Licensure Terms

Assisted Living Facilities, Level I and Level II, Residential Long-Term Care Facilities (referred to as residential care facilities)

General Approach

The Arkansas Department of Human Services (DHS), Division of Medical Services, Office of Long Term Care (Office), licenses and regulates assisted living facilities (ALFs) as either a Level I or Level II facility. Both levels provide services in a home-like setting for elderly and disabled persons. The philosophical tenets of individuality, privacy, dignity and independence, and the promotion of resident self-direction and personal decision-making while protecting resident health and safety are emphasized. All living units in ALFs must be independent apartments, including a kitchen that is a visually and functionally distinct area within the apartment or unit. Separate licenses are required for ALFs maintained on separate premises, even if they are operated under the same management.

The Department also licenses residential care facilities (RCFs) to provide services 24 hours a day to individuals age 18 years or older who are not capable of independent living and who require assistance and supervision. Separate licenses are required for RCFs maintained on separate premises, even if they are operated under the same management.¹

Alzheimer’s special care units (ASCUs) are specialized units of long-term care facilities--including both nursing homes and ALFs--that offer services specifically for individuals with Alzheimer’s disease and other dementias. Regulations for ASCUs are part of the regulations for each type of facility that can house an ASCU.

Arkansas covers personal care services through the Medicaid State Plan, which may be provided in a person’s home “or other setting” such as a residential long-term care facility. The state also covers services in Level II ALFs under a single service Medicaid 1915(c) Waiver program--the Living Choices Assisted Living Waiver program--and covers services in adult family homes through the State’s Medicaid 1915(c) Elder Choices Waiver program.

¹ Facilities owned and operated by the Veteran’s Administration, or regulated or licensed by the Department of Human Services’ Division of Developmental Disabilities Services or Division of Mental Health Services, or regulated by the Bureau of Alcohol and Drug Abuse Prevention of the Arkansas Department of Health are excluded from licensure.
**Adult Foster Care.** Adult family homes are certified by the DHS Division of Aging and Adult Services (DAAS). An adult family home provides a family living environment for no more than three persons who are not related to the principal care provider and who, owing to the severity of their functional impairments, are considered to be at imminent risk of death or serious bodily harm and, as a consequence, are not capable of fully independent living. Regulatory provisions for these settings are not included in this profile, but a link to various information can found at the end.

This profile includes summaries of selected regulatory provisions for ALFs and RCFs. The complete regulations are online at the links provided at the end.

**Definitions**

**Residential care facility** means a building or structure that provides on a 24-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 with activities of daily living (ADLs).

**Assisted living facility** means a building or part of a building that undertakes, through its ownership or management, responsibility to provide assisted living services for a period exceeding 24 hours to four or more adult residents of the facility. Assisted living services may be provided either directly or through contractual arrangement. An ALF provides, at a minimum, services to assist residents in performing all ADLs on a 24-hour basis.

**Alzheimer’s special care unit** means a separate and distinct unit within an assisted living or other long-term care facility that segregates and provides a special program for residents with a diagnosis of probable Alzheimer’s disease or another dementia, and that advertises, markets, or otherwise promotes the facility as providing specialized Alzheimer’s or dementia care services.

**Resident Agreements**

**Residential Care Facilities.** Residents must receive a copy of the resident agreement at or prior to moving in that covers: (1) services, materials and equipment, and food included in the basic charge; (2) additional services to be provided and their charges; (3) residency rules; (4) conditions and rules for termination; (5) provisions for changes in charges; and (6) refund policies.

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2 Only four adult family homes were operating in 2013 and all four reported no clients. More information is available from a DHS-commissioned report: *Gap Analysis of the Capacity of Long-Term Care Providers of HCBS in Arkansas*, available online at the link provided at the end of this profile.
**Assisted Living Facilities.** Prior to or on the day of admission, the ALF and the resident, or his or her responsible party, must enter into an occupancy admission agreement. The agreement must provide information about core services (listed below under Services). Other required information includes: (1) optional services; (2) health care services available through home health agencies; (3) medication policies; (4) fees, charges, and payment and refund policies; (5) facility rules; (6) provisions for emergency transfers; and (7) discharge criteria.

