid Big Sky 1915(c) Waiver program provides adult residential living services to elders and people with disabilities in ALFs.

*Adult Foster Care (AFC).* Adult foster homes are private homes licensed by the Department of Public Health and Human Services to offer light personal care, custodial care, and supervision to aged or disabled adults who require assistance in meeting their basic needs and who are not related to the operator by blood or marriage. An adult foster family care home does not provide skilled nursing care. *The licensing 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 all categories of ALFs, unless specifically noted as provisions for those endorsed as Category B or C. The complete regulations are online at the links provided at the end.*

## Definitions

***Assisted living facility*** means a congregate residential setting that provides or coordinates personal care, health-related services, scheduled and unscheduled 24-hour supervision and assistance, and activities.

## Resident Agreements

An ALF must enter into a written, dated, and signed resident agreement with each prospective resident prior to admission to the facility. The resident agreement lists all charges, refunds, services, and move-out criteria and also includes statements explaining: (1) the availability of skilled nursing or other professional services from a third-party provider to a resident in the facility; and (2) the resident's responsibilities, including but not limited to house rules, the facility grievance policy, facility smoking policy, and policies regarding pets.

## Disclosure Provisions

Each facility endorsed to provide Category C services must make available, in writing, to the prospective resident's guardian or family member, the following:

- The overall philosophy and mission of the facility regarding meeting the needs of residents with severe cognitive impairment, and the form of care or treatment.
- The process and criteria for move-in, transfer, and discharge.
- The process used for resident assessment.
- The process used to establish and implement a health care plan, including how the health care plan will be updated in response to changes in the resident's condition.
- Staff training and continuing education practices.
- The physical environment and design features appropriate to support the functioning of cognitively impaired residents.
- The frequency and type of resident activities.
- The level of involvement expected of families and the availability of support programs.
- Any additional costs of care or fees.

## Admission and Retention Policy

An ALF offers a suitable living arrangement for persons with a range of capabilities, disabilities, frailties, and strengths. Assisted living is not appropriate for individuals who are incapable of responding to their environment, expressing volition, interacting, or demonstrating any independent activity. The facility must determine whether a potential resident meets the facility's admission requirements and that the resident is appropriate to the facility's license endorsement.

Category A facilities may not serve residents who: (1) have Stage III or IV pressure sores; (2) require a gastronomy or jejunostomy tube; (3) require skilled nursing care or other skilled services on a continual basis (except administration of medications); (4) require physical or chemical restraint or confinement in locked quarters; (5) are a danger to self or others; (6) are dependent in four or more ADLs as a result of cognitive or physical impairment; or (7) are incapable of expressing needs or making basic care decisions. Category A residents may receive skilled medical services for no longer than 30 continuous days per occurrence, not to exceed 120 days in a 12-month period.

Facilities with a Category B endorsement may serve individuals who: (1) are consistently and totally dependent in four or more ADLs; (2) require skilled services for more than 30 days per episode and more than 120 days a year if the services are provided or arranged by the facility or the resident; (3) are not a danger to self or others; (4) do not require physical or chemical restraint or confinement in locked quarters; and (5) have a signed health care assessment by a licensed health care professional that is renewed quarterly.

Facilities with a Category C endorsement may serve residents who have severe cognitive impairments that render the individual incapable of expressing needs or of making basic care decisions but who do not require physical or chemical restraint or confinement in locked quarters. The individual may be at risk for leaving the facility without regard for personal safety but is not a danger to self or others.

A resident must have a practitioner's written order for admission and written orders for care to be admitted as a Category B or C resident.

## Services

All facilities must provide, or make provisions for, personal services such as laundry, housekeeping, and local transportation; assistance with ADLs; assistance using mobility and other assistive devices; recreational activities; assistance with self-administration of medications; 24-hour on-site supervision by staff; and assistance in arranging medical appointments.

A Category A facility may provide, make provisions for, or allow a resident to obtain third-party provider services for: (1) administration of medications consistent with applicable laws and regulations; and (2) skilled nursing care or other skilled services related to temporary, short-term acute illnesses, which may not exceed 30 consecutive days for one episode or more than a total of 120 days in 1 year.

A facility with a Category B endorsement may provide skilled nursing care or other skilled services to five or fewer residents, consistent with move-in and move-out criteria specified in law, in addition to serving other residents who do not require Category B level of service.

