NEBRASKA

Citation Assisted living facilities, NAC Title 175, Chapter 4.

General Approach and Recent Developments

Assisted living rules were revised in 2003. Changes were made in the licensing requirements and procedures, with new language stating that a facility must not hold itself out as an assisted living facility or as providing health care services unless licensed under the Health Care Facility Licensure Act. Additionally, reinstatement procedures have changed. A license may now be reinstated at the end of probation, without paying a license fee, after the successful completion of an inspection, if the Department of Health determines an inspection is warranted.

Supply						
Category	2004		2002		2000	
	Facilities	Units	Facilities	Units	Facilities	Units
Assisted living facilities	259	9,187	227	8,369	167	7,077

Definition

An assisted living facility is a facility where shelter, food, and care are provided for remuneration for a period of more than 24 consecutive hours to four or more persons residing at such facility who require or request such services due to age, illness, or physical disability. This definition does not include (a) those homes, apartments, or facilities providing casual care at irregular intervals and (b) those homes, apartments, or facilities in which a competent resident provides or contracts for his or her own personal or professional services and no more than 25 percent of the residents receive such services. A competent resident is someone who has the capability and capacity to make an informed decision. No facility may hold itself out to be assisted living unless it is licensed.

Unit Requirements

Newly constructed facilities must provide rooms of 100 square feet for single resident rooms and 80 square feet per resident in rooms occupied by more than one resident with a maximum of two residents. Apartment units must have 150 square feet for one resident and 110 square feet for each additional resident. Existing or newly constructed facilities may have single bedrooms with 80 square feet and multiple occupancy rooms with no more than four beds per room and at least 60 square feet per bed. Apartments

must have 120 square feet for one resident and 100 square feet for each additional resident. Facilities must provide a bathing facility consisting of a tub and/or shower adjacent to each room or provide a central bathing room. Tubs and showers regardless of location must be equipped with hand grips or other assistive devices as needed or desired by the bathing resident. In new construction where a central bathing room is provided, the room must open off the corridor and contain a toilet and sink or have an adjoining toilet room. A bathing room must not directly open to a dining/kitchen area. New construction facilities must have a toilet and sink adjoining each bedroom. Existing or new facilities may have shared toilet rooms provided the following: one toilet for every six beds in existing facilities; one toilet per four beds in new facilities.

Admission/Retention Policy

Anyone needing complex nursing interventions or whose conditions are not stable and predictable may not be admitted, readmitted, or retained unless:

- The resident (or the resident's designee if the resident is not competent), the resident's physician, or the registered nurse agree that admission or retention is appropriate;
- The resident (or his or her designee) assumes responsibility for arranging for the resident's care through private duty personnel, a licensed home health agency, or a licensed hospice agency; and
- The resident's care does not compromise the facility operations or create a danger to others in the facility.

Assisted living staff while on duty must not provide complex nursing interventions for facility residents. Complex nursing interventions are defined as those which require nursing judgment to safely alter standard procedures in accordance with the needs of residents, which require nursing judgment to determine how to proceed from one step to the next, or which require a multidimensional application of the nursing process. Facilities will be able to develop their own admission and retention policies within state guidelines. The administrator has discretion regarding admission or retention of residents.

Assisted living facilities are allowed to have a facility-owned pet(s). The assisted living facility must ensure that any facility-owned pet does not negatively affect residents. Policies and procedures for pets include an annual examination by a licensed veterinarian; vaccination protocols as recommended by a licensed veterinarian; proper pet care; and responsibility for care and supervision of the pet by facility staff.

Nursing Home Admission Policy

Individuals must have:

- Limitations in three or more ADLs and require medical treatment or observation;
- Limitations in three or more ADLs and one or more risk factors;
- Limitations in three or more ADLs and one or more cognition factors;
- Limitations in one or more ADLs and one or more cognition factors and one or more risk factors.

ADLs include bathing, continence, dressing/grooming, eating, mobility, toileting, and transferring. There are three areas of risk factors: behavior, frailty, and safety. Behavior is the ability to act on one's own behalf, including interest or motivation to eat, take medications, care for one's self, participate in social situations and relate to others in a socially appropriate manner. Frailty means the ability to function independently without the presence of a support person. Safety is the availability of adequate housing, including the need for modification or adaptive equipment to assure safety and accessibility; the existence of formal and/or informal supports; and/or the freedom from abuse or neglect. Cognition factors address memory, orientation, communication, and judgment.

