

## NEBRASKA

### Licensure Terms

Assisted Living Facility

### General Approach

Assisted living facilities (ALFs) are licensed by the Nebraska Division of Public Health, Department of Health and Human Services, Department of Licensure and Regulation. The definition of ALF does not include a home, apartment, or facility where casual care is provided at irregular intervals, or where less than 25 percent of the residents contract for their own personal or professional services.

The Alzheimer's Special Care Disclosure Act established regulations applicable to facilities that market themselves as providing special care for persons with Alzheimer's disease or other dementias.

*Adult Foster Care.* Adult family homes provide a home-like living arrangement to meet the needs of individuals who are unable to live independently but who can function adequately with minimal supervision and protection. Adult family homes are certified by the Nebraska Department of Social Services to provide services to not more than three adults age 19 or older; services include room and board, equipment, household supplies, laundry service, and facilities to ensure residents' comfort. *Regulatory provisions for these settings are not included in this profile but a link to the provisions can found at the end.*

*This profile includes summaries of selected regulatory provisions for ALFs. The complete regulations can be viewed online using the links provided at the end.*

### Definitions

**Assisted living facilities** provide daily shelter, food, and care to four or more residents not related to the owner, operator, manager, or administrator who require or request services due to age, illness, or physical disability. Care includes a minimum amount of supervision and assistance with personal care, activities of daily living (ADLs), health maintenance activities, or other supportive services.

## **Resident Agreements**

Facilities must develop a resident service agreement based on an assessment. In addition to listing any specialized care services (for dementia) that will be provided, the agreement must specify the rights and responsibilities of the facility and residents, the costs of services and terms of payment, and the terms and conditions of continued occupancy.

## **Disclosure Provisions**

Facilities must provide a written document that contains the following information: a description of the services provided and the staff available to provide them; charges; whether Medicaid payment is accepted and, if applicable, policies or limitations regarding Medicaid payment; move-out criteria; and updates to the resident services agreement.

ALFs that market themselves as having a special care unit for people with dementia must file with the licensing agency a written statement of the facility's mission and philosophy; admission, discharge, and transfer criteria; resident assessment policies and practices; staffing; physical features that support dementia care; activities; and policies for involving families.

## **Admission and Retention Policy**

To be admitted to an ALF, a person must be in need of, or wish to have, available shelter; food; assistance with ADLs or health maintenance activities; assistance with or provision of personal care; or supervision due to age, illness, or physical disability. Individuals who require complex nursing interventions or whose conditions are not stable and predictable may not be admitted, retained, or readmitted unless all of the following conditions are met:

- The resident (or resident designee or physician) or the facility registered nurse (RN) agree that admission or retention is appropriate.
- The resident (or designee) assumes responsibility for arranging care through private duty personnel, a licensed home health agency, or a licensed hospice agency.
- The resident's care does not compromise the facility operations or create a danger to others in the facility.

## Services

Facilities may provide assistance with personal care, ADLs and instrumental activities of daily living, self-administration of medications, and health maintenance activities (i.e., non-complex nursing interventions). All health maintenance activities must be performed in accordance with the Nurse Practice Act. A facility may also provide supportive services, including transportation, laundry, housekeeping, financial assistance/management, behavioral management, case management, shopping, beauty/barber, and spiritual services.

### ***Service Planning***

A service agreement describes the services that will be provided to meet the resident's needs as identified during an assessment. The agreement specifies whether the services are provided by the facility and/or other sources; how often, when, and by whom they will be delivered; and services for residents with special needs. The agreement must be reviewed and updated as the resident's needs change.

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

Residents may assume the responsibility for arranging their own care through a licensed home health or hospice agency or appropriate private duty personnel.

## Medication Provisions

Residents may receive medications in any of three ways:

- Residents who are capable of doing so may self-administer, with or without staff supervision.
- Licensed health care professionals, whose scope of practice includes medication administration, may administer medications.
- Medication aides who are trained, have demonstrated minimum competency standards, and are appropriately directed and monitored may administer medications.

An RN must review and document medication administration policies and procedures at least annually and provide or oversee medication aide training. The rules include extensive provisions that address the administration of medications by unlicensed medication aides in accordance with the Medication Aide Act, and include training in the following:

- Procedures for storing, handling, and providing medications.

- Procedures for documentation of medications.
- Procedures for documentation and reporting medication errors and adverse reactions.
- Information about the person(s) responsible for direction and monitoring of medication aides.
- Resident-specific training on providing medications.

## Food Service and Dietary Provisions

Facilities must provide food services and may provide special diets requested by residents. Written menus must be based on federal nutrition standards. Residents must be monitored for potential nutritional problems based on specified weight changes.

## Staffing Requirements

**Type of Staff.** An *administrator* is responsible for the facility's overall operation, including planning, organizing, and directing day-to-day operations, and must designate a substitute to act in his or her absence who must be responsible and accountable for management of the facility. *Direct care staff* (also called nursing assistants) assist residents with personal care. Trained *medication aides* may administer medications. The facility must provide for a *registered nurse* to review medication administration policies and procedures and to provide or oversee medication aide training.

**Staff Ratios.** *No minimum ratios.* Facilities must maintain a sufficient number of staff with the required training and skills necessary to meet the residents' specified needs. At least one staff person must be on site and awake at all times to meet residents' needs as required in the resident service agreements.

