

VIRGINIA

Citation Assisted living facilities 22 VAC 40-71-10 et seq.

General Approach and Recent Development

Revisions to the regulations were effective March 28, 2003. The Department of Social Services anticipates that further refinements will be made. The rules describe two levels of care: assisted living care and residential living care. The State provides an “auxiliary grant” under a state SSI supplement and a state funded payment for “regular” assisted living services.

Category	Supply					
	2004		2002		2000	
	Facilities	Units	Facilities	Units	Facilities	Units
Assisted Living Facilities	636	34,598	669	34,206	663	32,768

Definition

Assisted living facility means any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirm, or disabled and who are cared for in a primarily residential setting, except a facility or portion of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services (and other exceptions including HUD housing building).

Assisted living care means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require at least moderate assistance with activities of daily living. Moderate assistance mean dependent in two or more ADLs. Included in this level of services are individuals who are dependent in behavior pattern as documented on the uniform assessment instrument.

Residential living care means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with activities of daily living. Minimal assistance means dependency in only one ADL or one or more IADLs or medication administration.

Unit Requirements

Assisted living facilities (ALFs) may offer single rooms (minimum 100 square feet for newer buildings) or multiple occupancy rooms (80 square feet per occupant). A maximum of four people may occupy a room. Facilities must provide one toilet and wash basin for every seven people and one bath tub or shower for every ten people.

Admission/Retention Policy

Assisted living facilities cannot admit or retain residents with the following conditions or needs:

- Ventilator dependent;
- Dermal ulcers (III or IV) unless a Stage III ulcer is healing;
- *Intravenous therapy or injections directly into the vein except for intermittent care under specified conditions;
- Airborne infectious disease in a communicable state;
- Psychotropic medications without an appropriate diagnosis and treatment plan;
- Nasogastric tubes;
- *Gastric tubes except when an individual is capable of independently feeding himself and caring for the tube or by exception;
- Individuals who present a danger to themselves or others;
- Individuals requiring continuous nursing care (around the clock observation, assessment, monitoring, supervision, or provision of medical treatment by a licensed nurse);
- Individuals whose physician certifies that placement is no longer appropriate;
- Unless the individual's physician determines otherwise, individuals who require maximum physical assistance as documented by an assessment and meet Medicaid nursing facility level of care criteria; or
- Individuals whose health care needs cannot be met in the specific ALF as determined by the facility.

** Exceptions are allowed when requested by a resident and care is provided by a physician, a licensed nurse, or a licensed home care organization (except for Auxiliary Grant residents).*

Public pay residents must have an assessment completed by a case manager or other qualified assessor. Assessments for private pay residents may be completed by a case manager or other qualified assessor, an independent physician, or an employee of the facility who has documented training in the completion of the uniform assessment instrument. Assessments completed by facility staff must be signed by the administrator or designated representative.

Nursing Home Admission Policy

Residents must meet functional and medical criteria. Functional criteria include:

- Dependent in two to four ADLs and semi-dependent or dependent in behavior pattern and orientation, and semi-dependent in joint motion or dependent in medication administration; or
- Dependent in five to seven ADLs and dependent in mobility; or
- Semi-dependent in two to seven ADLs and dependent in mobility and behavior pattern and orientation.

Medical or nursing supervision means:

- A condition that requires observation and assessment; or
- Potential for instability is high or exists; or
- Ongoing nursing services are required.

Services

The regulations offer ALFs the flexibility to develop a program that meets the following criteria:

- Meet physical, mental, emotional, and psycho-social needs,
- Provide protection, guidance, and supervision;
- Promote a sense of security and self worth; and
- Meet the objectives of the service plan.

Individualized services plans are developed to support the principles of individuality, personal dignity, freedom of choice, and home-like environment and shall include other formal and informal supports that may participate in the delivery of services. Service plans are designed to maximize the resident's level of functional ability.

Each facility develops a written program description for prospective residents that describes the population to be served and the program components and services available. Facilities are permitted but are not required to offer all services as long as they have services that are appropriate for the needs of residents. Adult care facilities must also provide 24-hour capacity to meet scheduled and unscheduled service needs. Skilled nursing services, except continuous skilled nursing, may be provided by a facility nurse or a contracted nurse of a licensed home care organization. Eleven hours of activities per week for residential living care and 14 hours for assisted living care must be scheduled.