Services

Services are to be provided in accordance with resident agreements which maximize resident dignity, autonomy, privacy, and independence. Services include personal care, assistance with ADLs, health maintenance activities, transportation, laundry, housekeeping, financial assistance/ management, behavioral management, case management, shopping, beauty/barber, spiritual services, and activities. Health maintenance activities are defined as non-complex nursing interventions which can safely be performed according to exact directions, which do not require alteration of the standard procedure, and for which the results and resident responses are predictable.

Outcomes in three areas (physical well being, behavioral/emotional well being, and resident agreement) are listed that measure whether resident care is being provided in accordance with the resident's preferences and needs. Each facility must develop and implement a process to measure consumer satisfaction.

Dietary

Facilities must ensure that daily nutritional needs are met, including special diets ordered by a physician. Written menus must be based on the Food Guide Pyramid, or equivalent, and modified to accommodate special diets. Residents must be monitored for potential nutritional problems by recording weight at admission and if a potential

problem is identified, weights are recorded quarterly with follow up to address or rectify weight gains/losses greater than 7.5 percent in three months or 10 percent in six months.

Agreements

An agreement must be negotiated that delineates the services to be provided to meet the resident's needs as identified during an evaluation. The agreement includes the services provided by the facility and other sources, and how often, when and by whom they will be delivered in order to meet the needs of residents, including those with special needs. Services may not exceed room, board, ADLs, personal care, health maintenance and other supportive services, or those that involve complex nursing interventions allowed by rule. The agreement also specifies the rights and responsibilities of the facility and residents; the costs of services and terms of payment; and the terms and conditions of continued occupancy. The agreement must be reviewed and updated as the resident's needs change.

Provisions for Serving People with Dementia

Facilities serving special populations must identify resident abilities and special needs; provide staff trained to meet the identified needs; prepare and implement a resident agreement that addresses the special needs; and provide a physical environment that accommodates the needs. Direct care staff have training in the unit's philosophy and approaches to providing care; the Alzheimer's disease process; and the skills needed to care for, intervene with, and direct residents.

Each assisted living facility that specializes in providing care for persons who have Alzheimer's disease, dementia or a related disorder must provide care and services in accordance with the resident service agreement and the stated mission and philosophy of the facility. Prior to admission the facility must inform the resident in writing of the facility's criteria for admission, discharge, transfer, resident conduct and responsibilities and maintain a sufficient number of direct care staff with appropriate training and skills to meet the residents' needs. Staff must remain awake at all times. Facilities may not admit or retain a resident who poses a danger to self or others or requires complex nursing interventions.

Medication Administration

Medications may be administered by licensed staff or trained medication aides. Facilities must establish policies to assure that aides demonstrate minimum competency to administer medications and to describe how direction and monitoring will

be done based on the route of administration (oral, inhalation, topical, installation, or other routes) and for PRN medications.

Facilities must allow residents to self-administer medications, with or without supervision, when assessment determines the resident is capable of doing so. Residents who self-administer medications must be at least 19 years of age; have cognitive capacity to make informed decisions about taking medications; be physically able to take or apply a dose of medicine; have the capability or capacity to take the medication as prescribed; and have the capability or capacity to observe and take appropriate action regarding any desired effects, side effects, interactions, and contraindications.

Medications may be stored in the resident's room if the resident keeps the room locked when not present, or the medications are stored in a secure location or locked container.

Public Financing

A Medicaid HCBS waiver was implemented in July 1998. Assisted living is available to elders, people with disabilities, MR/DD, and people with mental illness. The State uses a flat rate system that varies for urban/rural facilities, trust fund facilities and single/double occupancy (see table below). The SSI payment standard is $564 from which beneficiaries retain a personal needs allowance of $60 and $504 is paid for room and board. Family supplementation is not allowed.

Conversion facilities under the State's Nursing Facility Conversion Program only receive 95% of the Medicaid service rate. Under this program, the Medicaid payment for services for single occupancy in rural areas is $1,301, and $1,539 in urban areas. Total rates for services and room and board in rural areas is $1,805, and $2,043 in urban areas. The rates include an amount for room and board paid by the resident ($504). Family supplementation is not allowed.