**Disclosure Provisions**

**Residential Care Facilities.** No provisions identified.

**Assisted living facilities** must provide each prospective resident, or the prospective resident’s representative, with a comprehensive disclosure statement describing the form of care offered, treatment, staffing, the emergency preparedness plan, special services and related costs provided by the facility, and other information as required by law before the prospective resident signs an admission agreement. The facility disclosure statement is reviewed annually.

Facilities that have an ASCU must provide a facility-prepared statement to individuals or their families or responsible parties prior to admission that describes how care, services, and activities are provided; the pre-admission screening and the assessment processes; implementation of the individual support plan; admission, discharge and transfer criteria and procedures; training topics, policies, and procedures; and the minimum number of direct care staff assigned to the ASCU each shift. They must also provide a written copy of the residents’ rights.

**Admission and Retention Policy**

**Residential Care Facilities.** Facilities may not admit or retain individuals who are not independently mobile (physically and mentally capable of vacating the facility within 3 minutes), able to self-administer medications, or capable of understanding and responding to reminders and guidance from staff.

Additionally, individuals cannot have specific medical conditions or needs, including the following:

- A feeding or intravenous tube.
- Total incontinence of bowel and bladder.
- A communicable disease that poses a threat to the health or safety of others.
• Nursing services exceeding a level that can be provided by a certified home health agency on a temporary or infrequent basis.

• A level of mental illness, intellectual disability, dementia, or addiction to drugs or alcohol that requires a higher level of medical, nursing, or psychiatric care or active treatment than the facility can safely provide.

• Religious, cultural, or dietary regimens that cannot be met without undue burden.

• A need for physical restraints.

• Current violent behavior.

A resident may be discharged only when the resident’s medical needs cannot be met by the facility or a certified home health agency on a temporary or infrequent basis; or the resident presents a danger to the health, safety, or welfare of himself or others.

Waivers of the admission/retention policy are not available. Residents who require frequent skilled nursing services from a home health agency must be assessed by the Office to determine if a nursing home placement is needed.

**Assisted Living Facilities.** A facility must not admit or retain residents whose needs are greater than the facility is licensed to provide.

Level I ALFs cannot serve nursing home-eligible residents or residents who:
(1) need 24-hour nursing services, except as certified by a licensed home health agency for a period of 60 days with one 30-day extension; (2) are bedridden; (3) have transfer assistance needs that the facility cannot meet with current staffing, including assistance to evacuate the building in case of an emergency; (4) present a danger to self or others; and (5) require medication administration performed by the facility.

Level II facilities are allowed to serve nursing home-eligible residents but cannot serve residents who are bedridden or have certain conditions or needs, including a need for 24-hour nursing services; a temporary (more than 14 consecutive days) or terminal condition (unless a physician or advance practice nurse certifies that the facility can meet the resident’s needs); need transfer assistance, including but not limited to assistance to evacuate the facility in case of emergency, that the facility cannot meet with current staffing; or who present a danger to self or others.

**Services**

**Residential Care Facilities.** Facilities may provide personal care; supportive services (occasional or intermittent guidance, direction, or monitoring for ADLs); activities and socialization; assistance securing professional services; meals; housekeeping; and laundry.
Residents have a choice of providers for receiving personal care services. RCFs may not provide medical or nursing services. Home health services may be provided by a certified home health agency when ordered by a physician.

**Assisted Living Facilities.** Level I facilities provide 24-hour supervision by awake staff; assistance in obtaining emergency care 24 hours a day (this provision may be met by an agreement with an ambulance service or hospital or emergency services through 911); assistance with social, recreational, and other activities; assistance with ADLs; assistance with obtaining transportation; linen service; and medication assistance.

Level II facilities provide 24-hour available staff to respond to residents’ needs identified in the direct care services and health care services plan portions of residents’ occupancy admission agreements.

Direct care services help residents with certain routines and ADLs, such as assistance with mobility and transfers; hands-on assistance with feeding, grooming, shaving, trimming or shaping fingernails and toenails, bathing, dressing, personal hygiene, bladder and bowel requirements, including incontinence; and assistance with medication only to the extent permitted by the State Nurse Practice Act. A registered nurse (RN) must complete the assessment for residents with health needs.