An assessment using the approved Uniform Assessment Instrument must be performed on all residents prior to admission, every 12 months, and whenever a change in the resident's condition warrants a level of care change. An individualized service plan or plan of care is developed from the assessment in conjunction with the resident, family,

case worker, case manager, and health care providers. The service plan shall reflect the philosophy and values described above.

Dietary

A minimum of three well-balanced meals and snacks must be served that meet the USDA Food Guide Pyramid guidelines. Special diets must be provided when ordered by a physician.

Agreements

Agreements include: specific charges for accommodations, services, and care; the frequency of payment and rules relating to non-payment; description of all accommodations, services, and care offered and their related charges; amount and purpose of advance payments and refund policy; policy for increasing charges and the amount of notification; and a stipulation of the transfer of ownership of any property, real estate, or money to the facility. Facilities must provide upon admission and upon request a description of the types of staff, services provided, and the hours services are available.

Provisions for Serving People with Dementia

Special care units. At least two direct care staff must be awake and on duty at all times if residents with dementia are served unless there are no more than five residents on the unit and there are at least two other direct care staff in the building. The annual training requirement for direct care staff has been increased from 12 to 16 hours for the first year of employment. Within six months, direct care staff must complete four hours of training that includes an explanation of cognitive impairments, behavior management, communications skills, and safety considerations. Within the first year of employment, six more hours of training are required on topics that include assessment, care techniques, therapeutic environment and activity planning. Curriculum for staff must be developed by a qualified health care professional or a person approved by the Department.

Exit doors must be monitored or secured unless they lead to protected areas. Staff-supervised or secure outdoor areas must be available. The rules require an initial assessment by a physician or clinical psychologist, agreement to the placement by the resident, a guardian, relative, or physician and periodic reviews. Scheduled activities are required that include stimulation, physical, productive/work, social, and outdoor activities.

The standards differ for facilities that serve a mixed population.

Medication Administration

Residents may self-administer medications if they are capable of doing so, although assistance with self-administration is not described in the regulations. Medication Administration is permitted when licensed staff are available or a medication training program approved by the Board of Nursing has been completed.

Public Financing

The State provides an “auxiliary grant,” or an SSI state supplement, and pays for additional services using state funds. The auxiliary grant program is a state and locally funded assistance program to supplement the income of recipients of the federal Supplemental Security Income (SSI) program and certain other aged, blind, and disabled individuals residing in an assisted living facility. In 2004, the maximum auxiliary grant payment is \$866 or \$996 a month depending upon the area of the State. The personal needs allowance is \$62 a month. The auxiliary grant rate covers room, board, basic supportive services, and supervision.

Within assisted living, there are two payment levels for recipients of an Auxiliary Grant: regular assisted living and intensive assisted living as defined by the Department of Medical Assistance Services (DMAS). Intensive assisted living services are for individuals who meet the criteria for home and community based waiver services (at risk of nursing home placement). Because the waiver was not renewed, no new individuals will receive this service. In 2003, the State provided auxiliary grants payments to 6,572 residents a month in 373 facilities.

The State supplements the Auxiliary Grant for the provision of additional personal care services in assisted living residences: a state funded payment of \$3 a day for regular assisted living care services for people with two ADLs, and \$6 per day for residents needing “intensive assisted living services” who formerly participated in the waiver program. The regular assisted living program served 1,592 beneficiaries compared to 1,952 beneficiaries in 2002. The intensive services program (formerly the waiver program) serves 240, down from 526 beneficiaries in 2002.

Staffing

Assisted living facilities shall have staff adequate in knowledge, skills, and abilities and sufficient in numbers to provide services to attain and maintain the physical, mental, and psycho-social well-being of each resident as determined by resident assessments and individualized service plans, and to assure compliance with regulations for assisted living facilities. At least one staff member must be awake and on duty at all times in each building except in buildings with less than 20 residents if licensed for the assisted living level of care. At least quarterly, a licensed health professional must be on-site to monitor direct care staff performance of health related activities, including the identification of any significant gaps in the staff person's ability to function competently; advise the administrator of the need for staff training; provide consultation and technical

assistance to staff; directly observe every resident whose care needs are equivalent to the intensive assisted living criteria; and recommend in writing any needed changes in the care provided or in the resident's service plan.

Training

An *administrator* must be 21, a high school graduate with one year of post-secondary education or administrative or supervisory experience, and must, within each 12-month period, attend at least 20 hours of training related either to client specific needs or to the management and operation of a residential facility for adults. When adults with mental impairments reside in the facility, at least five of the required 20 hours of training shall focus on the resident who is mentally impaired.