A facility with a Category C endorsement may provide care to meet the needs of individuals with severe cognitive impairment that renders them incapable of expressing needs or making basic care decisions. Category C facilities may also serve residents who are categorized as A and B.

### ***Service Planning***

Prior to admission to any ALF, an initial assessment must be conducted to determine the prospective resident's needs. Assessment topics include: cognitive patterns; sensory patterns; ADLs abilities; mood and behavior patterns (such as sadness or anxiety, wandering, and verbally/physically abusive and socially inappropriate/disruptive behavior); health problems; weight/nutritional status; skin problems; medication use; and use of restraints, safety, or assistive devices.

Category A facilities must develop an initial service plan based on the initial needs assessment, which must be reviewed or modified within 60 days of admission to ensure the service plan accurately reflects the resident's needs and preferences.

A facility with a Category B or Category C endorsement must also ensure that a resident health care assessment covering specific topics is conducted within 21 days of admission by a licensed health care professional to develop a resident health care plan, which must be reviewed and, if necessary, revised upon change of condition.

Additionally, Category C facilities must conduct a resident certification that includes detailed assessment, therapeutic management, and intervention techniques for the following behaviors and resident needs: memory, judgment, ability to care for oneself, ability to solve problems, mood and character changes, behavioral patterns, wandering, and dietary needs.

### ***Third-Party Providers***

A resident may purchase third-party services provided by an individual or entity, licensed if applicable, to provide health care services under arrangements made directly with the resident or resident's legal representative. Third-party services must not compromise the ALF operation or create a danger to others in the facility.

## Medication Provisions

All Category A facility residents must be capable of self-administering their medication, except as described above under Services, when residents are allowed to obtain third-party services for short-term needs consistent with applicable laws and regulations. Those residents in Category B facilities who are capable of and who wish to self-administer medications are encouraged to do so. Any direct care staff member who is capable of reading medication labels may provide necessary assistance to a resident in taking their medication. Assistance includes the following:

- Removing medication containers from secured storage.
- Providing verbal suggestions, prompting, reminding, gesturing or providing a written guide for self-administrating medications.
- Handing a pre-filled, labeled medication holder, labeled unit dose container, syringe or original marked, labeled container from the pharmacy or a medication organizer to the resident.
- Opening the container lid.
- Guiding the resident's hand to self-administer the medication.
- Assisting the resident in drinking fluid to swallow oral medications.
- Assisting with removal of a medication from a container for residents with a physical disability which prevents independence in the act.

Category B or Category C residents who are unable to self-administer their medications must have the medications administered by a licensed health care professional or by an individual delegated to do so under the Montana Nurse Practice Act, including: a licensed physician, physician's assistant, certified nurse practitioner, advanced practice registered nurse or a registered nurse (RN); a licensed practical nurse (LPN) working under supervision; an unlicensed individual who is either employed by the facility or is working under a third-party contract with a resident or resident's legal representative and has been delegated the task; and a person related to the resident by blood or marriage or who has full guardianship.

Resident medication organizers may be prepared by a family caregiver/guardian up to 4 weeks in advance and injectable medications, such as insulin, may be set up 7 days in advance.

## Food Service and Dietary Provisions

Foods must be served in amounts and a variety sufficient to meet the nutritional needs of each resident. Facilities must prepare modified diets when ordered by a resident's health care provider. If a facility accepts residents who require a physician-recommended therapeutic or special diet, it must consult with a dietician to ensure that meals are appropriately prepared.

At least three meals must be offered daily and at regular times, with not more than a 14-hour span between an evening meal and breakfast unless a nutritious snack is available in the evening, then up to 16 hours may lapse between a substantial evening meal and breakfast. Meals must offer an alternative food or drink to give residents a choice.

## Staffing Requirements

**Type of Staff.** ALFs must employ a qualified *administrator*<sup>1</sup> who is responsible for the daily operation of the facility at all times and must ensure 24-hour supervision of the residents. In the absence of the administrator, a staff member must be designated to oversee the operation of the facility. The administrator or designee must ensure there are sufficient, qualified staff so that the care, well-being, health, and safety needs of the residents are met at all times. If the facility offers cardiopulmonary resuscitation (CPR), at least one person per shift must hold a current CPR certificate.

