

NEW JERSEY

Citation Assisted Living: Chapter NJAC 8:36

General Approach and Recent Developments

Licensing regulations for ALRs and CPCHs were revised in February 2007. The original rules took effect in December 1993 and were updated in 1999. The regulations are “intended to promote "aging-in-place" in a home-like setting for frail elderly and disabled persons, including persons who require nursing home LOC. ALRs, CPCHs and ALPs assure that residents receive supportive health and social services as they are needed to enable them to maintain their independence, individuality, privacy, and dignity in an apartment-style living unit or, in the case of ALPs, a living unit in publicly subsidized housing. The assisted living environment actively encourages and supports these values through effective methods of service delivery and facility or program operation and promotes resident self-direction and personal decision making while protecting residents' health and safety.” The Department of Health and Senior Services permits medication administration by unlicensed personnel through the registered professional nurse delegation process.

The licensing agency publishes an annual resident profile that includes age, gender, length of stay, Medicaid status, move in/move out, and the need for assistance with ADLs, medications and cognitive tasks.

Regulations creating ALPs in subsidized housing sites were effective in August 1996 that permit licensed service agencies to deliver services in subsidized elderly housing projects. Creating this category allows nurses to delegate medication administration, which is not allowed for regular HCBS providers.

Legislation was enacted that requires that 10% of the residents must be Medicaid beneficiaries within three years of licensure.

All new construction is purpose-built, apartment-style units. Only facilities licensed by the Department of Health and Senior Services prior to December 1993, the effective date of the assisted living regulations, can convert to CPCHs and offer bedrooms rather than apartment-style units with a kitchenette. The state has adopted an expedited CON review for ALRs.

Adult Foster Care

Adult family care is a Medicaid waiver program that enables up to three individuals, at risk of placement in a nursing facility and who meet income and resource requirements, to live in a home in the community and to receive support and health services from a trained caregiver. By providing a uniquely designed package of supports for the individual, AFC delays or prevents placement in a nursing facility.

Web Address	Content
http://www.state.nj.us/health/tc/regs.shtml	Rules
http://www.state.nj.us/health/tc/licencert.shtml	Provider
http://www.state.nj.us/health/tc/assisliv.shtml	List, guide, best practices, resident profile report
http://www.state.nj.us/health/consumer/choice/housing.shtml	Guide, consumer

Category	Supply					
	2007		2004		2002	
	Facilities	Units	Facilities	Units	Facilities	Units
Assisted living residences	170	15,571	152	13,696	129	11,645
Comprehensive personal care homes	38	2,190	43	2,388	41	2,642
Assisted living program	14	NA	13	NA	17	NA

Definition

Assisted living “means a coordinated array of supportive personal and health services, available 24-hours per day to residents who have been assessed to need these services, including residents who require formal long-term care. Assisted living promotes resident self direction and participation in decisions that emphasize independence, individuality, privacy, dignity and home-like surroundings.”

Assisted living residence means a facility which is licensed by the Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed, for four or more adult persons unrelated to the proprietor. Apartment units offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette, and a lockable door on the unit entrance.

Comprehensive personal care home means “a facility which is licensed by the Department of Health and Senior Services to provide room and board and to assure that assisted living services are available when needed, to four or more adults unrelated to the proprietor. Residential units may house no more than two residents and have a lockable door on the unit entrance.”

Assisted living program “means the provision of or arrangement of meals and assisted living services, when needed, to the tenants of publicly subsidized housing which because of federal, state or local housing laws, regulations or requirements cannot become licensed as an ALR. An ALP may also provide staff resources and other services to a licensed ALR and a licensed CPCH.” In these instances, ALPs must comply with the licensing standards that are appropriate to the setting.

Unit Requirements

Each *assisted living residence* unit must offer a minimum 150 square feet (single occupancy) of clear and useable floor area (excluding closets, bath, and kitchen); private bathroom; a kitchenette; and a lockable door on the unit entrance. The kitchenette must include

a small refrigerator, cabinet for food storage, sink, and space with outlets suitable for cooking appliances such as a microwave, cook top, or toaster oven. An additional 80 square feet of floor space must be provided for a second person occupying a unit. No more than two people may occupy a unit.

Comprehensive personal care home units must provide 80 square feet for single occupancy units and 130 square feet if the unit is occupied by two people. While a locked door is required, private baths and kitchenettes are not required.

Assisted living programs are licensed as a service. Requirements for the apartments in subsidized housing projects are specified by the source of financing and the building code.

