

FLORIDA

Citation Assisted living facilities; Florida Statutes Chapter 400 Part 3; Florida Administrative Code Chapter 58A-5 et seq.

General Approach and Recent Developments

The State provides for several types of assisted living facility (ALF) licensing: standard, extended congregate care, limited nursing services, and limited mental health services. Following passage of legislation signed into law on May 15, 2001, requiring the filing of ALF adverse incident reports and liability claims, less than 5 percent of the facilities reported that liability claims have been filed. The regulations were revised in 2001. A number of technical changes are being considered. In July 2003, responsibility for training administrators and service staff were transferred from the Department of Elder Affairs to private organizations.

Category	Supply					
	2004		2002		2000	
	Facilities	Units	Facilities	Units	Facilities	Units
Assisted living facilities	2,250	74,762	2,328	78,348	2,361	77,292

Definition

Assisted living facility means any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.

Standard: A facility licensed to provide housing, meals, and one or more personal care services for a period exceeding 24 hours. Personal services include direct physical assistance with or supervision of a resident's activities of daily living and the self-administration of medication and similar services. The facility may employ or contract with a person licensed under Chapter 464, F.S., to administer medication and perform other tasks as specified in §400.4255, F.S., such as take vital signs, manage individual weekly pill organizers for residents who self-administer medication, give prepackaged enemas ordered by the physician, observe residents, and document in the resident's record.

Limited nursing services: A facility licensed to provide any of the services under a standard license and those services specified in §58A-5.031(1)(a)-(m). Those services

include: conducting passive range of motion exercises; applying ice caps or collars; applying heat; cutting toenails of diabetic residents or residents with a documented circulatory problem if the written approval of the resident's health care provider has been obtained; performing ear and eye irrigations; conducting a urine dipstick test; replacing established self-maintained in-dwelling catheter or performing intermittent urinary catheterizations; performing digital stool removal therapies; applying and changing routine dressings that do not require packing or irrigation, but are for abrasions, skin tears, and closed surgical wounds; caring for Stage II pressure sores; caring for casts, braces, and splints; conducting nursing assessments if conducted by, or under the direct supervision of, a registered nurse; and for hospice patients, providing any nursing service permitted within the scope of the nurse's license, including 24-hour supervision.

Extended congregate care: A facility licensed to provide any of the services under a standard license and LNS license, including any nursing service permitted within the scope of the nurse's license consistent with ALF residency requirements and the facility's written policy and procedures. A facility with this type of license enables residents to age in place in a residential environment despite mental or physical limitations that might otherwise disqualify them from residency under a standard or LNS license. This definition creates a higher level of care in assisted living which requires an additional license. Facilities with an ECC license must develop policies which allow residents to age in place and which maximize independence, dignity, choice, and decision making; specify the personal and supportive services that will be provided; specify the nursing services to be provided; and describe the procedures to ensure that unscheduled service needs are met.

Limited mental health license: An ALF that is licensed to serve three or more mental health residents. A mental health resident is an individual who receives social security disability income or SSI income due to a mental disorder as defined by the Social Security Administration and receives optional state supplementation. The facility, mental health resident, and case manager must complete a community living support plan that includes the needs of the resident that must be met in order to enable the resident to live in an ALF and the community. The mental health provider and the facility must execute a cooperative agreement with each mental health resident which provides procedures and directions for accessing emergency and after-hours care.

Unit Requirements

Facilities licensed to provide extended congregate care must provide private rooms or apartments, or semi-private room or apartment shared with a roommate of choice, with a lockable entry door. Facilities that offer rooms rather than apartments must have bathrooms shared by no more than four residents. Private rooms must be 80 square feet and shared rooms 60 square feet per resident.

Facilities that do not have the ECC license and were licensed after October 1999 may offer shared rooms (maximum of two per room), a bathroom for every six residents, and bathing facilities for every eight residents. Facilities licensed prior to October 1999 may allow four people to share a room.

