## INDIANA

### **Licensure Terms**

Residential Care Facilities

## **General Approach**

An Indiana residential care provider that desires to use the term "assisted living" must file a disclosure form with the Family and Social Services Agency (FSSA) Division of Aging. It is then considered a registered housing with services establishment. This is not a certification or licensure process, but instead helps the FSSA to learn about the number and types of facilities in Indiana. This type of residential setting provides three meals per day and a number of additional services.

If a housing with services establishment wants to provide medication administration and nursing care, it must be licensed by the Indiana State Department of Health as a residential care facility (RCF) under the licensure category for health facilities. The rules also require that RCF administrators be licensed by the Indiana State Board of Health Facility Administrators.

However, an unlicensed housing with services establishment may contract with a licensed home health agency to provide medication administration or nursing care, regardless of whether the facility and the home health agency have common ownership; provided, however, that residents are given the opportunity to contract with other home health agencies at any time during their stay at the facility.

Assisted living services are available under the state's Medicaid Aged and Disabled (A&D) and Traumatic Brain Injury (TBI) 1915(c) Waiver programs designed to provide options for alternative long-term care to individuals who meet nursing facility level of care and whose needs can be met in a home-like environment. Providers of Medicaid waiver assisted living services must be licensed as RCFs.

Adult Foster Care. The FSSA certifies adult family care homes (AFCHs) that serve Medicaid-eligible residents under the A&D and TBI Waiver programs. Adult family care includes the provision of personal care, homemaker, chore, attendant care and companion services, and medication oversight, to the extent permitted under state law. Providers may serve up to four residents who are elderly or have physical and/or cognitive disabilities and who are not members of the provider's or primary caregiver's family. Providers that serve only private pay residents are not required to be certified. Regulatory provisions for AFCHs are not included in this profile but a link to the provisions can found at the end.

This profile includes summaries of selected regulatory provisions for licensed RCFs. The complete regulations are online at the links provided at the end.

### **Definitions**

**Housing with services establishments** provide room and board to at least five residents and offer, or provide for a fee, at least one regularly scheduled health-related service or at least two regularly scheduled supportive services, whether offered or provided directly by the establishment or by another person arranged for by the establishment.

Health-related services include home health services, attendant and personal care services, professional nursing services, and distribution of medications. Unlicensed housing with services establishments cannot provide medication administration but can assist residents with administering their own medications. However, an unlicensed establishment can contract with a licensed home health agency to provide medication administration and other medical care and bill the resident for the service or include the service cost in the monthly fee; or residents may choose to contract with licensed home health agencies themselves.

Supportive services include help with personal laundry; handling or assisting with personal funds; and arranging for medical services, health-related services, or social services; but do not include making referrals, assisting a resident in contacting a service provider the resident has chosen, or contacting a service provider in an emergency.

**Residential care facilities** are housing with services establishments that are licensed to provide nursing care or administration of physician-prescribed medication.

## **Resident Agreements**

Prior to admission, facilities must provide the resident or the resident's representative a copy of the contract between the resident and the facility. The contract must provide information about a range of topics, including services to be provided in the base rate; additional services available and their cost; the process for changing the contract; the complaint resolution process; the facility's retention, discharge, and referral policies and procedures; and billing and payment policies and procedures.

### **Disclosure Provisions**

Facilities must provide each resident with a copy of the annual disclosure document that the facility files with the Division of Aging and must advise residents, upon admission, of residents' rights specified in Indiana law and regulation.

The required disclosure form includes the name and address of the owner and managing agent and a statement describing the facility's licensure status as well as the other information previously described under Resident Agreements.

Facilities that provide specialized care for individuals with Alzheimer's disease or dementia must prepare a disclosure statement on required topics that include: (1) the facility's mission or philosophy statement with regard to dementia care; (2) admission, retention, transfer, and discharge criteria and processes; (3) the process for the assessment, establishment, and implementation of a plan of Alzheimer's or dementia special care, including how and when changes are made to a plan of care; (4) the positions and classifications of staff and the staff-to-patient ratio for each shift; (5) the initial training or special education requirements of the staff and required continuing staff education and in-service training; (6) the frequency and types of activities offered, including family support programs; and (7) any other distinguishing features and services of the Alzheimer's and dementia special care unit (SCU).

This statement must be filed with the FSSA Division of Aging annually and made available to anyone seeking information on services for individuals with dementia.