Admission/Retention Policy

Assisted living is not appropriate for people who are not capable of responding to their environment, expressing volition, interacting, or demonstrating independent activity. Each resident receives an assessment and a care plan by a RN. The residence may, but is not required to, care for people who require 24-hour, seven day a week nursing supervision; are bedridden longer than 14 days; are consistently and totally dependent in four or more ADLs; have cognitive decline that interferes with simple decisions; require treatment of Stage III or IV pressure sores or multiple Stage II sores; are a danger to self or others; or have a medically unstable condition and/or special health problems. The facility must describe the assessment process and the manner in which the resident and/or his or her family will be involved. Managed risk agreements are negotiated, when appropriate, based on resident actions, choice, or preferences. Within 36 months of licensing, at least 20% of the residents in each licensed facility must have nursing home LOC needs.

Facilities may not serve residents who require a respirator or mechanical ventilator or people with severe behavior management problems, such as combative, aggressive, or disruptive behaviors.

Nursing Home Admission Policy

Nursing home LOC means care, treatment and services that may be provided to individuals who have chronic or unstable medical, emotional, behavioral, psychological, or social conditions resulting in the inability to care for themselves independently and/or safely. Individuals who require nursing home LOC are those who are fully or partially dependent in several ADLs, including bathing, dressing, eating, toileting, and mobility. Nursing facility LOC services allow the individual to reach his or her highest physical, mental, emotional, and functional level and also prevent unnecessary deterioration.

Services

The residence must provide personal care and provide or arrange for other services. The minimum service capacity must include personal care, nursing, pharmacy, dining, activities, recreation, and social work services to meet the individual needs of residents. Supervision, assistance with, and administration of medications by trained and supervised personnel is also required. Facilities must also be capable of providing or arranging for the provision of nursing services to maintain residents.

ALPs require contracts between service providers and the housing entity. The contracts provide that tenants will not be barred from participation because of the location of a unit and cannot be moved because of their participation. Housing owners/managers must agree to the provision of services. ALPs shall be capable of providing or arranging for assistance with personal care, nursing, pharmaceutical, dietary, and social work services, as well as transportation and recreational activities. Managed risk agreements are used when appropriate and agreed to by all relevant parties.

The rules define bounded choice, managed risk and managed risk agreements. “Bounded choice” means limits placed on a resident’s choice as a result of an assessment, in accordance with N.J.A.C. 8:36-4.17, which indicates that such resident’s choices or preferences place the resident or others at a risk of harm or lead to consequences which violate the norms of the facility or program or the rights of others.

“Managed risk” means the process of balancing resident choice and independence with the health and safety of the resident and other persons in the facility or program. If a resident’s preference or decision places the resident or others at risk or is likely to lead to adverse consequences, such risks or consequences are discussed with the resident, and, if the resident agrees, a resident representative, and a formal plan to avoid or reduce negative or adverse outcomes is negotiated, in accordance with the provisions of N.J.A.C. 8:36-4.17.

“Managed risk agreement” means the written formal plan developed in consideration of shared responsibility, bounded choice and assisted living values and negotiated between the resident and the facility or program to avoid or reduce the risk of adverse outcomes which may occur in an assisted living environment.

Dietary

Facilities must designate a food service coordinator who is either a dietician or has scheduled consultation from a dietician. If indicated by resident needs, a dietician shall be responsible for assessing nutritional needs, providing dietary services, reassessing needs, and revising the dietary portion of the health plan as needed. Three meals a day, snacks, and beverages are required based on the current recommended dietary allowances of the Food and Nutrition Board. Menus should reflect nutritional and therapeutic needs, cultural backgrounds, food habits, and personal preferences.

Agreements

Admission interviews cover the facility's program and policies, business hours, fee schedule, services provided, resident rights, and criteria for admission and discharge. The admission agreement has to specify if the facility will retain residents with one or more of the characteristics listed above, to what extent, and the additional costs which may be charged. Documentation is included in the resident's record. Agreements include all fees for services provided.

Provisions for Serving People with Dementia

No separate requirements.

Medication Administration

Residences are allowed to provide supervision of and assistance with self-administration of medications and administration of medications by trained and supervised personnel. RNs may delegate medication administration to medication aides who are PCAs who have completed required training and passed a written test.

Delegation is based upon individual residents' needs and circumstances for oral, ophthalmic, otic, inhalant, nasal, rectal, vaginal, topical and injectable (subcutaneous) medication. Short-term scheduled medications (II-IV) for analgesia, (pre-drawn insulins are the only injectables allowed) must be reassessed by the RN at least every 72 hours, in order to determine if the medication is still required.

Public Financing

Elders and people with physical disabilities are served through a Medicaid Waiver in four settings: ALR, CPCH, ALP, or the Adult Family Care program. A total of 162 facilities serve 2,996 participants. Most of the participants are in the facility based ALRs. A law was passed requiring that facilities licensed after September 2001, set aside 10% of their units to serve Medicaid residents within three years of licensing. The requirement is waived if there is a waiting list for Medicaid waiver services.