Admission/Retention Policy

Admission. The regulations for “admissions” to all assisted living facilities are specific (see matrix below).

Continued residency. Additional criteria affect continued residency. In standard assisted living facilities, people who are bedridden more than seven days or develop a need for 24-hour nursing supervision may not be retained. Residents with Stage II pressure sores may remain if the facility has a limited nursing license or the resident contracts with a home health agency or registered nurse.

In ECC facilities, residents may not be retained if they are bedridden for more than 14 days. Terminally ill residents may continue to reside in any assisted living facility if a licensed hospice agency coordinates services, an interdisciplinary care plan is developed, all parties agree to the continued residency, and all documentation requirements are maintained in the resident’s file.

To receive services under the Assisted Living for the Elderly (ALE) Medicaid waiver, which covers assisted living services, case management services, and incontinence supplies, tenants must be 60 years of age or older and meet the following requirements:

1. Medicaid eligible;
2. Determined disabled according to Social Security standards if under 65 years of age;
3. Deemed appropriate for ALF placement by the facility administrator;
4. Moving out of a nursing facility or other institutional program, be an ALF resident needing additional services in order to remain in the ALF, or be living at home and determined at risk of nursing facility placement and desiring to move into an ALF;
5. Have a case manager employed by a waiver enrolled case management agency; and
6. Meet one or more functional criteria listed below:
 - Require assistance with four or more ADLs or three ADLs plus supervision or administration of medications;
 - Require total help with one or more ADLs;

- Have a diagnosis of Alzheimer’s disease or another type of dementia and require assistance with two or more ADLs;
- Have a diagnosed degenerative or chronic medical condition requiring nursing services that cannot be provided in a standard ALF but are available in an ALF licensed for LNS or ECC;
- Be a Medicaid-eligible recipient who meets ALF criteria, awaiting discharge from a nursing home but cannot return to a private residence because of a need for supervision, personal care, periodic nursing services, or a combination of the three.

Only facilities with an ECC or LNS and semi-private rooms and bathrooms are allowed to participate in the ALE waiver program.

Nursing Home Admission Policy

Eligibility for the waiver is higher than the nursing home criteria. Waiver eligibility is limited to the following conditions as determined by using the Comprehensive Client Assessment:

- Requires assistance with four or more activities of daily living (ADLs) or three ADLs plus assistance with administration of medication; or
- Requires total help with one or more ADLs; or
- Has a diagnosis of Alzheimer’s disease or another type of dementia and requires assistance with two or more ADLs; or
- Has a diagnosed degenerative or chronic medical condition requiring nursing services that cannot be provided in a standard licensed ALF but are available for an ALF that is licensed to provide Limited Nursing Services (LNS) or Extended Congregate Care Services (ECC); or
- Is a Medicaid-eligible resident awaiting discharge from a nursing home who cannot return to a private residence because of the need for supervision, personal care services, periodic nursing services, or a combination of the three; and
- Is receiving case management and is in need of assisted living services as determined by the community case manager and meets eligibility criteria as determined by the State’s Comprehensive Assessment and Review for Long-Term Care Services (CARES) program.

Services

Four licensure types are available: standard, limited nursing service, limited mental health, and extended congregate care. Standard facilities provide personal care services, and may provide administration of medications if offered by the facility. Facilities with an ECC license may provide a higher level of service and must make

available the following additional services if required by the resident's service plan: total help with bathing, dressing, grooming and toileting; nursing assessments conducted more frequently than monthly; measurement and recording of basic vital functions and weight; dietary management including provision of special diets, monitoring nutrition, and observing the resident's food and fluid intake and output; assistance with self-administered medications; or the administration of medications and treatments pursuant to a health care provider's order. If the individual needs assistance with self-administration the facility must inform the resident of the qualifications of staff who will be providing this assistance, and if unlicensed staff will be providing such assistance, obtain the resident's or the resident's surrogate, guardian, or attorney-in-fact's informed consent to provide such assistance; supervision of residents with dementia and cognitive impairments; health education and counseling and the implementation of health-promoting programs and preventive regimes; provision or arrangement for rehabilitation services; and provision of escort services to health-related appointments.