## **Admission and Retention Policy**

Facilities may not admit or retain individuals who are medically unstable or require 24-hour-a-day comprehensive nursing care or comprehensive nursing oversight. Residents must be discharged if they require comprehensive nursing care, comprehensive nursing oversight, or rehabilitative therapies on a less than 24-hour-a-day basis and *have not* contracted with an appropriately licensed provider to provide the care, oversight, and therapies.

Additionally, unless the resident is medically stable and the facility can meet the resident's needs, residents must be discharged if they are a danger to self or others or meet two of the following three criteria: (1) require total assistance with eating, (2) require total assistance with toileting, and/or (3) require total assistance with transferring.

#### **Services**

Services offered must meet residents' needs regarding scope, frequency, and preferences. A facility that retains appropriate professional staff may provide comprehensive nursing care to residents needing care for a self-limiting condition, notwithstanding the items listed under the admission and retention policy.

If administration of medications and/or nursing services are needed, a licensed nurse must be involved in the determination and documentation of needed services.

The administration of medications and the provision of nursing services must be ordered by a physician and supervised by a licensed nurse on the premises or on call.

Nursing care may include, but is not limited to: (1) identifying responses to actual or potential health conditions; (2) a nursing diagnosis; (3) executing a minor regimen based upon a nursing diagnosis or as prescribed by a physician, physician's assistant, chiropractor, dentist, optometrist, podiatrist, or nurse practitioner; and (4) administering, supervising, delegating, and evaluating nursing activities.

A minor regimen may include, but is not limited to: assistance with self-maintained catheter care for a chronic condition; prophylactic and palliative skin care; routine dressings of wounds that do not require packing or irrigation; general maintenance ostomy care; routine blood glucose testing; bowel therapies; general maintenance care in connection with braces, splints, and plaster casts; administration of subcutaneous and intramuscular injections; and self-administered metered dose inhalers and nebulizer/aerosol treatments.

The facility must provide activities programs appropriate to residents' abilities and interests. Scheduled transportation for community-based activities must be provided or coordinated.

#### Service Planning

Prior to admission, the facility must evaluate prospective residents to determine if they can be admitted. If admitted, the evaluation must be updated at least semi-annually or when a significant change in condition occurs. Subsequent evaluations must determine that the care a resident requires continues to be within the capability of the facility. Based on the evaluation, the facility must identify the type, scope, and frequency of services that will be provided, and the resident's preferences regarding service provision.

Providers of Medicaid assisted living services through a waiver program must establish a negotiated risk plan with a resident if deemed appropriate and determined to be necessary by a resident's interdisciplinary team.

### Third-Party Providers

A resident has the right to choose his or her own attending physician and providers for on-site health care services, including home health, hospice, and personal care.

#### **Medication Provisions**

Medications may be administered under physician's order by licensed nursing personnel or qualified medication aides. Other treatments may be given by certified nurse aides upon delegation by licensed nursing personnel except for injectable

medications, which may be given only by licensed staff. The resident must be observed for effects of medications and undesirable effects must be documented and the resident's physician notified.

Administration of medications means preparation and/or distribution of prescribed medications. Administration does not include reminders, cues, and/or opening of medication containers or assistance with eye drops, such as steadying the resident's hand, when requested by a resident.

Residents who self-medicate may keep and use prescription and non-prescription medications in their unit as long as they are kept secure.

## **Food Service and Dietary Provisions**

Facilities must provide three meals a day, 7 days a week, that provide a balanced distribution of the daily nutritional requirements. Facilities must meet daily dietary requirements and requests, with consideration of food allergies, reasonable religious, ethnic, and personal preferences, and the temporary need for meals to be delivered to the resident's room. All modified diets must be prescribed by a physician.

## **Staffing Requirements**

**Type of Staff**. Each facility must have one *licensed administrator* who is responsible for overall administration. Administrators must have either a nursing facility administrator's license or a RCF administrator's license. Those with the latter must complete a specialized course in residential care administration approved by the Indiana State Board of Health Facility Administrators prior to employment.

If 50 or more residents require nursing services and/or medication administration, at least one *nursing staff person* (a registered nurse, licensed practical nurse, or certified nurse aide) must be on staff at all times. Any unlicensed employee providing more than limited assistance with activities of daily living must be either a certified nursing assistant or a home health aide.