Rates have been developed for each of the three licensing settings. In January 2007, the payment methodology changes from a monthly to a per diem rate. *Assisted living residences* receive \$680.55 for room and board from the resident's monthly income, and \$70 a day for Medicaid services. *Assisted living programs* receive \$50 a day for services. Residents are charged a percentage of their income for room and board. *Comprehensive personal care homes* receive \$680.55 for room and board, and \$60 a day for services.

Medicaid Participation					
2007		2004		2002	
Facilities	Participants	Facilities	Participants	Facilities	Participants
162	2,966	159	2,195	118	1,500

The SSI payment standard in assisted living is \$773.05 and the PNA is \$92.50. The state uses the 300% option for waiver eligibility with a maintenance allowance of \$773.05 a month. Facilities are not allowed to charge a higher amount for room and board to Medicaid residents with incomes that exceed the SSI payment standard. Income supplementation is allowed but only for an upgraded living unit. The state tracks the number of residents receiving supplementation. About 10% of the participants receive supplements.

New Jersey Rate Schedule (2007)			
	Assisted Living Residences	Assisted Living Programs	Comprehensive Personal Care Homes
Room and board	\$680.55	NA*	\$680.55
Medicaid waiver services	\$70 per day \$2,100 per month	\$50 per day \$1,500 per month	\$60 per day \$1,800 per month
Total (30 day month)	\$2,780.55	\$1,500.00	\$2,480.55
* Assisted living residents live in subsidized housing and are charged a percentage of their income for rent. Room and board amount for residents in ALRs and CPCHs does not include a PNA of \$83.50 a month.			

Staffing

The regulations require at least one awake PCA and one additional staff at all times, and sufficient staffing to provide the services indicated by the assessments of resident needs. A RN must be available on staff or on call 24-hours-a-day. ALPs must have policies which assure that at least one staff member of the ALP or the housing program is on-site 24-hours-a-day.

Training

Administrators in all three licensed settings must be licensed as a nursing home administrator or complete an assisted living training course, or other equivalent training, as approved by the Department and shall pass a state examination. The course includes 40 hours of classroom training and a 16-hour practicum. The administrator must also participate in at least 20 hours of continuing education every two years regarding assisted living concepts and related topics, as specified and approved by the Department of Health and Senior Services or the New Jersey Nursing Home Administrators Licensing Board.

Staff. Each PCA shall have completed:

- A nurse aide training course approved by the Department and shall have passed the Nurse Aide Certification exam; or
- A homemaker-home health aide training program approved by the Board of Nursing and shall be so certified; or
- Other equivalent training program approved by the Department.

Each PCA shall receive orientation prior to or upon employment as well as on-going in-service education regarding the concepts of assisted living, emergency plans and procedures, and the infection and prevention program. PCAs must have 20 hours of training every two years, and medication aides ten hours every two years.

Background Check

Administrators must be of good moral character, good physical and mental health, and must exhibit concern for the safety and well-being of residents. Facilities shall exercise good faith and reasonable efforts to ensure that staff have not been convicted of a crime relating adversely to the person's ability to provide resident care such as homicide, assault, kidnapping, sexual offenses, robbery, and crimes against family, children, or incompetents, except where the applicant has demonstrated rehabilitation.

Monitoring

Not described.

Fees

Assisted living residences/comprehensive personal care homes: \$1,500 plus \$15 per bed for licensing; \$150 annual licensing fee and a \$1,500 biennial inspection fee.

Assisted living programs: \$1,125.00 license and annual renewal fee; \$750 biennial inspection fee.

RESIDENTIAL CARE AND ASSISTED LIVING COMPENDIUM: 2007

Files Available for This Report

REPORT INTRODUCTION (*including Cover, Table of Contents, Acknowledgments, and Acronyms*)

HTML: <http://aspe.hhs.gov/daltcp/reports/2007/07alcom.htm>
PDF: <http://aspe.hhs.gov/daltcp/reports/2007/07alcom.pdf>

SECTION 1. Overview of Residential Care and Assisted Living Policy

HTML: <http://aspe.hhs.gov/daltcp/reports/2007/07alcom1.htm>
PDF: <http://aspe.hhs.gov/daltcp/reports/2007/07alcom1.pdf>

SECTION 2. Comparison of State Policies

HTML: <http://aspe.hhs.gov/daltcp/reports/2007/07alcom2.htm>
PDF: <http://aspe.hhs.gov/daltcp/reports/2007/07alcom2.pdf>

SECTION 3. State Summaries

HTML: <http://aspe.hhs.gov/daltcp/reports/2007/07alcom3.htm>
PDF: <http://aspe.hhs.gov/daltcp/reports/2007/07alcom3.pdf>

Each state's summary can also be viewed separately at:

Alabama	http://aspe.hhs.gov/daltcp/reports/2007/07alcomAL.pdf
Alaska	http://aspe.hhs.gov/daltcp/reports/2007/07alcomAK.pdf
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