Other supportive services that may be provided include social service needs, counseling, emotional support, networking, assistance securing social and leisure services, shopping, escort, companionship, family support, information and referral, transportation, and assistance developing and implementing self-directed activities. In addition, facilities provide ongoing medical and social evaluation, dietary management, and medication administration.

ECC facilities *may not* provide oral or nasopharyngeal suctioning, assistance with nasogastric tube feeding, monitoring of blood gasses, intermittent positive pressure breathing therapy, skilled rehabilitative services; or treatment of surgical incisions, unless the surgical incision and the condition which caused it have been stabilized and a plan of care developed.

ECC facilities are allowed to use managed risk agreements which is defined as "the process by which the facility staff discuss the service plan and the needs of the resident with the resident and, if applicable, the resident's representative or designee or the resident's surrogate, guardian, or attorney in fact, in such a way that the consequences of a decision, including any inherent risk, are explained to all parties and reviewed periodically in conjunction with the service plan, taking into account changes in the resident's status and the ability of the facility to respond accordingly.

"Shared responsibility" means exploring the options available to a resident within a facility and the risks involved with each option when making decisions pertaining to the resident's abilities, preferences, and service needs, thereby enabling the resident and, if applicable, the resident's representative or designee, or the resident's surrogate, guardian, or attorney in fact, and the facility to develop a service plan which best meets the resident's needs and seeks to improve the resident's quality of life.

The Medicaid waiver includes the following services for recipients in ECC settings: personal care, homemaker, attendant and companion, medication administration and oversight, therapeutic social and recreational programming, physical, occupational and

speech therapy, intermittent nursing services, specialized medical supplies, specialized approaches for behavior management for people with dementia, emergency call systems, and case management.

Dietary

The State's tenth edition of the recommended dietary allowances is the standard used to evaluate meals. The rules specify the servings of protein, vegetables, fruits, bread and starches, milk, fats, and water that must be served. All special diets must be reviewed annually by a registered dietician, licensed dietician/nutritionist, or a dietetic technician supervised by a registered dietician or nutritionist. Therapeutic diets must be prepared as ordered by a health professional. The person responsible for food service must obtain 2 hours of continuing education in nutrition and food service. Staff who prepare or serve food must receive a minimum of 1 hour in-service training in safe food handling practices within 30 days of employment.

Agreements

Information made available to potential residents through promotional brochures or resident contracts must contain residency criteria; daily, weekly, or monthly charges and the services, supplies, and accommodations included; personal care services provided and additional costs, if any; nursing services available and additional costs, if any; food service and the ability to accommodate special diets; availability of transportation and additional costs, if any; social and leisure activities; and any service that the facility does not provide but will arrange.

Facilities with an ECC license must describe the additional personal, supportive, and nursing services provided; the costs; and any limitations on where residents must reside.

Resident contracts must include a list of specific services, supplies and accommodations provided, including limited nursing services and extended congregate care services; the basic daily, weekly, or monthly rate; a list of any additional services available and their charges; a provision giving at least a 30-day notice of rate changes; rights, duties, and obligations of residents; purpose of advance payments or deposits and refund policy; bed hold policy; a statement of any religious affiliation; and a notice of transfer if the facility is not able to serve the resident.

Provisions for Serving People with Dementia

Facilities may admit and retain residents with dementia. Training requirements have been increased for facilities advertising themselves as providing special care for

persons with Alzheimer's disease or related dementia. Facilities must provide supervision for all residents.

In addition to assisted living core training, staff must receive 4 hours of initial training covering understanding Alzheimer's disease; characteristics of the disease; communicating with resident; family issues; resident environment; and ethical issues. Direct caregivers must obtain an additional 4 hours of training within 9 months of employment covering: behavior management; assistance with ADLs; activities for residents; stress management for the caregiver; and medical information. Direct caregivers must receive annually 4 hours of training on topics specified by the Department of Elder Affairs.

