Licensure Terms

Adult Care Facilities, including Adult Homes, Enriched Housing Programs, and Assisted Living Residences

General Approach

New York’s Department of Health licenses three types of adult care facilities that offer different levels of supervision and personal care to five or more adults who have functional and/or cognitive impairments: adult homes (lowest level of care),1 enriched housing programs, and assisted living residences (ALRs) (highest level of care).2 Licensed adult homes and enriched housing programs have similar provisions except that enriched housing programs require private resident units and do not have to offer more than one meal per day.

Both settings form the foundation of the state’s Assisted Living Residence Program. When residents reach a level of frailty that can no longer be addressed through the care and services of an enriched housing program or an adult home, an operator may apply for certification to provide a higher level of care as an ALR;3 operators may also be certified as special needs assisted living to provide dementia care, or as enhanced assisted living to support aging in place.

Adult homes and enriched housing programs may be licensed by the Department of Health to participate in the assisted living program (ALP) for Medicaid clients, which has additional requirements for admission and retention, staffing, and resident services.

Adult Foster Care. The Department of Social Services, Office of Children and Family Services, licenses another type of adult care facility called family-type homes for adults that provide long-term residential care, room, board, housekeeping, supervision and/or personal care to four or fewer adults unrelated to the operator. The Division of Adult Protective Services monitors these homes. Regulatory provisions for family-type

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1 An adult home, with a capacity of 80 beds or more and in which at least 25 percent of the residents have a serious mental illness may be certified as a Transitional Adult Home. This profile does not include information about these homes.

2 Another adult care facility category, Residences for Adults, are not required to provide personal care and are intended primarily for persons with mental health conditions served by the Office of Mental Health.

3 In order to operate an ALR, an operator must be licensed as an adult home or enriched housing program. Applications for ALR licensure may be filed simultaneously with an application for licensure as an adult home or enriched housing program.
homes for adults 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 adult homes, enriched housing programs, and ALRs. The complete regulations are online at the links provided at the end.

**Definitions**

**Adult homes** provide residential care, meals, housekeeping, personal care, and supervision to five or more adults unrelated to the operator. These settings may accommodate up to 200 residents in one building, with some licensed before 1984 permitted to accommodate more.

**Enriched housing programs** provide long-term residential care to five or more adults, primarily persons 65 years of age or older (no more than 25 percent of residents may be under 65 and all must be 55 or older), in community-integrated settings resembling independent housing units. An enriched housing operator is required to provide only one meal a day, which must be a hot meal provided in a group setting.

**Assisted living residences** provide or arrange 24-hour on-site monitoring, case management, food services, and personal care and/or home care services (either directly or indirectly) to five or more adults. The rules specify that an assisted living operator must provide each resident with considerate and respectful care and promote the resident's dignity, autonomy, independence, and privacy in the least restrictive and most home-like setting consistent with the resident's preferences and physical and mental status.

**Enhanced Assisted Living.** Department certification authorizes an ALR to allow "aging in place" for residents who choose to continue living in the residence and who are chronically chairfast and unable to transfer; or chronically require the physical assistance of another person to transfer, walk, or climb or descend stairs; are dependent on medical equipment and require more than intermittent or occasional assistance from medical personnel; and/or have chronic unmanaged urinary or bowel incontinence.

**Special Needs Assisted Living.** Department certification allows an ALR to serve residents with special needs, including those related to cognitive impairment. The operator must demonstrate to the Department how resident needs will be safely and appropriately met and must meet specified staffing and training guidelines.
Resident Agreements

**Adult Homes and Enriched Housing Programs.** Admission agreements must include a description of all services required by law to be provided; a list of additional available services; the basic payment rate and all financial policies; Supplemental Security Income (SSI) or Home Relief resident policies; a statement that the resident will provide a signed medical statement and inform the operator of changes in health conditions, status, or medications; and a statement that the resident will comply with all reasonable rules.

**Assisted Living Residences.** The resident agreement must include the facility’s certification, if any; the agreement period; basic services; additional services available for a fee; a rate or fee schedule; payment and refund policies; information about how to amend or terminate the agreement; the complaint resolution process; and admission and discharge criteria.

Disclosure Provisions

**Adult Homes and Enriched Housing Programs.** *No provisions identified.*

**Assisted Living Residences.** The assisted living operator must provide the following to prospective residents and/or their representatives: (1) a consumer information guide developed by the Commissioner of the Department of Health; (2) the residence’s licensure type, including enhanced assisted living and/or special needs enhanced assisted living certificates, if applicable; (3) policies regarding resident use of third-party providers, including a statement that residents have the right to choose their health care providers; (4) information about the availability of public funding for residential, supportive, or home health services, including the availability of Medicare for coverage of home health services; and (6) contact information for the Department and for ombudsman services.