A consultant *pharmacist* must be employed or under contract. The facility must designate an *activities director* who is a recreational therapist, an occupational therapist or a certified occupational therapist assistant, or someone who will complete, within 1 year, a state-approved activities director training course. Facilities may employ dining assistants who may only serve residents who do not have complicated eating problems, which include, but are not limited to, the following: difficulty swallowing, recurrent lung aspirations, or tube or parenteral/intravenous feedings.

**Staff Ratios**. As noted above, for 50 or more residents requiring nursing services and/or medication administration, at least one nursing staff person must be on staff at

all times, For every additional 50 residents, at least one additional awake nursing staff person must be on-duty at all times.

No minimum ratios are specified for other staff. Staff must be sufficient in number, qualifications, and training to meet residents' 24-hour scheduled and unscheduled needs. A minimum of one awake staff person with cardiopulmonary resuscitation and first-aid certifications must be on-duty at all times.

## **Training Requirements**

Administrators must complete 40 hours of continuing education every 2 years.

Prior to working independently, each employee must be given an orientation to the facility by the supervisor, which includes:

- Instructions on the needs of the specialized populations served in the facility.
- A review of the facility's policies and procedures.
- Instructions in first-aid, emergency procedures, and fire and disaster preparedness, including evacuation procedures.
- A detailed review of the appropriate job description, with a demonstration of equipment and procedures required of the specific position.
- A review of ethical considerations and confidentiality requirements in resident care and records.
- A personal introduction to and instruction in the particular needs of each resident to whom the employee will be providing care for direct care staff.

Ongoing training must cover several topics, including resident's rights, prevention and control of infection, fire safety and accident prevention, the needs of specialized populations served, medication administration, and nursing care. Nursing personnel must have at least 8 hours of training per calendar year and non-nursing personnel must have at least 4 hours per calendar year.

## **Provisions for Apartments and Private Units**

Providers of Medicaid waiver assisted living services must offer individual residential units that include a bedroom, private bath, a substantial living area, and a kitchenette that contains a refrigerator, food preparation area, a microwave, and access to a stove top or oven. Fifty percent of units must have roll-in shower capability and units must be wheelchair accessible. Apartments can be shared only by choice.

Otherwise, for facilities licensed after April 1, 1997, each unit must have a private toilet, sink, and tub or shower. Facilities licensed prior to April 1, 1997, must abide by certain resident-to-bathtub/shower and resident-to-toilet/sink ratios as set forth in regulation.

For facilities and additions to facilities for which construction plans are submitted for approval after July 1, 1984, resident rooms must not contain more than four beds, and one toilet and sink is required for every eight residents. At least one toilet and one sink of the appropriate height for a resident seated in a wheelchair must be available for each sex on each floor utilized by residents.

Bathing facilities for residents not served by bathing facilities in their room are provided as follows: 1-22 residents, one bathtub or shower; 23-37 residents, two bathtubs or showers; 38-52 residents, three bathtubs or showers; 53-67 residents, four bathtubs or showers; 68-82 residents, five bathtubs or showers; and 83-97 residents, six bathtubs or showers.

A resident has the right to share a room with his or her spouse when: (1) married residents live in the same facility and both spouses consent to the arrangement; and (2) a room is available for residents to share. The facility must have written policy and procedures to address the circumstances in which persons of the opposite sex, other than husband and wife, will be allowed to occupy a bedroom if such an arrangement is agreeable to both.

## **Provisions for Serving Persons with Dementia**

**Dementia Care Staff.** Facilities that are required to submit an Alzheimer's and dementia SCU disclosure form must designate a *director*.

**Dementia Staff Training.** The director of the Alzheimer's and dementia SCU must have a minimum of 12 hours of dementia-specific training within 3 months of initial employment, and 6 hours annually thereafter to meet the needs and preferences of cognitively impaired residents and to gain an understanding of the current standards of care for persons with dementia.

Staff caring for residents in dementia-specific units must have a minimum of 6 hours of dementia-specific training within 6 months of hire and 3 hours annually thereafter.

**Dementia Facility Requirements**. No provisions identified.

## **Background Checks**

The facility must not employ individuals who have: (1) been found guilty by a court of law of abusing, neglecting, or mistreating residents or misappropriating residents' property; or (2) had a finding entered into the state nurse aide registry concerning abuse, neglect, mistreatment of residents, or misappropriation of their property. The facility must report any knowledge it has of actions by a court of law against an employee, which would indicate unfitness for service as a nurse aide or other facility staff, to the state nurse aide registry or licensing authority.