Category B facilities must employ or contract with a *registered nurse* to provide or supervise nursing services, which include: (1) general health monitoring for each resident; (2) performing a nursing assessment on residents when and as required; (3) assistance with the development of the resident health care plan and, as appropriate, the development of the resident service plan; and (4) routine nursing tasks, including those that may be delegated to LPNs and unlicensed assistive personnel in accordance with the Montana Nurse Practice Act.

**Staff Ratios.** *No minimum ratio.* At least one staff member must be present 24 hours a day. Facilities must have a sufficient number of qualified staff on-duty 24 hours a day to meet the scheduled and unscheduled needs of each resident, provide all related services, and respond in emergency situations. Category C facilities require 24-hour awake staff.

Volunteers can be used to provide direct care, but may not be considered part of the required staff and may not assist with medication administration, delegated nursing tasks, bathing, toileting, or transferring. Volunteers must be adequately supervised and

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<sup>1</sup> Administrators must be licensed as a nursing home administrator in Montana or another state; or have successfully completed all of the self-study modules of "The Management Library for Administrators and Executive Directors", a component of the assisted living training system published by the Assisted Living University; or be enrolled in and complete the self-study course within 6 months of employment.

be familiar with resident rights and the facility's policy and procedures that apply to their duties as a volunteer.

## Training Requirements

New employees must receive orientation and training in areas relevant to their duties and responsibilities, including: (1) an overview of the facility's policies and procedures manual; (2) services provided by the facility; and (3) the Montana Elder and Persons with Developmental Disabilities Abuse Prevention Act and the Montana Long-Term Care Resident Bill of Rights Act.

In addition, direct care staff must be trained to perform the services established in each resident service plan and must be trained in the use of the abdominal thrust maneuver and basic first-aid. Administrators must show evidence of at least 16 contact hours of annual continuing education relevant to the individual's duties and responsibilities.

## Provisions for Apartments and Private Units

Apartment-style units are not required. In a facility licensed prior to 2004, no more than four residents may reside in a single bedroom. In facilities licensed after 2004 and those serving residents with severe cognitive impairment, occupancy must be limited to no more than two residents per room. Each resident must have access to a toilet room without entering another resident's room or the kitchen, dining, or living areas. There must be one toilet room for every four residents and one bathing facility for every 12 residents.

Kitchens or kitchenettes in resident rooms are permitted if the resident's service plan permits unrestricted use and the cooking appliance can be removed or disconnected if the service or health care plan indicates the resident is not capable of unrestricted use.

## Provisions for Serving Persons with Dementia

***Dementia Care Staff.*** Staff in Category C facilities must remain awake, fully dressed and be available in the facility or on the unit at all times to provide supervision and care to the residents as well as to assist the residents in evacuation of the facility if a disaster occurs.

***Dementia Staff Training.*** In addition to meeting all other requirements for direct care staff in Category A and Category B facilities, Category C direct care staff must receive additional documented training in:

- The facility's or unit's philosophy and approaches to providing care and supervision for persons with severe cognitive impairment.
- The skills necessary to care for and direct residents who are unable to perform ADLs.
- Techniques for minimizing challenging behavior, including wandering, hallucinations, illusions and delusions, and impairment of senses.
- Therapeutic programming to support the highest possible level of resident function, including large motor activity, small motor activity, appropriate level cognitive tasks, and social/emotional stimulation.
- Promoting residents' dignity, independence, individuality, privacy, and choice.
- Identifying and alleviating safety risks to residents.
- Identifying common side effects of and untoward reactions to medications.
- Techniques for dealing with bowel and bladder aberrant behaviors.

At least 8 of the 16 hours of the annual training requirement for administrators must pertain to caring for persons with severe cognitive impairments.

***Dementia Facility Requirements.*** In addition to meeting all other requirements for ALFs stated in the rules, if a secured distinct part or locked unit within a Category C ALF is designated for the exclusive use of residents with severe cognitive impairment, the facility must provide a separate dining area and a common day or activities area on the unit.

## Background Checks

The administrator must develop policies and procedures for screening, hiring, and assessing staff--which include practices that assist the employer in identifying employees that may pose risk or threat to the health, safety or welfare of any resident--and provide written documentation of findings and the outcome in the employee's file. The employer must have evidence to verify that each certified nursing assistant has no adverse findings entered on the Nurse Aid Registry maintained by the Department in the certification bureau.