Admission and Retention Policy

All three facility types may not accept or retain anyone who: (1) needs continual medical or nursing care or supervision as provided by an acute care facility or a residential health care facility; (2) suffers from a serious and persistent mental disability sufficient to warrant placement in an acute care setting or residential treatment facility; (3) requires health or mental health services that are not available or cannot be provided; (4) repeatedly behaves in a manner that directly impairs the well-being, care or safety of residents; (5) has an unstable medical condition that requires continual skilled observation of symptoms; (6) refuses or is unable to comply with a prescribed treatment program; (7) is chronically bedfast or chairfast and requires assistance from another person to transfer; (8) regularly needs assistance from another person to walk or climb and descend stairs; (9) has chronic unmanaged urinary or bowel incontinence;
(10) is dependent on medical equipment (with some exceptions); (11) has a communicable disease; (12) has chronic personal care needs that staff cannot meet; (13) is not self-directing; or (14) engages in drug or alcohol use that results in aggressive or destructive behavior.

**Assisted Living Residences Certified to Provide Enhanced Assisted Living.**
A resident in need of 24-hour skilled nursing care or medical care may be retained when all of the following conditions are met: (1) the resident hires appropriate nursing, medical, or hospice staff; (2) the resident's physician and home care services agency determine that the resident can be safely cared for in the residence; (3) the facility agrees to retain the resident and coordinate his/her care; and (4) the resident is otherwise eligible to reside at the residence in accordance with the definition.

**Services**

**Adult homes and enriched housing programs** provide supervision, personal care, housekeeping, case management, activities, and assistance with medication. To operate as an ALP that serves Medicaid clients, additional nursing and therapeutic services must be provided based upon the recipient's initial assessment and periodic reassessments.

**Assisted Living Residences.** Facilities must offer case management, personal care, coordination of health care services provided by an outside agency, and medication services. Residences certified to provide enhanced assisted living must provide or arrange for nursing services, including assessment and evaluations; monitoring and supervision; nursing care and treatments; and medication administration and management.

**Service Planning**

**Adult Homes and Enriched Housing Programs.** Facilities must determine whether the program can support the physical and social needs of an applicant based on the following: (1) a medical evaluation by a physician, physician assistant, or nurse practitioner that describes significant medical history and current conditions; known allergies; the prescribed medication regimen, including information on the applicant's ability to self-administer medications; and recommendations for diet, exercise, recreation, frequency of medical examinations and assistance with activities of daily living (ADLs); (2) an interview with the applicant and designated program staff; (3) a mental health evaluation by a psychiatrist, physician, registered nurse (RN), certified psychologist, or certified social worker if the applicant has a history of a chronic mental disability, or if the interview suggests the existence of such a disability; and (4) a functional assessment by the program coordinator, case manager, or a consultant RN for the following: sensory impairments; limitations in ADLs and instrumental activities of daily living; behavioral characteristics; personality characteristics; and daily habits. Residents must be reassessed annually and following a change in condition.
**Assisted Living Residences.** An individualized service plan must be developed jointly by the resident, the resident's representative if applicable, a home care agency if needed (as determined by the resident's physician), and in consultation with the resident's physician. The service plan must address the resident’s medical, nutritional, rehabilitation, functional, and cognitive needs, and must be reviewed and revised at least every 6 months or when required by the resident's changing care needs.

**Third-Party Providers**

**Adult Homes and Enriched Housing Programs.** Facilities must access and cooperate with external service providers on behalf of residents who need services not provided by the home or program.

**Assisted Living Residences.** Unless the facility is certified to provide enhanced or special needs care, it must arrange for any needed health care services to be provided by a home care services agency. Residents may contract with a home health agency or a long-term home health care program of their choice.

**Medication Provisions**

All three types of facilities may provide assistance with self-administration of medications, described as prompting, identifying the medication for the resident, bringing the medication to the resident, opening containers, positioning the resident, disposing of used supplies, and storing the medication. Medication administration may only be provided by a licensed nurse or medication technician.

**Food Service and Dietary Provisions**

**Adult homes** must provide three meals a day and an evening snack that meet the recommended dietary allowances of the National Academy of Science’s Food and Nutrition Board.

**Enriched housing programs** must serve, at a minimum, one hot mid-day or evening meal that meets one-third of the recommended dietary allowances of the National Academy of Science’s Food and Nutrition Board.

**Assisted living residences** must follow the provisions specified in either the adult home or enriched housing program, depending on the residence’s licensure type.
Staffing Requirements

Adult Homes

**Type of Staff.** Facilities must employ an *administrator* to oversee daily operations; a *case manager* to evaluate resident needs and perform other case management duties; *personal services staff* to provide resident services; and an *activities director* to organize and coordinate an activities program. At least one person qualified to provide first-aid must be on-duty at all times.

