

# NEW JERSEY

**Citation** Assisted Living Chapter NJAC 8:36

## *General Approach and Recent Developments*

Regulations creating assisted living programs (ALP) 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 home and community based services providers.

The regulations expire in 2004 and revisions will be published in the Fall. Some of the issues receiving attention are assessments and care planning, the resident agreement, staffing requirements, and residents' rights. Results from a survey and the oversight process are being used to identify regulations that need to be reviewed.

The original rules governing the provision of assisted living services in assisted living residences and comprehensive personal care homes took effect in December 1993 and were revised in 1999. The regulations promote aging in place in homelike, apartment style settings for frail elders. The purpose section of the regulations describes the goals of assisted living to "maintain independence, individuality, privacy, dignity" in an environment that "promotes resident self direction and personal decision making while protecting health and safety." The Department of Health and Senior Services permits medication administration by unlicensed personnel through the Registered Professional Nurse delegation process.

Category	Supply					
	2004		2002		2000	
	Facilities	Units	Facilities	Units	Facilities	Units
Assisted living residences	152	13,696	129	11,645	91	8,072
Comprehensive personal care homes	43	2,388	41	2,642	29	1,752
Assisted living program	13	NA	17	NA	16	NA

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 comprehensive personal care homes and offer bedrooms rather than apartment style units with a kitchenette. The State has adopted an expedited certificate of need review for assisted living residences.

## ***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 homelike 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 (ALP)* “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 assisted living residence. An assisted living program may also provide staff resources and other services to a licensed assisted living residence and a licensed comprehensive personal care home.” 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 registered nurse. 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 percent of the residents in each licensed facility must have nursing home level of care 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 (NH) level of care 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 NH level of care are those who are fully or partially dependent in several Activities of Daily Living (ADLs), including bathing, dressing, eating, toileting, and mobility. Nursing facility level of care 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. Registered nurses may delegate medication administration to medication aides who are personal care assistants 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 registered nurse at least every 72 hours, in order to determine if the medication is still required.

## ***Public Financing***

Elders and people with physical disabilities have been served through a Medicaid Waiver since 1996 in four settings: Assisted Living Residence, Comprehensive Personal Care Home, Assisted Living Program, or the Adult Family Care program. The number of people who can be served is 2,250. The bulk of the participants are in the facility based Assisted Living Residences (102 facilities with 1,416 participants) and the Comprehensive Personal Care Homes (41 facilities with 629 participants). A law was passed requiring that facilities licensed after September 2001 set aside 10 percent of their units to serve Medicaid residents within three years of licensing. The requirement shall be waived if there is a waiting list for Medicaid waiver services. Rules implementing the law will be final in April 2004. The regulations affect about 60 facilities of which 67% already participate in the Medicaid program.

Rates have been developed for each of the three licensing settings. *Assisted living residences* receive \$630.55 for room and board from the resident's monthly income and \$1,800 a month for Medicaid services. *Assisted living programs* receive up to \$1,200 a month (if the person is a resident for the entire month) for services. Residents are charged a percentage of their income for room and board. *Comprehensive personal care homes* receive \$630.55 for room and board and up to \$1,500 a month for services.

Medicaid Participation					
2004		2002		2000	
Facilities	Participants	Facilities	Participants	Facilities	Participants
159	2,195	118	1,500	68	699

The SSI payment standard in assisted living is \$714.05 and the personal needs allowance is \$83.50. The State uses the 300 percent option for Waiver eligibility with a maintenance allowance of \$714.05 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 to allow a resident to occupy a larger unit. The State tracks the number of residents receiving supplementation. Forty nine facilities have received approval to receive supplements. About eight percent of the residents benefit from a supplement that averages \$567 a month.

New Jersey Rate Schedule			
	Assisted living residences	Assisted living programs	Comprehensive personal care homes
Room and board	\$630.55	NA*	\$630.55
Medicaid waiver services	\$1,800.00	\$1,200.00	\$1,500.00
Total	\$2,430.55	\$1,200.00	\$2,130.55
<b>NOTE:</b> 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 personal needs allowance of \$83.50 a month.			

## ***Staffing***

The regulations require at least one awake personal care assistant and one additional staff at all times and sufficient staffing to provide the services indicated by the assessments of resident needs. A registered nurse 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 personal care assistant (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 ongoing in-service education regarding the concepts of assisted living, emergency plans and procedures, and the infection and prevention program. Personal care aides must have twenty 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***

*ALR/CPCH:* \$1,500 plus \$15 per bed for licensing; \$150 annual licensing fee and a \$1,500 biennial inspection fee.

*ALP:* \$1,125.00 license and annual renewal fee; \$750 biennial inspection fee.

# 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.