

# DELAWARE

**Citation** Assisted living facilities: Title 16 Health and Safety, Division 3225 §1.0 et seq.  
Rest residential homes: Delaware code, Part II §59.0 et seq.

## General Approach and Recent Developments

The state added an assisted living category in 1997. No additional rest residential homes will be licensed and most have converted to ALFs. A Medicaid waiver was implemented in 1999.

The regulations were revised in July 2004. The definition of a reportable incident was revised to include all occurrences and events involving abuse, neglect or financial exploitation. The changes also require emergency electrical generators in ALFs and the prohibition against facilities serving an individual with a central line from an ALF was removed by creating an exception for subcutaneous venous ports.

Changes in October 2002 added a “purpose” section that describes the goal of the regulations to “promote and ensure the health, safety and well-being of all residents of ALFs ... to ensure that service providers will be accountable to their residents and the Department and to differentiate assisted living from nursing facilities.” It replaces the purpose statement that directs that the “services are provided based on the social philosophy of care and must include oversight, food, shelter and the provision or coordination of a range of services that promote quality of life of the individual. The social philosophy of care promotes the consumer’s independence, privacy, dignity and is provided in a home-like environment.”

## Adult Foster Care

The DHSS Division of Long-Term Care Residents Protection licenses family care rest homes which provide resident beds and personal care services for two or three residents who can no longer live independently and/or who need a family living situation. The home should provide friendly understanding to persons living there as well as appropriate care in order that the resident's self-esteem, self-image and role as a contributing member of the community may be reinforced. At the time of admission the client should be able to do all of the ADLs; that is, washing, bathing, feeding self, dressing, ambulating and providing for personal activities such as hygiene, comfort, toilet needs and so forth. No client with an indwelling catheter should be admitted unless all catheter care can be entirely done by the client. Rules are available at: <http://www.state.de.us/research/AdminCode/title16/3000/3315.shtml>.

Web Address	Content
<a href="http://www.dhss.delaware.gov/dhss/dlterp/services.html">http://www.dhss.delaware.gov/dhss/dlterp/services.html</a>	Provider, lists
<a href="http://www.state.de.us/research/AdminCode/title16/3000/3225.shtml#TopOfPage">http://www.state.de.us/research/AdminCode/title16/3000/3225.shtml#TopOfPage</a>	Regulations

Supply						
Category	2007		2004		2002	
	Facilities	Units	Facilities	Units	Facilities	Units
Assisted living facilities	29	1,804	29	1,738	27	1,300
Rest residential homes	3	NR	3	NR	6	160

## Definition

*Assisted living* is a special combination of housing, supportive services, supervision, personalized assistance, and health care designed to respond to the individual needs of those who need help with ADLs and/or IADLs.

*Rest residential home* is an institution that provides resident beds and personal care services for persons who are normally able to manage ADLs. The home should provide friendly understanding to persons living there as well as appropriate care in order that the resident's self-esteem, self-image, and role as a contributing member of the community may be reinforced.

## Unit Requirements

*Assisted living.* The rules require 100 square feet for single bedrooms in new facilities and converted facilities of more than 10 units, and 80 square feet per resident for rooms with two residents. No more than two residents may share a room. Bathrooms are provided in the unit or, if shared, one for every four residents. Consumers must have access to a readily available central kitchen if one is not provided in the unit. Bathing facilities must be provided in the unit or in a readily accessible area.

*Rest residential homes* provide 100 square feet for single occupancy and 80 square feet per resident for multiple occupancy rooms. No more than four people may share a room. One bathtub or shower and one toilet and wash basin are required for every four residents.