## Inspection and Monitoring

The Licensure Bureau conducts a full survey of each facility once every 1-3 years, near the renewal date of the current operating license, depending on whether the facility has been granted an extended license.

## Public Financing

The Montana Medicaid Big Sky 1915(c) Waiver program provides adult residential living services to persons 65 and older and younger adults with disabilities who reside in ALFs.

### **Room and Board Policy**

Charges for assisted living room and board are set at the medically needy income standard, which was \$768 per month in 2011. This amount included the federal Supplemental Security Income (SSI) payment of \$674 plus an optional state supplement (OSS) of \$94 a month. Depending on the facility, residents retained a personal needs allowance (PNA) of up to \$100 a month.<sup>2</sup> In 2009, family supplementation was not permitted.<sup>3</sup>

## Location of Licensing, Certification, or Other Requirements

*Administrative Rules of Montana*, 37.106, Subchapter 28: Assisted Living Facilities. [May 7, 2004]

<http://www.mtrules.org/gateway/Subchapterhome.asp?scn=37.106.28>

*Montana Code Annotated*, 50-5-227. Licensing Assisted Living Facilities. [2014]

<http://leg.mt.gov/bills/mca/50/5/50-5-227.htm>

*Montana Code Annotated*, 50-5-226. Placement in Assisted Living Facilities. [2014]

<http://leg.mt.gov/bills/mca/50/5/50-5-226.htm>

*Administrative Rules of Montana*, 37.100, Subchapter 1: Licensure of Adult Foster Care Homes. [May 23, 2014]

<http://www.mtrules.org/gateway/Subchapterhome.asp?scn=37.100.1>

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<sup>2</sup> Social Security Administration, *State Assistance Programs for SSI Recipients*, January 2011.

[http://www.socialsecurity.gov/policy/docs/progdsc/ssi\\_st\\_asst/2011/mt.html](http://www.socialsecurity.gov/policy/docs/progdsc/ssi_st_asst/2011/mt.html). Current information about Medicaid room and board policies, the OSS, and the PNA, was not available online or from other sources.

<sup>3</sup> Mollica, R.L. (2009). *State Medicaid Reimbursement Policies and Practices in Assisted Living*, National Center for Assisted Living, American Health Care Association.

<http://www.ahcanal.org/ncal/resources/Documents/MedicaidAssistedLivingReport.pdf>. Current information about family supplementation policy was not available online or from other sources.

*Montana Code Annotated*, 50-5-216: Limitation on care provided in adult foster care home.  
[2014]

<http://leg.mt.gov/bills/mca/50/5/50-5-216.htm>

## Information Sources

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Department of Public Health and Human Services

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

## Files Available for This Report

### FULL REPORT

Executive Summary	<a href="http://aspe.hhs.gov/execsum/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-executive-summary">http://aspe.hhs.gov/execsum/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-executive-summary</a>
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### 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	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-alabama-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-alabama-profile</a>
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New Jersey	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-new-jersey-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-new-jersey-profile</a>

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New York	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-new-york-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-new-york-profile</a>
North Carolina	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-north-carolina-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-north-carolina-profile</a>
North Dakota	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-north-dakota-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-north-dakota-profile</a>
Ohio	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-ohio-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-ohio-profile</a>
Oklahoma	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-oklahoma-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-oklahoma-profile</a>
Oregon	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-oregon-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-oregon-profile</a>
Pennsylvania	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-pennsylvania-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-pennsylvania-profile</a>
Rhode Island	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-rhode-island-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-rhode-island-profile</a>
South Carolina	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-south-carolina-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-south-carolina-profile</a>
South Dakota	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-south-dakota-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-south-dakota-profile</a>
Tennessee	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-tennessee-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-tennessee-profile</a>
Texas	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-texas-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-texas-profile</a>
Utah	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-utah-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-utah-profile</a>
Vermont	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-vermont-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-vermont-profile</a>
Virginia	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-virginia-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-virginia-profile</a>

Washington	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-washington-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-washington-profile</a>
West Virginia	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-west-virginia-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-west-virginia-profile</a>
Wisconsin	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-wisconsin-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-wisconsin-profile</a>
Wyoming	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-wyoming-profile">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-wyoming-profile</a>