State law requires that facilities that provide special care for persons who have Alzheimer's disease or other related disorders must disclose in its advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for, such persons.

Medication Administration

Unlicensed staff who meet training requirements may assist with self-administration of medications. Assistance includes taking previously dispensed, properly labeled containers from where they are stored and bringing it to the resident; reading the label, opening the container, removing a prescribed amount of medication, and closing the container; placing an oral dosage in the resident's hand or in another container and helping the resident lift the container to his or her mouth; applying topical medications; returning the medication container to proper storage; and keeping a record of when a resident receives assistance with self-administration. Licensed nursing staff may administer medications.

Public Financing

Services are reimbursed for low-income residents through SSI, SSDI, an optional state supplement to the federal SSI payment, and a Medicaid home and community-based services waiver, called Assisted Living for the Elderly (ALE), in qualified ALFs. In addition, coverage of assistive care services (ACS) under the state plan was implemented in September 2001 in all assisted living facilities. ACS include health support; assistance with activities of daily living; assistance with instrumental activities of daily living and assistance with self-administration of medication.

Beneficiaries of ACS must be ambulatory with or without assistance, may not exhibit chronic inappropriate behavior, are capable of taking their own medication, do not have Stage III or IV pressure sores, and do not require 24-hour supervision. Residents receive \$642.40, retain \$54 for personal needs, and pay the remaining \$588.40 to the

facility for room and board. Facilities can bill Medicaid at the rate of \$9.28 per day for ACS services for eligible residents, for a total reimbursement of \$866.80 for a 30-day month. To be eligible for the ACS services under the Medicaid state plan, ACS recipients must receive SSI or have income under 88 percent of the federal poverty level.

ALE waiver services are available in assisted living facilities licensed for extended congregate care and/or limited nursing services. The waiver reimburses providers up to \$28 a day (\$840 per 30-day month) for services. SSI beneficiaries in ALE facilities receive \$642.40, retain \$54 for personal needs and pay the remaining \$588.40 to the facility for room and board. Recipients with incomes above this standard pay a share of cost. Payments are calculated to maintain a total provider reimbursement rate of \$1,576 per month.

To be eligible for the waiver program, ALE recipients must be 60 years of age or older, require a nursing home level of care, receive SSI or have income under 300 percent of the federal SSI benefit, or have income under 88 percent of the federal poverty level.

Only facilities with an ECC or limited nursing services license may participate in the waiver program. The State allows and caps the amount of supplemental income that may be received. ALE waiver beneficiaries must be offered a private room or apartment or a unit that is shared with the approval of the beneficiary. Additionally, to be eligible for participation, a facility may not have had a Class I or Class II violation during the past 5 years, nor have had uncorrected Class III violations during the past 2 years.

Services reimbursed include: attendant call system; attendant care; behavior management; personal care services; chore and homemaker services; medication administration; intermittent nursing care services; occupational therapy; physical therapy; speech therapy; therapeutic social and recreational services; specialized medical equipment; and incontinence supplies.

Facilities may receive payment for both waiver services and assistive care services. Recipients eligible for both ACS and ALE waiver assistance must have a service plan in which services that are considered ACS are shown and identified separately from those provided under the waiver.

Medicaid Participation						
	2004		2002		2000	
	Facilities	Participation	Facilities	Participation	Facilities	Participation
ALE	581	4,167	299	2,681	210	1,410
ACS	1,527	14,188	1,565	9,990	NA	NA

Florida's Coming Home Program

In 2001, NCB Development Corporation awarded the Florida Department of Elder Affairs a Robert Wood Johnson Foundation Coming Home Program Grant designed to help bring affordability and accessibility to assisted living statewide. Through assisted living research, policy analysis, technical assistance, information dissemination, and the development of affordable assisted living models, Florida's Coming Home Program has focused on the promotion of assisted living facilities and services for low-income, frail elders residing in rural and small towns, as well as in public housing. The Program and its partners have also worked diligently to develop effective collaborative relationships with vital long-term care and housing developers, providers, regulators, funding sources, and consumer service agencies with the goal of facilitating affordable assisted living through integrating and maximizing existing resources. Three affordable facilities are operating as a result of the Coming Home program and eight additional facilities are in the process of obtaining financing. The program created a searchable database that allows consumers to easily locate facilities based on cost, participation in Medicaid, services, and unit characteristics. The site may be found at <http://www.floridaaffordableassistedliving.org>.