Health care services are available that assist in achieving and maintaining functional status and well-being (e.g., psychological, social, physical, and spiritual). They may include nursing assessments and the monitoring and delegation of nursing tasks by RNs pursuant to the Nurse Practice Act, care management, and the coordination of basic health care and social services.

**Service Planning**

**Residential Care Facilities.** The facility must interview prospective residents prior to admission to determine if the facility can meet their needs.

**Assisted Living Facilities.** An initial needs assessment must be completed for each resident to identify all needed services, and a reassessment must be completed at least annually and more often as changes occur. Facilities must develop compliance agreements that address any situation or condition that is or should be known to the facility that involves risk, the probable consequences of taking risks, the resident or his or her responsible party’s preference concerning how risks will be handled and the possible consequences of action on that preference, what the facility will and will not do to meet the resident’s needs and comply with the resident’s preference to the identified course of action, alternatives offered to deal with the risk, and the agreed-upon course of action.
Third-Party Providers

**Residential Care Facilities.** If a service required under the licensing regulations is not provided directly by the facility, the facility must have a written agreement/contract with an outside program, resource, or service to furnish the necessary service.

An RCF that admits or retains persons with a diagnosis of mental illness/disorder in need of active treatment must make arrangements with a mental health service provider for the development and provision of an active treatment plan. This provision applies to all facilities regardless of size.

**Assisted Living Facilities.** In Level I facilities, home health services may be provided by a certified home health agency on a short-term basis. In both Level I and Level II facilities, other individuals or agencies may furnish care directly or under arrangements with the ALF. Such care must be supplemental to the services provided by the ALF and not supplant, nor be substituted for, the requirements of service provisions by the facility.

Medication Provisions

**Residential Care Facilities.** Residents must be familiar with their medications and the instructions for taking them. Aides may remind residents to take medications, read label instructions, and remove the cap or packaging, but the resident must remove the medication from the package or container. RCF personnel may not administer or attempt to administer medications.

**Assisted Living Facilities.** Staff of Level I facilities may assist a resident in the self-administration of oral medication by taking the medication in its container from the area where it is stored and handing the container with the medication in it to the resident. In the presence of the resident, facility staff may remove the container cap or loosen the packaging. If the resident is physically impaired but cognitively able (has awareness with perception, reasoning, intuition, and memory), facility staff, upon request by or with the consent of the resident, may assist the resident in removing oral medication from the container and in taking the medication. If the resident is physically unable to place a dose of oral medication in his or her mouth without spilling or dropping it, facility staff may place the dose of medication in another container and place that container to the mouth of the resident. Facility staff cannot administer medications.

In Level II facilities, licensed nursing personnel may administer medications to residents who are assessed as being unable to self-administer medication. Facilities must employ a consulting pharmacist.
Food Service and Dietary Provisions

**Residential care facilities** and must provide three balanced meals and between meal snacks. Fluids must be available at all times and meals must be served at approximately the same time each day. There must be no more than 5 hours between breakfast and lunch and between lunch and the evening meal, and no more than 14 hours between the evening meal and breakfast.

**Assisted Living Facilities.** Three balanced meals, snacks, and fluids are required.

Staffing Requirements

**Residential Care Facility**

*Type of Staff.* Each facility must have a full-time (minimum 40 hours per week) certified (State-approved certification program) *administrator* on the premises during normal business hours who has responsibility for the facility’s daily operation. The administrator must not leave the RCF premises during the day without first delegating authority to a qualified individual who will manage the facility temporarily during the administrator’s absence. Each facility must hire direct care staff to provide assistance with certain ADLs. RCFs located in a multi-building facility must provide at least one direct care staff person on duty and awake during all hours.

*Staff Ratios.* Ratios for the number of direct care staff vary by the time of day and the number of residents (see table below). Sufficient staff must be present at all times to meet residents’ needs. Staffing requirements are based on current census rather than licensed capacity.

| Number of Direct Care Staff to Residents Required Per Shift |
|-----------------------------------------------|----------------|----------------|----------------|
| Residents                  | Day Staff | Evening Staff | Night Staff |
| 1-16                       | 1         | 1             | 1            |
| 17-32                      | 2         | 2             | 2            |
| 33-49                      | 2         | 2             | 2            |
| 50-66                      | 3         | 2             | 2            |
| 67-83                      | 4         | 2             | 2            |
| 84-above                   | 5         | 3             | 2            |

For small facilities (16 or fewer beds), each staff person on duty may be counted as direct care staff even if they are currently involved in administrative, housekeeping, or dietary activities; and the night staff person may be asleep in the facility.