Administrators of facilities providing assisted living care must have at least two years of post-secondary education or one year of courses in human services or group care administration from an accredited college or a department curriculum specific to the administration of an adult care facility.

Staff. All employees shall be made aware of: the purpose of the facility, the services provided, the daily routines, and required compliance with regulations for assisted living facilities as it is related to their duties and responsibilities.

All personnel shall be sufficiently trained in the relevant laws, regulations, and facility's policies and procedures to implement the following:

- Emergency and disaster plans for the facility;
- Techniques of complying with emergency and disaster plans including evacuating residents where applicable;
- Use of first-aid kit and knowledge of its location;
- Observance of rights and responsibilities of residents;
- Procedures for detecting and reporting suspected abuse, neglect, or exploitation of residents;
- Techniques for assisting residents to overcome transfer trauma;
- Confidential treatment of personal information; and
- Specific duties and requirements of their positions.

Orientation must be completed within one week. All direct care staff shall have been trained to have general knowledge in the care of aged, infirm, or disabled adults with due consideration for their individual capabilities and their needs and capacities within 30 days. On an annual basis, all direct care staff shall attend at least eight hours of training. The training shall be relevant to the population in care and shall be provided through in-service training programs or institutes, workshops, classes, or conferences. When adults with mental impairments reside in the facility, at least two of the eight required hours of training shall focus on the resident who is mentally impaired. Documentation of this training shall be kept by the facility in a manner that allows for identification by individual employee.

Staff in assisted living facilities must also be trained to deal with residents who have a history of aggressive behavior or of dangerously agitated states. This training must cover information, demonstration, and practical experience in self-protection and prevention and de-escalation of aggressive behavior. Training to serve residents who are restrained is also required and covers proper techniques for applying and monitoring restraints, skin care, and active assisted range of motion exercises, assessment of blood circulation, turning and positioning, provision of sufficient bed clothing and covering to maintain body temperature, and provision of additional attention to meet the physical, mental, emotional, and social needs of restrained residents.

Assisted living care staff must attend at least 12 hours of training annually which focuses on the needs of residents who are mentally or physically impaired as appropriate to the populations served.

Background Check

The statute (§63.2-17.20) does not allow persons convicted of specific types of crimes to be employed. Staff must submit a sworn statement disclosing criminal convictions or pending charges. False statements are a Class 1 misdemeanor. An original criminal records check must be obtained by the facility from the Central Criminal Records Exchange.

Monitoring

Public pay residents receive annual reassessments by assigned case managers. Residents who require coordination of multiple services, are not able and do not have support available to assist in coordinating activities, and need a level of coordination that is beyond what the assisted living care residence is able to provide, receive Medicaid funded, targeted case management from a case manager.

Private pay residents also receive annual reassessment to assure continued appropriate placement and services.

The Department of Social Services conducts regular licensing inspections of assisted living facilities. The Department of Medical Assistance Services conducts on-site visits to monitor the quality and appropriateness of assisted living services provided to public pay residents of these facilities.

Fees

- Facilities of 1 to 12 beds (\$14 per facility);
- 13 to 25 beds (\$35 per facility);
- 26 to 50 beds (\$70 per facility);

- 51 to 75 beds (\$105 per facility);
- 76 to 200 beds (\$140 per facility);
- More than 200 beds (\$200 per facility).

Fees are doubled for licenses that are issued for two years.

Revised regulations for assisted living/community residential care facilities were adopted in July 2001.

STATE RESIDENTIAL CARE AND ASSISTED LIVING POLICY: 2004

PDF Files Available for This Report

Cover, Table of Contents, and Acknowledgments

<http://aspe.hhs.gov/daltcp/reports/04alcom.pdf>

SECTION 1: Overview of Residential Care and Assisted Living Policy

<http://aspe.hhs.gov/daltcp/reports/04alcom1.pdf>

SECTION 2: Comparison of State Policies <http://aspe.hhs.gov/daltcp/reports/04alcom2.pdf>

SECTION 3: State Summaries <http://aspe.hhs.gov/daltcp/reports/04alcom3.pdf>

Also available: A complete list of sections and tables, with HTML and PDF links to each, is available at <http://aspe.hhs.gov/daltcp/reports/04alcom.htm>. This table of contents also includes links to Section 3 summaries, broken down by state.