## Admission/Retention Policy

*Assisted living.* The rules do not allow agencies to admit people who require more than intermittent or short-term nursing care; require skilled monitoring, testing, and aggressive adjustment of medications and treatments; require monitoring of a chronic medical condition that is not essentially stabilized; are bedridden more than 14 days; have Stage III or IV pressure sores; require a ventilator; require treatment for a disease or condition which requires more than contact isolation; have an unstable tracheotomy or a stable tracheotomy of less than six months' duration; have an unstable peg tube; require IV or central line; wander to the extent that facilities cannot provide adequate supervision or security arrangements; pose a threat to themselves or others; or are socially inappropriate. Waivers may be granted to allow facilities to temporarily care for people with excluded conditions for up to 90 days so long as services are provided by appropriate health professionals. Revised regulations allow individuals needing an IV or central

line to be served if the facility meets specified documentation and service requirements. Resident specific waivers may be granted to continue serving residents with the above conditions if a physical states that they condition will improve within 90 days.

*Rest residential homes.* No specific requirements are stated other than in the definition of a resident.

## **Nursing Home Admission Policy**

Eligibility for the waiver is based on professional judgment concerning ADLs, and medication and safety supervision. Individuals must have impairments in two ADLs to receive waiver services in the home, and services in ALFs are targeted to people with three ADL impairments.

## **Services**

*Assisted living.* A medical evaluation and an assessment by an RN must be completed 30 days prior to admission using the Department's uniform assessment instrument and must be reviewed within 30 days after admission. Individual service agreements address all the physical, medical and psycho-social services to be provided: personal care, services by a licensed nurse, food, nutrition and hydration, environmental services (i.e., laundry, housekeeping, trash removal, and safety), psycho-social/emotional, banking, transportation, furnishings, assistive technology and durable medical equipment, rehabilitation services, and interpretive services.

Managed or negotiated risk agreements are used to describe mutually agreeable action that balances resident choice and independence with the health and safety of the resident and others. A managed/negotiated risk agreement is negotiated when the risks are tolerable to all parties participating in the development of the managed/negotiated risk agreement and a mutually agreeable action is negotiated to provide the greatest amount of resident autonomy with the least amount of risk. The resident must be capable of making choices and decisions and understanding consequences. The agreement clearly describes the problem, issue or service that is the subject of the managed/negotiated risk agreement; describes the choices available to the resident as well as the risks and benefits associated with each choice, the ALF's recommendations or desired outcome, and the resident's desired preference; indicates the agreed-upon option; describes the agreed upon responsibilities of all parties and is a part of the service agreement.

Facilities must use a standard assessment form developed by the licensing agency to assess functional, cognitive, physical, medical and psycho-social needs and status.

*Rest residential homes* provide shelter, housekeeping, board, and personal surveillance or direction in ADLs.

## **Dietary**

Food services are covered in the tenant service agreement.

## **Agreements**

Prior to executing a contract, residents must receive a statement of all charges. The contract includes non-financial and financial components. Financial topics include the rates for services and other ancillary charges, billing and payment policies, criteria for additional charges as needs change, and the process for changing the rates (60 day notice unless due to changes in acuity). The non-financial issues include a listing of basic and optional services; optional services that may be provided by third parties; a statement of resident's rights and an explanation of the grievance procedure; occupancy provisions such as policies concerning modifications to the resident's living area, procedures for changing the resident's accommodations (relocation, roommate, number of occupants in the room), transfer procedures, security, staff's right to enter a resident's room, resident rights and obligations, temporary absence policy, interim service arrangement during an emergency, discharge policies and procedures, obligations of the facility, and a listing of the resident's personal belongings. The financial areas include the party responsible for handling finances, obtaining equipment and supplies, arranging services not covered by the contract, disposing of belongings, and the rate structure and payment provisions.

## **Provisions for Serving People with Dementia**

Facilities offering special care must disclose the philosophy of care; the population served; admission and discharge process and criteria; the assessment, care planning and implementation process; staffing plan and training policies; physical environment and design features; resident activities; family role; psycho-social services; nutrition and hydration services; policies on wandering, safe storage of medications and costs.