Additional staff requirements for large facilities (over 16 beds) are as follows: (1) the staffing table shown above applies to direct care staff only and does not include administrative, housekeeping, or dietary staff; (2) the facility administrator must not be scheduled as direct care staff for purposes of meeting minimum staffing requirements.
during normal business hours; (3) staff involved in food and dietary services are not permitted to perform non-food or non-dietary services during the same shift; and (4) in a multi-building facility, at least one direct care staff person must be on-duty and awake during all hours. A relief direct care staff person must be available in the facility to relieve direct care staff for meals and breaks and to cover if a direct care staff person must leave the facility in an emergency.

**Assisted Living Facility**

**Type of Staff.** Each facility must have a full-time (minimum 40 hours per week) certified administrator. Administrators must be certified as an ALF, RCF, or nursing home administrator through a State-approved certification program. The administrator is responsible for the facility’s daily operation and must be on the premises during normal business hours. If the administrator has to leave the facility during the day, he or she must delegate authority to a qualified individual who will manage the facility temporarily during the administrator’s absence. A second administrator must be employed either part-time or full-time depending on the number of beds in the facility.

Level II facilities must designate a full-time (40 hour per week) administrator who must be on the premises during normal business hours. Sharing of administrators between ALFs and other types of long-term care facilities is permitted. The facility may employ an individual to act both as administrator and as the facility’s registered nurse. At no time may the duties of administrator take precedence over, interfere with, or diminish the responsibilities and duties associated with the RN position.

Level II facilities must employ or contract with at least one RN and also employ or contract with licensed practical nurses (LPNs) to provide nursing or direct care services to residents. The facility must employ certified nursing assistants (CNAs) to provide direct care services to residents. CNAs are permitted to perform the nurse aide duties set forth in Part II, Unit VII of the Rules and Regulations governing Long-Term Care Facility Nursing Assistant Training Curriculum. The facility may employ personal care aides (PCAs) to provide direct care services.

The RN is responsible for the preparation, coordination, and implementation of the direct care services plan portion of the resident’s occupancy admission agreement, and must review and oversee all LPN, CNA, and PCA staff. (An RN employed by DAAS who works with the Assisted Living Medicaid Waiver Program is responsible for Medicaid waiver residents’ direct care services plan portions of the occupancy admission agreement.)

The RN does not need to be physically present but must be available to the facility by phone or pager. Level II facilities must employ a consulting pharmacist.

**Staff Ratios.** The facility must have as many personnel/staff/employees awake and on-duty at all times as is needed to properly safeguard the health, safety, and
welfare of the residents. At least one administrator, on-site manager, or a responsible staff person must be on the premises and awake 24 hours per day.

Level I facilities must meet the staffing ratios specified in regulation. The ratios are based on number of residents and are designated for “day,” “evening,” and “night.” (See table under RCF staff ratios above). Each staff person on-duty may be counted as direct care staff even if they are currently involved in housekeeping, laundry, or dietary activities as long as universal precautions are followed. For facilities with more than 16 residents, a relief staff person must be available to relieve staff and to cover if a staff person must leave the facility in an emergency or for any other reason.

Level II facilities must have a minimum of one staff person per 15 residents from 7:00 a.m. to 8:00 p.m. and one staff person per 25 residents from 8:00 p.m. to 7:00 a.m., but at all times, there must be no fewer than two staff persons on-duty, one of whom must be a CNA. Staff persons who live on-site but are sleeping may not be counted for minimum staffing requirements.

**Training Requirements**

**Residential Care Facilities.** Each employee must receive orientation to include but not be limited to: job duties, resident rights, abuse/neglect reporting requirements, and fire and tornado drills. Four hours of in-service training or continuing education pertinent to the operation of an RCF must be provided on a quarterly basis for all employees who have direct contact with residents. Training must include but not be limited to: resident rights, evacuation of building, safe operation of fire extinguishers, incident reporting, and medication supervision. In-service training on facility medication policies and procedures must be provided at least annually for all facility employees supervising medications.