Staffing

Every ALF must be under the supervision of an administrator who is responsible for the operation and maintenance of the facility including the management of all staff and the provision of adequate care to all residents.

LNS facilities must employ or contract with a nurse(s) who must be available to provide nursing services as needed by residents. The LNS facility shall maintain documentation of the qualifications of nurses providing limited nursing services in the facility's personnel files.

ECC facilities must provide, as staff or by contract, the services of a nurse who must be available to provide nursing services as needed by ECC residents, participate in the development of resident service plans, and perform monthly nursing assessments. An ECC staff member must serve as the ECC supervisor if the administrator does not perform this function. The ECC supervisor is responsible for the general supervision of the day-to-day management of an ECC program and ECC resident service planning.

Rules require that facilities must employ sufficient staff in accordance with required ratios (staff hours/week) and based on the physical and mental condition of residents, size and layout of the facility, capabilities of trained staff, and compliance with all minimum standards (up to five residents, 168 staff hours per week; six to 15 residents, 212 hours; 16 to 25 residents, 253 hours). Staff must be employed that are able to assure the safety and proper care of individual residents and implement the evacuation

and emergency management plan. At least one staff must be awake in facilities with 17 or more residents.

Training

Administrators must be at least 21 years old, have received a high school diploma or GED, or have been an administrator for one of the last 3 years of a licensed Florida ALF that met minimum standards. Effective July 1997, administrators must complete a competency exam following completion of ALF core training. Administrators must undergo Federal Bureau of Investigation (FBI) and Florida Department of Law Enforcement (FDLE) background screening.

Administrators and direct care staff must successfully complete a 26-hour ALF core training program and a competency test. The 26-hour core educational requirement must cover at least the following topics:

- State law and rules on assisted living facilities;
- Resident rights and identifying and reporting abuse, neglect, and exploitation;
- Special needs of elderly persons, persons with mental illness, and persons with developmental disabilities and how to meet those needs;
- Nutrition and food service, including acceptable sanitation practices for preparing, storing, and serving food;
- Medication management, recordkeeping, and proper techniques for assisting residents with self-administered medication;
- Fire safety requirements, including fire evacuation; and other emergency procedures; and
- Care for persons with Alzheimer's disease and related disorders.

Nutrition and food service. The administrator or person responsible for the facility's food service and day-to-day supervision of food services staff shall participate in continuing education a minimum of two hours annually.

Administrators must also receive 12 hours of continuing education every 2 years. The administrator of an ECC facility and the ECC supervisor must complete 6 hours of initial training on the physical, psychological, or social needs of frail elders or persons with Alzheimer's disease and adults with disabilities, and 6 hours of continuing training every 2 years.

Staff. In addition to the core training, new staff must complete 1 hour of training in each of the following areas: infection control, including universal precautions and sanitation procedures. A minimum of 1 hour must cover reporting major incidents and emergency procedures. A minimum of 1 hour must also cover resident rights and recognizing/reporting abuse, neglect, or exploitation. Three hours is required on resident behavior and needs and providing assistance with ADLs. Staff who prepare or serve food must receive a minimum of 1 hour in-service training in safe food handling

practices. HIV/AIDS training is required biennially. Staff that assist with self-administration of medications must receive 4 hours of training prior to assuming these responsibilities.

Two hours of in-service training that addresses ECC care, concepts, statutory and rule requirements and delivery of personal care and supportive services is required for *ECC direct care staff*.

