

WEST VIRGINIA

Citation Assisted living residences: 64 CSR 14 et seq., in conjunction with §16-5D-1
 Residential care communities: §16-5N-1 et seq.

General Approach and Recent Developments

Minor revisions were made to the regulations in 2006. Changes in 2003 combined PCHs and residential board and care homes into one category of ALRs. Final rules for ALRs were promulgated in February 2004.

Rules creating a separate category for facilities serving residents with dementia were effective July 1, 2002. Rules implementing the residential care communities were effective July 1, 1999.

Adult Foster Care

Homes serving three or fewer residents are considered “legally unlicensed health care homes” and are required to register with the licensing agency. There are minimal requirements for these homes and they do not receive regular inspections or oversight unless there is a complaint. A legally unlicensed health care home is any place in this state in which a service provider provides accommodations and personal assistance, whether for compensation or not, for a period of more than 24-hours, to 1-3 residents who are not related to the service provider or his or her spouse by blood or marriage within the degree of consanguinity of second cousin.

The Department of Health and Human Resources, Bureau of Children and Families certifies adult family care homes which are defined as a placement setting within a family unit that provides support, protection and security for up to three individuals over the age of 18.

Web Address	Content
http://www.wvdhhr.org/ohflac/Rules/default.htm	Rules
http://www.wvdhhr.org/ohflac/FacilityLookup/FacInfoLookup.asp	List

Category	Supply					
	2007		2004		2002	
	Facilities	Units	Facilities	Units	Facilities	Units
Assisted living residences	117	3,380	113	3,197	NA	NA
Personal care homes	NA	NA	NA	NA	50	2,310
Residential board and care	NA	NA	NA	NA	82	1,498
Residential care communities (apartments)	3	130	3	88	3	88

Definition

Assisted living residences. Any living facility or place of accommodation in the state, however named, available for four or more residents, that is advertised, offered, maintained or operated by the ownership or management, for the express or implied purpose of providing personal assistance, supervision, or both, to any residents who are dependent upon the services of others by reason of physical or mental impairment, and who may also require nursing care at a level that is not greater than limited and intermittent nursing care. A small ALR has a bed capacity of 4-16. A large ALR has a bed capacity of 17 or more.

Residential care communities were created by Chapter 163 in 1997. A residential care community means any group of 17 or more residential apartments, however named, which are part of a larger independent living community and which are advertised, offered, maintained, or operated by an owner or manager, regardless of consideration or the absence thereof, for the express or implied purpose of providing residential accommodations, personal assistance, and supervision on a monthly basis to 17 or more persons who are or may be dependent upon the services of others by reason of physical or mental impairment or who may require limited and intermittent nursing care but who are capable of self-preservation and are not bedfast.

Alzheimer's/Dementia special care units means any licensed facilities, as defined in this rule, that provide specialized services, 24 hours per day, in a specialized unit in the facility, for residents with a diagnosis of Alzheimer's disease or related dementia; and that advertises, markets, or otherwise promotes the facility as providing a specialized unit for residents requiring Alzheimer's/dementia care services.

Unit Requirements

Assisted living residences must provide each resident with a bed in a bedroom. In an existing large ALR, bedrooms shall contain at least 80 square feet of floor area per resident. In an existing small ALR, semi-private bedrooms shall contain at least 60 square feet of floor area per resident and private rooms shall contain 80 square feet. In a newly constructed or renovated residence no more than two persons shall occupy a bedroom. Space requirements for new construction include 100 square feet for a private room and 90 square feet per resident for a semi-private room. In an existing residence no bedroom shall be occupied by more residents than the bed capacity approved by the commissioner. A minimum of one toilet and lavatory is required for every six residents. A minimum of one bathing facility per floor, with a bath tub or shower, equipped with non-slip surfaces, a flushing toilet and a hand washing sink, are required for every ten residents.

Residential care communities must offer apartment units with at least 300 square feet, with lockable doors, at least one bedroom, a kitchenette with a sink and refrigerator, and one full bathroom. Multi-occupancy apartments must have at least 80 square feet of bedroom space per resident and no more than two residents may occupy an apartment.