**Staff Ratios.** A minimum of 3.75 hours of personal services staff time is required per week per resident. In facilities with 25 or more beds, the administrator must be on site 40 hours per week, and for 20 hours per week in facilities with 24 or fewer beds. Facilities with 50 or more beds must staff both a case manager and an activities director on a PRN basis for 0.5 hour per week per each additional bed, up to 40 hours per week.

Enriched Housing Programs

**Type of Staff.** The facility must have a *program coordinator* responsible for operating and maintaining the program in compliance with applicable requirements; a *case manager* to evaluate residents’ needs and perform other case management duties, including investigating and reporting reportable incidents to the Department; and *personal care staff* to assist residents.

**Staff Ratios.** Personal care staff must be provided at a rate of 6 hours per resident per week. The program coordinator must be employed on the basis of 1.5 hours per resident per week for the first 16 residents and 1 hour per resident per week for each additional resident until the equivalent of a full-time employee is attained. A case manager must be on staff and on duty for 0.5 hour per week per resident.

Assisted Living Residences

**Type of Staff.** The facility must have an *administrator* who is responsible for daily operations and compliance with applicable rules; a *case manager* to assist residents with housing issues, information about local services and activities, and contacting appropriate responders in urgent and emergency situations; and *resident aides* to provide personal care assistance. Facilities certified to provide enhanced assisted living must, in addition, have *licensed practical nurses* (LPNs), *registered nurses*, and *home health aides*.

**Staff Ratios.** *No minimum ratios.* Resident aides must be present in sufficient numbers 24 hours a day to meet residents’ needs. Facilities must employ a case manager based on the number of residents as follows: facilities with 1-24 residents must employ a case manager for 20 hours per week; facilities with 25-44 residents require 20 hours per week plus 1 additional hour per week per bed over 24 up to 40
hours; and facilities with 45 or more residents require 40 hours of case manager staffing.

Facilities certified to provide enhanced assisted living must, in addition, provide (either directly or through contract) sufficient nursing staff to meet residents’ health care needs, as determined by a medical evaluation or by the resident’s attending physician and/or the service plan. A sufficient number of home health aides (directly or through contract) must be on-duty when a licensed nurse is not on-duty or on-site. [NOTE: the nursing coverage requirements described in the rules (e.g., an RN on staff 8 hours daily at least 5 days per week) were annulled in 2010; see Dear Administrator Letter at the end.]

**Training Requirements**

**Adult Homes and Enriched Housing Programs.** Facilities must provide orientation and in-service training about the characteristics and needs of the population served; residents’ rights; program rules and regulations; staff duties and responsibilities; general and specific responsibilities of the individual being trained; and emergency procedures. Adult homes must, in addition, train staff in the identification and reporting of reportable incidents.

**Assisted Living Residences.** All personnel must receive orientation to facility policies and procedures; resident characteristics; and emergency evacuation and disaster plans. Administrators not holding a current New York license as a nursing home administrator must complete at least 60 hours of continuing education every 2 years. Resident aides must receive 40 hours of initial training and 12 hours of annual in-service education on topics relevant to their duties.

**Provisions for Apartments and Private Units**

**Adult homes** may provide single-occupancy or double-occupancy bedrooms, and must have at least one toilet and one sink for every six residents and one bathtub/shower for every ten residents.

**Enriched housing programs** must provide single-occupancy units, unless shared by agreement, and each unit must include a full bathroom, living and dining space, sleeping area, and equipment for storing and preparing food.

**Assisted Living Residences.** Resident rooms may be single-occupancy or double-occupancy depending on the residence’s licensure as an adult home or enriched housing program.
Provisions for Serving Persons with Dementia

The following provisions apply to ALRs certified to provide special needs assisted living to individuals with dementia or cognitive impairments.

**Dementia Care Staff.** In addition to the staffing requirements for ALRs described above, facilities must have licensed practical nurses, registered nurses, and home health aides. Sufficient nursing staff must be on-duty to meet residents’ health care needs, as determined by a medical evaluation or by the resident’s attending physician and/or the service plan. A sufficient number of home health aides (directly or through contract) must be on-duty when a licensed nurse is not on-duty or on-site. [*NOTE: the nursing coverage requirements described in the rules (e.g., an RN on staff 8 hours daily at least 5 days per week) were annulled in 2010; see Dear Administrator Letter at the end.*]

**Dementia Staff Training.** Facilities must train staff on the following topics: characteristics and needs of persons with dementia, including behavioral symptoms, and mental and emotional changes; and methods for meeting residents’ needs on an individual basis.