**Assisted Living Facilities.** All staff, including contracted personnel who provide services to residents (excluding licensed home health agency staff), must receive orientation and training on the following topics:

- Within 7 calendar days of hire: building safety and emergency measures and appropriate response to emergencies; abuse, neglect, and financial exploitation and reporting requirements; incident reporting; sanitation and food safety; resident health and related problems; general overview of the job’s specific requirements; philosophy and principles of independent living in an ALF; and the Residents’ Bill of Rights.

- Within 30 calendar days of hire: medication assistance and monitoring, communicable diseases, and dementia and cognitive impairment.

- Within 180 calendar days of hire: communication skills, review of the aging process, and disability sensitivity training.
All staff must receive 6 hours per year of ongoing education and training.

**Provisions for Apartments and Private Units**

**Residential Care Facilities.** The state does not require private rooms or private bathrooms. Facilities may provide single-occupancy or double-occupancy rooms. A minimum of one toilet/sink is required for every six residents and one tub/shower for every ten residents.

**Assisted Living Facilities.** All units must be apartments of adequate size and configuration to permit residents to carry out, with or without assistance, all the functions necessary for independent living, including sleeping; sitting; dressing; personal hygiene; storing, preparing, serving, and eating food; storing clothing and other personal possessions; doing personal correspondence and paperwork; and entertaining visitors. Each apartment or unit must be accessible to and useable by residents who use a wheelchair or other mobility aids consistent with accessibility standards.

Each apartment must have a lockable door. Separate bathroom and kitchen areas are required. Apartments may not be occupied by more than two persons. Each unit must provide a small refrigerator as well as a microwave oven, except as may otherwise be provided in the regulations, and must have a call system monitored 24-hours a day by staff.

A Level II facility must maintain physically distinct parts or wings to house individuals who receive, or are medically eligible for, a nursing home level of care separate and apart from those individuals who do not receive, or are not medically eligible for, a nursing home level of care.

An apartment or unit must be single-occupancy except in situations where residents are husband and wife or are two consenting adults who have requested and agreed in writing to share an apartment or unit. An apartment or unit may be occupied by no more than two persons.

**Provisions for Serving Persons with Dementia**

**Residential care facilities** may not admit or retain individuals with dementia.

Each **assisted living facility** that advertises or otherwise holds itself out as having one or more special care units for residents with a diagnosis of probable Alzheimer’s disease or other dementia must provide an organized, continuous 24-hour-per-day program of supervision, care, and services in a separate unit specifically designed to accommodate residents’ complex and varied needs and comply with the following requirements.
**Dementia Care Staff.** An ASCU is subject to the same staffing requirements as set forth in the rules and regulations for the licensure of Level I ALFs, but staffing must be determined separately from the ALF based upon the census for the ASCU only. In addition, a social worker or other professional staff (e.g., physician, RN, or psychologist) must be utilized to perform several functions, including assisting in the development of an individual service plan. Nursing, direct care, and personal care staff cannot perform the duties of cooks, housekeepers, or laundry staff during their direct care shifts.

**Dementia Staff Training.** Staff must have 30 hours of training on: (1) policies (1 hour); (2) etiology, philosophy, and treatment of dementia (3 hours); (3) stages of Alzheimer’s disease (2 hours); (4) behavior management (4 hours); (5) use of physical restraints, wandering, and egress control (2 hours); (6) medication management (2 hours); (7) communication skills (4 hours); (8) prevention of staff burn-out (2 hours); (9) activities (4 hours); (10) ADLs and individual-centered care (3 hours); and (11) assessment and individual service plans (3 hours).

Staff must receive 2 hours of ongoing in-service training each quarter to include such topics as positive therapeutic interventions and activities, developments and new trends in the fields of Alzheimer’s disease and other dementias and treatments for same, and environmental modifications to minimize the effects and problems associated with these conditions.

The individual providing the training must have a minimum of 1 year uninterrupted employment in the care of residents with dementia, or training in the care of individuals with dementia, or is designated by the Alzheimer’s Association or its local chapter as being qualified to provide training.

**Dementia Facility Requirements.** The regulations specify standards for the physical design of ASCUs and for locking devices. Facilities must also have policies for egress control.