Facilities which advertise that it provides special care for persons with Alzheimer's disease or other related disorders or who maintain secured areas are required to ensure that staff who have regular contact with or provide direct care to residents with Alzheimer's disease and related disorders receive 4 hours of initial training within 3 months of employment in understanding the disease, characteristics of Alzheimer's disease, communication with residents with Alzheimer's disease, family issues, resident environment, and ethical issues. An additional 4 hours is required for direct care staff within 9 months covering behavior management, assistance with ADLs, activities, stress management for caregivers, and medical information. Direct care staff must participate in 4 hours of continuing education each year.

Core training and Alzheimer's disease training may be obtained from persons approved by the Department of Elder Affairs, or designee. The Department maintains a Web site listing approved trainers. Competency evaluations are conducted by the University of South Florida.

Background Check

Florida law requires assisted living facility (ALF) owners (if individuals), administrators, and financial officers to be screened by the FBI and FDLE. ALF owners or administrators must screen all employees who provide personal services to residents through FDLE. An FBI and FDLE screening must also be conducted on an officer or board member of a firm, corporation, partnership, or association, or any person owning 5 percent or more of the facility if the agency has probable cause to believe that such person has been convicted of any offense in Section 435.04, F.S., Employment Screening.

Monitoring

A registered nurse or appropriate designee representing the licensing agency must visit ECC facilities quarterly to monitor residents and to determine facility compliance. An RN representing the agency must also visit LNS facilities twice a year to monitor residents who are receiving limited nursing services and to determine facility compliance.

Rules adopted in 2001 allow facilities to voluntarily adopt an internal risk management and quality assurance program. Facilities are required to file preliminary and full adverse incident reports within 1 and 15 days respectively. The reports are confidential as provided by law and cannot be used in civil or administrative actions, except in disciplinary proceedings by the Florida Agency for Health Care Administration or appropriate regulatory board. Facilities must also report monthly liability claims filed. The quality assurance program is intended to assess care practices, incident reports, deficiencies, and resident grievances and develop plans of action in response to findings.

Fees

The base biennial fee for a standard ALF license is \$308 per license plus \$51 per bed. Facilities providing ECC services pay an additional fee of \$430, plus \$10 per bed. Facilities with a limited nursing license pay \$254, plus \$10 per bed. Facilities do not pay a per-bed fee for any resident that is receiving Optional State Supplementation benefits (a monthly state supplement to a qualifying resident’s monthly income).

Admission Requirements	
Basic Assisted Living, Limited Nursing Service, Limited Mental Health	Extended Congregate Care
<ul style="list-style-type: none"> • 18 years of age; • Be able to perform ADLs with supervision or assistance (but not total assistance); • Be free of signs and symptoms of communicable diseases; • Able to transfer with assistance, if necessary; • Able to take own medications with assistance from staff if needed; • Not be a danger to self or others; • Not require licensed professional mental health services on a 24-hour-a-day basis; • Be able to meet special dietary needs; • Not be bedridden; • Not require: oral or nasopharyngeal suctioning, assistance with tube feeding, monitoring of blood gases, intermittent positive pressure breathing therapy, skilled rehabilitation services, or treatment of unstable surgical incisions; • Not require 24-hour nursing supervision; and • Not have any Stage III or IV pressure ulcers (residents with Stage II ulcers may be served if the facility has a LNS license or resident contracts for care with a home health agency or nurse). 	<ul style="list-style-type: none"> • 18 years of age; • Free of signs and symptoms of communicable disease; • Able to transfer, with assistance, if necessary; • Not be a danger to self or others; • Not be bedridden; • Not require: oral or nasopharyngeal suctioning, nasogastric tube feeding, monitoring of blood gases, intermittent positive breathing pressure, skilled rehabilitative services, or treatment of unstable surgical incisions; • Not require 24-hour nursing supervision; and • Not have Stage III or IV pressure sores.

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>

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<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.