Medicaid Participation					
2004		2002		2000	
Facilities	Participants	Facilities	Participants	Facilities	Participants
187	1,500	130	605	77	457

Nebraska Payment Rates for Assisted Living Facilities				
	Rural areas		Urban areas	
	Single occupancy	Double occupancy	Single occupancy	Double occupancy
Service	$1,396	$1,016	$1,646	$1,216
Room & board	$504	$504	$504	$504
Total	$1,900	$1,520	$2,150	$1,720

Nebraska Payment Rates for Nursing Facility Conversion Program Facilities		
	Rural areas	Urban areas
	Single occupancy	Single occupancy
Service	$1,301	$1,539
Room & board	$504	$504
Total	$1,805	$2,043

Special Projects

A program providing grants or loan guarantees to nursing homes to convert wings or entire facilities was is in the completion phase. There is only one facility left to convert units. This program was a tremendous success. The majority of the assisted living apartments are full, with the exception of a few geographic regions where 1990 Census forecasts were not very accurate.

The State awarded three rounds of funding, totaling $53 million, for assisted living and money for respite and day care facilities. Awards were made to 74 nursing homes to convert beds to assisted living, including nursing homes who provide a combination of assisted living, adult day care services, and respite. Five nursing homes provide adult day care services only. The project anticipated funding, in whole or in part, 967 assisted living units and de-licensing 967 nursing home beds. In actuality, the State funded 967 assisted living units, but de-licensed more than 967 nursing home beds. This was due to the need for some nursing homes to de-license more than one bed for each assisted living unit. Some homes had to de-license two nursing home beds for every one assisted living unit. The State saved an estimated $5.5 million in annual Medicaid program savings, which will be recovered over a nine-year period of grant awards through reduced nursing home expenditures.

Grantees must agree to maintain specified occupancy levels of Medicaid beneficiaries for a period of 10 years. Grants may cover capital or one-time costs and operating losses for the first year to facilities that have participated in the Medicaid program for at least three years. Non-governmental owned facilities must provide 20 percent of the cost of conversion. Under the program, facilities may convert existing space or construct additional space to include assisted living or other alternative services. Construction of a new assisted living facility may be funded if the nursing home beds are de-licensed and the construction is more cost effective than conversion of existing space.

Staffing

The facility must maintain a sufficient number of staff with the required training and skills necessary to meet the resident population's requirements for personal care, activities of daily living, health maintenance activities, supervision, and other supportive services.

The facility must have at least one staff person on site at all times when necessary to meet the needs of the residents as required in the resident service agreements.

Training

Staff. Orientation must be given within two weeks to each direct-care staff person of the facility and shall include as a minimum, but is not limited to, residents' rights; resident service agreement; infection control practices; emergency procedures and information regarding advance directives; information on special care needs; information on abuse, neglect, and misappropriation of money or property of a resident; and disaster plan preparedness.

Ongoing training must be given to each direct-care staff person and shall consist of at least 12 hours per year on topics appropriate to the employee's job duties including meeting the physical and mental special care needs of residents.

Background Check

Criminal background checks must be completed on all direct care staff. Evidence of contact with the nurse aide registry, adult central registry of abuse and neglect, and the child central registry of abuse and neglect must be obtained to verify no adverse findings concerning abuse, neglect, or misappropriation of resident property. Facilities determine how to use the information in making hiring decisions except that a person with adverse findings on the nurse aide registry may not be employed as a direct care staff.

Additionally, each facility must establish and implement policies and procedures regarding the health status of staff to prevent the transmission of disease to residents. A health history screening of each staff person must be completed prior to assuming job responsibilities. A physical examination is at the discretion of the employer based on results of the health history screening.

Monitoring

The Department may conduct an onsite inspection at any time it deems necessary. Each year a 25 percent random sample of the licensed facilities is selected for inspection, or more often due to cause or lack of selection over five years.

When an inspection reveals violations that create an imminent danger of death or serious physical harm or have a direct or immediate adverse effect on the health, safety, or security of residents, the Department must impose disciplinary action. The State then conducts a follow-up inspection within 90 days. For violations that do not constitute imminent danger, the Department may request a statement of compliance from the facility. If the statement of compliance fails to address the problem(s), the Department may initiate disciplinary action against the facility.

The Department provides education on the regulations during onsite reviews and participates with state assisted living associations to provide education at conferences.

There is good communication between the State and the facilities, and as a result overall compliance and quality of care has improved.

Fees

$800 for 1 to 10 beds; $950 for 11 to 20 beds; $1,025 for 21 to 50 beds; and $1,050 for 51 or more beds.

STATE RESIDENTIAL CARE AND ASSISTED LIVING POLICY: 2004

PDF Files Available for This Report

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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.