## **Medication Administration**

Aides who have passed an examination are allowed to assist with self-administration of medications. Rules governing assistance with medications are covered by regulations issued by the Board of Nursing. An RN must review medications within 30 days of admission for people who self-administer to assess the resident's cognitive and physical ability and need for assistance. Reviews are also conducted for residents who self-administer to ensure proper labeling and storage, that medications have been received, and to determine their effects and the presence of adverse side effects.

## Public Financing

The state provides waiver services to elders and adults with disabilities in ALFs with income below 250% of the federal SSI level. The SSI payment and state supplement is \$704 a month. The room and board payment for SSI beneficiaries is \$598 and residents retain a PNA of \$106 a month. Residents with higher incomes may be charged a higher room and board amount. Three levels of payment for services are available. The daily rates are: Level I, \$34.48 per day; Level II, \$42.37 per day; and Level III, \$51.41 per day. Facilities receive a 10% additional payment for residents with dementia or other cognitive impairments. The payment levels are based on spending for HCBS waiver clients living in their own homes and participants in the AFC program. Family members are allowed to supplement room and board payments.

The Medicaid waiver program coverage began late in 1999.

Medicaid Participation					
2007		2004		2002	
Facilities	Participation	Facilities	Participation	Facilities	Participation
15	217	29	14	11	NR

Medicaid Payment Rates (2007)			
	Level I	Level II	Level III
Room and board	\$598	\$509	\$598
Services	\$1,034	\$1,271	\$1,544
Total	\$1,632	\$1,869	\$2,142

## Staffing

ALFs must employ a sufficient number of trained staff to meet the needs of residents. They must also have a director of nursing who is a RN who is full-time in facilities over 25 beds, 20 hours a week in facilities with 5-24 beds, and eight hours a week in facilities under five beds.

## Training

*Assisted living administrators.* Requirements for administrators vary with the size of the facility. Facilities over 25 units must have a full-time nursing home administrator; 5-24 beds, a half-time nursing home administrator. Facilities with four or fewer beds must have an administrator with a baccalaureate degree or associates degree with two years experience, an RN with four years experience, or an LPN with four years experience or five years experience in a related health or social service field.

*Staff.* Resident assistant orientation covers fire and life safety and emergency disaster plans; infection control; basic food service; first aid and the Heimlich maneuver; job responsibilities; health and psycho-social needs of the residents served; the assessment process; use of service agreements; resident rights and reporting of abuse, neglect, and mistreatment; and hospice services. A minimum of 12 hours of annual training must be provided. Orientation is required for temporary staff.

*Rest residential homes.* Nurse aide/nurse assistant staff must complete a training course approved by the state Board of Nursing and the Board of Health. Aides/assistants must be certified prior to employment. Section 609 describes the curriculum and the competencies that must be measured in the following areas: nurse aide role and function; environmental needs; psycho-social needs; and physical needs. Section 59.610 describes the qualifications of instructors and the training instructors must receive.

## **Background Check**

Facilities must obtain a report of each employee's entire criminal history record from the state Bureau of Identification and a report from DHSS regarding its review of a report of the person's entire federal criminal history. The state also has a mandatory drug testing law. Civil money penalties of \$1,000-\$5,000 per occurrence for violations of the criminal background check and drug testing law may be imposed by the licensing agency.

## **Monitoring**

*Assisted living.* Facilities must develop and implement an on-going quality assurance program that includes internal monitoring of performance and resident satisfaction. Satisfaction surveys of all residents must be conducted twice a year. Pending regulations will require reporting of falls without injury and falls with injuries that do not require transfer to an acute care facility or do not require reassessment of the resident; errors or omissions in treatment or medication; injuries of unknown source; and lost items, in accordance with facility policy.

## **Fees**

Fees are set by statute. The fee for an initial application and background examination is \$500. Annual fees are \$400 for facilities under 100 beds and \$550 for facilities over 100 beds.

# **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	<a href="http://aspe.hhs.gov/daltcp/reports/2007/07alcomAL.pdf">http://aspe.hhs.gov/daltcp/reports/2007/07alcomAL.pdf</a>
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