Admission/Retention Policy

Assisted living residences may not admit individuals requiring on-going or extensive nursing care and shall not admit or retain individuals requiring a level of service that the residence is not licensed to provide or does not provide. A resident whose condition declines after admission, and is receiving services coordinated by a licensed hospice or certified home health agency, may receive these services in the residence if the residence has a backup power generator for services using equipment that requires auxiliary electrical power in the event of a power failure. The licensee shall ensure that a resident who requires on-going or extensive nursing care is provided the care and services necessary to meet his or her needs. The provision of services to the resident receiving nursing care or hospice care shall not interfere with the provision of services to other residents. If a resident has care needs that exceed the LOC for which the residence is licensed or can provide, the residence must inform the resident of the need to move to another facility that can provide that LOC, and assist the resident in making that transition.

If a resident exhibits symptoms of a mental or developmental disorder that seems to pose a risk to self or others, and the resident is not receiving behavioral health services, the residence must advise the resident or his or her legal representative of the behavioral health service options within the community. The resident must have 30 days to obtain necessary services. If the resident or his or her legal representative fails to seek treatment in a timely manner, then the residence, after consultation with the resident's physician, shall refer the resident to a licensed behavioral health provider.

The residence must seek immediate treatment for a resident or may refuse to admit or retain a resident if there is reason to believe that the resident may suffer serious harm, or is likely to cause serious harm to himself, herself or to others, if appropriate interventions are not provided in a timely manner.

Facilities may not admit those who require the use of routine physical or chemical restraints, require on-going or extensive nursing services, or require a level of service of which the home is not licensed or does not provide. Individuals who become bedfast subsequent to admission may remain in the home for 90 days during a temporary illness or when recovery from surgery if the resident's care does not require nursing care in excess of limited and intermittent nursing care.

Residential care communities. Residents must be certified by a physician to be capable of self-preservation. Residents may need personal assistance in ADLs, supervision because of mental or physical impairment, or limited and intermittent nursing needs. Following admission, facilities may retain residents who receive hospice services. Residents who are not capable of self-preservation may be retained for 90 days during a temporary illness or recovery from surgery if they do not require nursing care that exceeds the regulations.

Nursing Home Admission Policy

Individuals must have needs in five or more areas: decubitus ulcer Stage III or IV; unable to evacuate a building in an emergency; needs physical assistance in bathing, dressing, eating, continence, orientation, transfer, walking or wheeling; skilled needs in one or more areas (i.e., suctioning, tracheotomy, ventilator, parenteral fluids, sterile dressing changes or irrigations); or are not capable of administering medications.

Services

Assisted living residences. Within seven days of admission, each resident must have a functional needs assessment. At a minimum, the resident's assessment shall include a review of health status and functional, psycho-social, activity and dietary needs. A service plan must be developed within seven days, and is based upon the functional needs assessment.

Rather than specifying what type of services a residence must provide, ALRs must indicate up front what services they will provide to residents, as long as services are not at the level of a nursing home. ALRs may provide limited and intermittent nursing services and may provide these types of services for a longer period of time as long as home health agencies are providing long-term nursing.

Residential care communities provide personal assistance; help with self-administration of medications; and help in following planned diets, activity regimens, or use of equipment. Staff must assist in making appointments for dental and medical services. Medications may be administered by licensed staff. Facilities that provide limited and intermittent nursing services must contract with or employ a registered professional nurse

Dietary

Three meals, snacks, and special diets are required that substantially comply with the recommended dietary allowances of the Food and Nutrition Board. Therapeutic or modified diets must be prepared according to a physician or dietician's orders. The rules describe the variety of foods that must be served. Training must include nutrition. The residence shall accommodate residents who are unable to eat at the planned mealtime and provide for a meal substitution if the resident does not tolerate or like the foods planned for the meal.