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**Background Checks**

**Residential Care Facilities.** The administrator must be of good moral character and of sound physical and mental health. “Character” and “health” may be determined by an investigation conducted by the Office that may include such information as criminal records, doctor statements, and any other information as requested by the Office. The administrator must have no prior conviction pursuant to the Arkansas Code or relating to the operation of a long-term care facility and must not have been convicted of abusing, neglecting, or mistreating individuals. No person who has been convicted of abusing, neglecting, or mistreating individuals may be employed in the facility.

**Assisted Living Facilities.** Administrators must successfully complete a criminal background check; must have no conviction pursuant to the Arkansas Code or relating...
to the operation of a long-term care facility; and must not have been convicted or have a substantiated report of abusing, neglecting, or mistreating persons, or misappropriation of resident property. The adult abuse register maintained by DHS/DAAS will be checked prior to employment. The operator of the facility and all employees and other applicable individuals utilized by the facility as staff must successfully complete a criminal check.

Verification is also required that an employee has not been convicted or does not have a substantiated report of abusing or neglecting residents or misappropriating resident property. The facility must, at a minimum, prior to employing any individual or for any individuals working in the facility through contract with a third party, make inquiry to the Employment Clearance Registry of the Office of Long Term Care and the Adult Abuse Register maintained by DHS/DAAS, and must conduct re-checks of all employees every 5 years.

**Inspection and Monitoring**

**Residential Care Facilities.** Annual renewal is required for all RCF licenses and, on average, inspections are conducted annually. All areas of the licensed facility and all records related to the care and protection of residents, including resident and employee records, must be open for inspection by the Department for the purpose of enforcing the licensing regulations.

**Assisted Living Facilities.** Annual renewal is required for all ALF licenses. The Office of Long Term Care conducts a standard comprehensive survey of each facility on average every 18 months. To receive and maintain a license, a facility must submit to regular and unannounced inspection surveys and complaint investigations.

**Public Financing**

Arkansas covers personal care services through the Medicaid State Plan, which may be provided in a person’s home “or other setting” such as a RCF.

The state covers services in ALFs under a single service 1915(c) Waiver program—the Living Choices Assisted Living Waiver program. Waiver “assisted living services” providers must be licensed as a Level II ALF or a licensed Class A Home Health Agency that has a contract with a licensed Level II ALF to provide waiver services and pharmacy consultant services. Waiver services include personal care and supportive services (e.g., homemaker, chore, attendant care, companion, transportation, and medication oversight).

**Room and Board Policy**

The state does not provide a supplement to the federal Supplemental Security Income (SSI) payment, but limits the room and board payment for Medicaid-eligible
residents to the SSI payment less a personal needs allowance (PNA) that is retained by the resident. In 2014, the SSI payment was $721 and the PNA was $65, leaving $656 per month to pay for room and board.

Family supplementation of room and board payments is not allowed, but families can pay for other items that are not included in the room and board rate, such as phone and cable TV service.

**Location of Licensing, Certification, or Other Requirements**

*Rules and Regulations for Assisted Living Facilities Level I.* Arkansas Department of Human Services, Division of Medical Services, Office of Long Term Care. [August 1, 2011]
http://humanservices.arkansas.gov/dms/oltcDocuments/alfi.PDF

*Rules and Regulations for Assisted Living Facilities Level II.* Arkansas Department of Human Services, Division of Medical Services, Office of Long Term Care. [August 1, 2011]

*Rules and Regulations for Residential Long Term Care Facilities.* Arkansas Department of Human Services, Division of Medical Services, Office of Long Term Care. [August 1, 2007]

Arkansas Department of Human Services website: Links to various information about Adult Family Care, including a report called *Gap Analysis of the Capacity of Long-Term Care Providers of HCBS in Arkansas.* Division of Aging and Adult Services, Department of Human Services. [May 2013]
http://humanservices.arkansas.gov/Pages/siteSearch.aspx?q=Adult%20Family%20Home

**Information Sources**

Stephenie Blocker, RN-BC  
Assistant Director of Home and Community-Based Services  
Division of Aging and Adult Services

Sherri Proffer, RN  
Nurse Manager, Office of Long Term Care  
Division of Medical Services  
Department of Human Services
Files Available for This Report

FULL REPORT

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.]

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