**Dementia Facility Requirements.** Dementia units must be designed as self-contained units. Fully locked facilities are prohibited, but units must have a delayed-egress system on all external doors as well as window stops and enclosed courtyards. Facilities must meet additional fire safety rules.

**Background Checks**

All adult care facilities must conduct a criminal history records check of prospective non-licensed, direct care employees through the Division of Criminal Justice Services. Fingerprinting is required. Applicants must provide a sworn statement to the facility administrator indicating any prior finding of patient abuse.

Staff of licensed home care agencies who work in adult care facilities must have undergone a criminal history background check.

**Inspection and Monitoring**

**All Licensure Categories.** The Department inspects all licensed facilities every 18 months.

**Assisted Living Residences.** Applicants for a new facility license are inspected by the Department to assess compliance with applicable regulations.
Public Financing

The New York State Department of Health regulates the ALP, a Medicaid State Plan service that operates in facilities that are licensed as either an adult home or enriched housing program. The additional licensure as an ALP enables providers to serve individuals who require services above and beyond what is typically provided in those basic settings and who have been assessed as eligible for nursing home level of care.

ALPs must also be a licensed home care services agency or certified home health agency. If a facility is licensed as a home care services agency, it must contract with a certified home health agency to provide skilled services. ALPs provide personal care, housekeeping, supervision, home health aides, personal emergency response services, nursing, physical therapy, occupational therapy, speech therapy, medical supplies and equipment, adult day health care, a range of home health services, and the case management services of a registered professional nurse.

In addition to the ALP, services provided by adult care facilities may be covered for eligible residents through the state’s Long-Term Home Health Program 1915(c) Waiver program.

The state does not provide public subsidization of services for low-income residents of ALRs. However, it is possible to receive Medicaid personal care services, which are provided independently to individuals in community settings, including an ALR.

Room and Board Policy

The state provides an optional state supplement (OSS) to SSI recipients who reside in specified living arrangements. The amount of the OSS varies by type of group living facility and geographic area. The 2015 minimum OSS is $228.48 for residents of family-type homes for adults, and the maximum is $694 for residents of adult homes or enriched housing programs. The monthly personal needs allowance varies by facility type, from $141 to $193.

In 2009, family supplementation was not allowed.4

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Location of Licensing, Certification, or Other Requirements


New York Codes, Rules and Regulations, Title 18, Part 487: Adult Care Facilities, Standards for Adult Homes.
http://w3.health.state.ny.us/dbspace/NYCRR18.nsf/56cf2e25d626f9f785256538006c3ed7/cf61bf0d8ac1b0fa852567220076903f?OpenDocument&Highlight=0,487

New York Codes, Rules and Regulations, Title 10, Chapter X, Part 1001: Adult Care Facilities, Assisted Living Residences.
https://www.health.ny.gov/facilities/assisted_living/adopted_regulations/docs/assisted_living_residences_laws_and_regulations.pdf

New York Codes, Rules and Regulations, Title 18: Part 488: Adult Care Facilities, Standards for Enriched Housing.
http://w3.health.state.ny.us/dbspace/NYCRR18.nsf/56cf2e25d626f9f785256538006c3ed7/9dfd107afc3034c1852567220076904c?OpenDocument&Highlight=0,488

New York Codes, Rules and Regulations, Title 18, Part 490: Adult Care Facilities, Standards for Residences for Adults.
http://w3.health.state.ny.us/dbspace/NYCRR18.nsf/56cf2e25d626f9f785256538006c3ed7/3781a985de53df04852567220076906a?OpenDocument&Highlight=0,490

New York Codes, Rules and Regulations, Title 18, Part 494: Adult Care Facilities, Standards for Assisted Living Programs.
http://w3.health.state.ny.us/dbspace/NYCRR18.nsf/56cf2e25d626f9f785256538006c3ed7/61b8768b073faeaf285256722007690a0?OpenDocument&Highlight=0,494

New York Codes, Rules and Regulations, Title 18, Part 489: Adult Care Facilities, Standards for Family-type Homes.
http://w3.health.state.ny.us/dbspace/NYCRR18.nsf/56cf2e25d626f9f785256538006c3ed7/7bce5cfbc6da307a8525672200769059?OpenDocument&Highlight=0,Part.489

New York Department of Health website: Dear Administrator Letter regarding changes to regulations in ALRs.
https://www.health.ny.gov/facilities/assisted_living/dal/dal_10-10_alr_lawsuit.htm

Information Sources

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Divisions of Assisted Living and Community Transitions Program
Center for Health Care Provider Services and Oversight
New York State Department of Health
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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<th>State</th>
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Washington  

West Virginia  

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