Agreements

Assisted living residences. Agreements, at a minimum, must include the type of resident population that the residence is licensed to serve and will serve; the health and nursing care services that the residence will provide to meet the resident's needs, including CPR, and how they will be provided; an annual or monthly contract price, full disclosure of all costs including what changes in care needs will result in increases, additions or modifications to the costs, the

refund policy and an assurance that the resident shall not be held liable for any cost that was not disclosed; discharge criteria, including notification policies; how to file a complaint; medication storage, handling, distribution, and disposition, and responsibility for payment; management of residents' funds; and whether or not the residence has liability insurance coverage. At the same time as providing the contract, the licensee must also provide the resident with the following information: house rules governing resident behavior and responsibilities; the resident's bill of rights; how the resident's personal property will be protected from loss and theft; the requirements for medical examinations and treatment orders; how the resident will be assisted in making appointments for medical, dental, nursing or mental health services, and how transportation to and from these services will be arranged; and how to access the residence's policies and procedures.

Residences are prohibited from entering into a life care contract without the prior written permission of the commissioner. Residences must provide residents with a 30 day written notice for any increases, changes, or modifications to the rates.

Residential care communities. The agreement covers admission, retention, and discharge policies; assurance that the community will meet the individual's needs; full disclosure of costs including an annual or monthly contract price; the refund policy and an assurance that the resident will not be liable for any undisclosed cost; how health care will be arranged or provided; the complaint process; how prescribed medications are obtained and responsibility for payment; and the storage, administration, and disposal of medications.

Provisions for Serving People with Dementia

Special care facilities must have a staff person with experience and training in dementia care to coordinate outside services, offer monthly educational and family support meetings, and advocate for residents. Staff training includes a minimum of 30 hours on care for residents with dementia covering the philosophy of care; nature, stages, and treatment of the disease; therapeutic interventions; communication techniques; medication management; therapeutic environmental modifications; assessment and care planning; the role of family and their need for support; staff burn-out prevention; and abuse prevention. Eight hours of annual training is required. Staffing patterns must be able to provide 2.25 hours of direct care time per resident per day. At least two staff must be present for units serving more than five residents. An RN must be available if residents require nursing procedures. Appropriate assessments must be completed and care plans developed. Appropriate activities are provided by a therapeutic specialist, occupational therapist, or activities professional. The rules describe special requirements for the physical environment with security measures; high visual contrast between floor, walls, and walkways; non-reflective surface; secured outdoor space; and other requirements.

Other licensed facilities that do not market themselves as offering SCUs provide training to staff that includes activities, programs, and/or professionally-designed intervention strategies to help a resident with behavioral health needs to manage his/her own behavior. Residents with early symptoms of dementia may be served.

Medication Administration

Facilities may administer and assist with self-administration of medications. Aides who have passed required training may administer medications. A licensed health care professional shall determine whether or not a resident is capable of self-administration of medications. The residence shall keep a record of all medications given to each resident indicating each dose given. The record shall include the resident's name; the name of the medication; the dosage to be administered and route of administration; the time or intervals at which the medication is to be administered; the date the medication is to begin and end; the printed name, initials and signature of the individual who administered the medication; and any special instructions for handling or administering the medication, including instructions for maintaining aseptic conditions and appropriate storage.

Public Financing

A small HCBS waiver was approved in August 2004 to support 150 people living in elderly housing in four counties. The waiver was discontinued. The state is considering options for covering services under Medicaid.

The state uses general revenues to pay, ALRs the difference between the resident's income (minus a PNA of \$96), and \$1,066.50 a month for room, board, and personal care services for eligible individuals. This is an option that previously existed for licensed PCHs and residential board and care homes. Family supplementation is not allowed. In order to be eligible for this payment, the resident must need personal care services as determined by a physician and a comprehensive assessment, and must not have sufficient funds to pay for the service. There are currently 50 facilities accepting state funding, with a total of 475 participants.