## Training Requirements

The administrator of an ALF must meet the initial training requirements specified in rule within the first 6 months of employment as the administrator. Initial training consists of at least 30 hours total covering the following topics: resident care and services; social services; financial management; administration; gerontology; and rules, regulations, and standards relating to the operation of an ALF. In addition, administrators must complete 12 hours of ongoing training in areas related to care and facility management of the populations served. Administrators with an active hospital or nursing home administrator's license are exempt from initial and ongoing training requirements.

Direct care staff must complete an orientation and ongoing training on topics appropriate to their job duties, including meeting the physical and mental special care needs of current residents. All staff must complete at least 12 hours of continuing education per year.

## Provisions for Apartments and Private Units

A resident unit may be a bedroom or apartment. Apartments are not required, but if they are provided, they must include a private bathroom and kitchen area in addition to the sleeping area. For facilities constructed prior to April 3, 2007, a maximum of four residents are allowed per resident unit, one toilet and sink fixture per six licensed beds is required, and at least one bathing facility is required for every 16 residents.

After that date, a maximum of two residents are allowed per resident unit. One toilet and sink fixture per four licensed beds is required and at least one bathing facility must be provided for every eight residents. In new construction, one toilet room adjoining each resident's bedroom is required.

## Provisions for Serving Persons with Dementia

***Dementia Care Staff.*** A sufficient number of appropriately skilled staff must be available to meet resident needs.

***Dementia Staff Training.*** The administrator and direct care staff must be trained in the following topics: the facility's philosophy of dementia care and supervision; the Alzheimer's disease process; and the skills necessary to care for residents who are unable to perform personal care or health maintenance, who may have behavior problems, and who wander. Staff must receive annually at least 4 hours of continuing education on dementia care.

***Dementia Facility Requirements.*** *No provisions identified.*

## Background Checks

Criminal background and sex offender registry checks must be completed on all direct care staff. Providers must contact the nurse aide registry, the adult central registry of abuse and neglect, and the child central registry of abuse and neglect to determine whether potential employees are listed there for abuse, neglect, or misappropriation of resident property. Facilities determine how to use the information in making hiring decisions except that a person with adverse findings on the nurse aide registry may not be employed as direct care staff. The facility must document the reasons for hiring a person with adverse findings in the background or registry checks by documenting the

basis for the decision and how it will not pose a threat to resident safety or resident property.

## Inspection and Monitoring

To determine compliance with operational, care, treatment, and physical plant standards, the Department inspects an ALF prior to and following licensure. The Department may conduct an on-site inspection at any time. The state annually inspects 25 percent of all licensed facilities chosen through a random sample. Inspections may also be conducted for cause or if the facility has not been inspected during a 5-year period.

## Public Financing

Medicaid covers assisted living services through two 1915(c) waiver programs, one for adults with physical disabilities and persons over age 65 and one for persons with traumatic brain injury.

### **Room and Board Policy**

In 2009, room and board charges for Medicaid-eligible residents were capped at \$614 a month (i.e., the federal Supplemental Security Income (SSI) benefit (\$674) minus a \$60 personal needs allowance (PNA). Family supplementation was not allowed.<sup>1</sup>

In 2011, the state provided an optional state supplement (OSS) of \$438 to aged, blind, or disabled residents in ALFs who qualified under state guidelines. Federal SSI resource limitations and income exclusions applied.<sup>2</sup>

## Location of Licensing, Certification, or Other Requirements

*Nebraska Administrative Code*, Title 473, Chapter 6: Adult Family Homes. [October 1, 1983]  
[http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Health\\_and\\_Human\\_Services\\_System/Title-473/Chapter-6.pdf](http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Health_and_Human_Services_System/Title-473/Chapter-6.pdf)

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<sup>1</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.ahcancal.org/ncal/resources/Documents/MedicaidAssistedLivingReport.pdf>. Current information about Medicaid room and board policies, the PNA, and family supplementation policy was not available online or from other sources.

<sup>2</sup> Social Security Administration, *State Assistance Programs for SSI Recipients*, January 2011.  
[http://www.socialsecurity.gov/policy/docs/progdesc/ssi\\_st\\_asst/2011/ne.html](http://www.socialsecurity.gov/policy/docs/progdesc/ssi_st_asst/2011/ne.html). Current information about the OSS was not available online or from other sources.

*Nebraska Administrative Code*, Title 175, Chapter 4: Assisted Living Facilities. [April 3, 2007]  
[http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Health\\_and\\_Human\\_Services\\_System/Title-175/Chapter-04.pdf](http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Health_and_Human_Services_System/Title-175/Chapter-04.pdf)

*Statutes related to Health Care Facilities*, Alzheimer's Special Care Disclosure Act.  
<http://dhhs.ne.gov/publichealth/Licensure/Documents/Facilities-HealthCareFacilities.pdf>

*Nebraska Administrative Code*, Title 172, Chapter 95: Administration of Medications by Medication Aides and Medication Staff. [May 6, 2008]  
[http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Health\\_and\\_Human\\_Services\\_System/Title-172/Chapter-095.pdf](http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Health_and_Human_Services_System/Title-172/Chapter-095.pdf)

## Information Sources

Tracy Rathe  
Nebraska Healthcare Association

# 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>
HTML	<a href="http://aspe.hhs.gov/basic-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition">http://aspe.hhs.gov/basic-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition</a>
PDF	<a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition</a>

### 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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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>