Staffing

Assisted living residences. Administrators in large ALRs must have an associate's degree and be at least 21 years of age. Administrators in small ALRs must have a high school diploma or GED. Each ALR shall have a minimum of one direct care staff person 24-hours per day and shall have a sufficient number of qualified employees on duty to provide the residents with all of the care and services they require. The residence shall have one additional direct care staff on the day shift for each ten residents identified on their functional needs assessment to have two or more of the following care needs: dependence on staff for eating, toileting, ambulating, bathing, dressing, repositioning, special skin care, or one or more inappropriate behaviors that reasonably requires additional staff to control, such as sexually acting out, stripping in public settings, refusing basic care, or destroying property; or injurious behavior to self or others; one additional direct care staff on the evening shift for each 15 residents identified on their functional needs assessment to have two or more of these care needs; and one additional direct care staff on the night shift for each 18 residents identified with two or more of these care needs. One employee who has current first aid training and current CPR training, as applicable, shall be on duty at all

times. The licensee must have awake staff present in the residence during normal resident sleeping hours when residents require sleep time supervision. In multi-level residences, there must be at least one awake staff person on duty while residents are sleeping, unless the residents have been certified by a physician or licensed psychologist as not requiring sleep time supervision.

Residential care communities. The administrator must be at least 21 years old and have an associate's degree or equivalent in a related field. The community must have at least one staff member on duty per shift. Sufficient staff must be available to care for residents. Awake staff are required when residents require supervision or intermittent nursing services. Multi-story facilities must have one awake staff per floor unless supervision or intermittent nursing services are not needed and there is a call system.

Training

Administrators in assisted living residences shall participate in eight hours of training related to the operation of a residence annually and a record of this training shall be available for review. Staff must participate in training within the first 15 days of hire, with topics covering emergency procedures and disaster plans; the residence's policies and procedures; resident rights; confidentiality; abuse prevention and reporting requirements; the ombudsmen's role; complaint procedures; specialty care based on individualized resident needs and service plans; care of residents with dementia; the provision of group and individual resident activities; and infection control.

Administrators in residential care communities must receive at least ten hours of training related to the operation and administration of PCHs each year.

Staff of residential care communities must receive employee orientation and training. Training shall be provided to new employees and new admissions (within the first 24 hours of association with the home) in emergency procedures, evacuation of the home, procedures to report a missing resident, medical emergencies, accidents, fire, natural disasters, or other emergencies.

The home shall maintain a written plan of orientation and training for employees. The training is provided within the first 15 days of employment on specified topics.

Assisted living residences must provide orientation to staff that covers emergency procedures and disaster plans; the residence's policies and procedures; resident rights; confidentiality; abuse prevention and reporting requirements; the ombudsmen's role; complaint procedures; specialty care based on individualized resident needs and service plans; the provision of group and individual resident activities; and infection control.

Annual in-service training to all staff must be provided on resident rights, confidentiality, abuse prevention and reporting requirements, the provision of resident activities, infection control, and fire safety and evacuation plans.

Beginning in 2006, residences are required to provide a minimum of two hours of training to all new employees within 15 days and annually thereafter on Alzheimer's disease and related dementias on the following: basic understanding of Alzheimer's disease and other dementias; communication approaches and techniques for use when interacting with persons with Alzheimer's disease or a related dementia; prevention and management of problem behaviors; and activities and programming appropriate for these individuals.

Background Check

Assisted living residences. All staff in an ALR shall have a personal history that is free of evidence of abuse, fraud, or substantial and repeated violations of applicable laws and rules in the operation of any health or social care facility or service organization, or in the care of dependent persons; or conviction of crimes related to the care of dependent persons as evidenced by a criminal investigative background check by the West Virginia state police through the central abuse registry.

Monitoring

The licensing agency makes on-site unannounced inspections as needed and investigates complaints. The licensing agency prepares a written report of any inspection within 15 days of the completion of the inspection and sends a report to the licensee or administrator outlining the statement of deficiencies. The licensee of an ALR must develop, sign and date a plan of correction, and send it to the licensing agency within 15 working days of the receipt of the statement of deficiencies. Immediate correction is required for violations identified as constituting immediate and serious threats to the health or safety of a resident or employee.

Fees

Fees for ALFs are \$6.00 per bed and \$4.32 per bed for residential care communities.

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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