An individual applying for an RCF administrator's license must submit to a national criminal history background check at his or her cost. Criminal history background checks are not required for renewal applications.

### **Inspection and Monitoring**

The Department of Health conducts a pre-licensure survey and then a licensure renewal survey every 9-15 months.

Providers of Medicaid waiver assisted living services must permit the office of Medicaid policy and planning, the Division of Aging, the Ombudsman, and other state representatives to enter the facility without prior notification in order to: (1) monitor compliance with relevant administrative rules; and (2) conduct complaint investigations, including, but not limited to, observing and interviewing residents and accessing residents' records.

## **Public Financing**

The Residential Care Assistance Program (RCAP) is a state-funded program that provides financial assistance to eligible individuals residing in licensed RCFs and other housing with services establishments that have an approved RCAP contract with the Division of Aging. The program covers limited services for residents who are aged, blind, mentally ill or disabled, low-income, and unable to live alone, but do not qualify for nursing home care. RCAP funding can cover room, board, and laundry, as well as care coordination provided on behalf of eligible individuals. An applicant for RCAP funding must not meet Medicaid nursing facility level of care eligibility criteria or have income and resources that exceed established Medicaid guidelines.

The state's Medicaid A&D and TBI 1915(c) Waiver programs cover services-called assisted living services--in licensed RCFs and also covers services provided in AFCHs.

### Room and Board Policy

In 2014, the room and board rate for Medicaid-eligible residents was capped at the federal Supplemental Security Income (SSI) payment of \$721 less a \$52 per month personal needs allowance retained by the resident.

The state does not provide a supplement to the federal SSI payment and has not set a policy on income supplementation by family members or other third parties.

## Location of Licensing, Certification, or Other Requirements

*Indiana Code*, Title 12, Article 10, Chapter 5.5: Alzheimer's and Dementia Special Care Disclosure. [2014]

https://iga.in.gov/legislative/laws/2014/ic/titles/012/articles/010/chapters/5.5/

*Indiana Code*, Title 12, Article 10, Chapter 15: Filing Disclosure Documents for Housing With Services Establishments. [2014]

https://iga.in.gov/legislative/laws/2014/ic/titles/012/articles/010/chapters/015/

Indiana Administrative Code, Title 405, Article 1: Medicaid Providers and Services. Office of the Secretary of Family and Social Services. [October 23, 2013] http://www.in.gov/legislative/iac/T04050/A00010.PDF

Indiana Administrative Code, Title 410, 16.2-5: Residential Care Health Facility Regulations. Indiana State Department of Health, Division of Long Term Care. [2008] <a href="http://www.inassistedliving.org/pdfs/2008/RCF\_Rules.pdf">http://www.inassistedliving.org/pdfs/2008/RCF\_Rules.pdf</a>

*Indiana Administrative Code*, Title 455, Article 3: Assisted Living Medicaid Waiver Services. Division of Aging. [July 1, 2011]

http://www.in.gov/legislative/iac/iac title?iact=455&iaca=3

Indiana State Department of Health. *Application for a New Facility Residential Care Facility*. http://www.in.gov/isdh/files/Application\_for\_New\_Facility\_Residential\_Care\_Facility.pdf

Indiana State Department of Health website: information and contacts for *Residential Care Facility Licensing Program*.

http://www.in.gov/isdh/20227.htm

Indiana Professional Licensing Agency website: Residential Care Administrator Application and Instructions.

http://www.in.gov/pla/2952.htm

Indiana Family and Social Services Administration, Division of Aging: Approval Request for Providers of Adult Family Care. [August 5, 2014] https://secure.in.gov/fssa/files/AFC Survey Tool-2010.pdf

## **Information Sources**

Becky Koors Assistant Director Long-Term Care Operations Division of Aging

Jim Leich President/CEO LeadingAge Indiana

Zachary I. Cattell
General Counsel
Director of Regulatory Affairs and Reimbursement Services
Indiana Health Care Association
and
Indiana Center for Assisted Living

# COMPENDIUM OF RESIDENTIAL CARE AND ASSISTED LIVING REGULATIONS AND POLICY: 2015 EDITION

# Files Available for This Report

### **FULL REPORT**

Arizona

Executive Summary http://aspe.hhs.gov/execsum/compendium-residential-care-and-

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HTML http://aspe.hhs.gov/basic-report/compendium-residential-care-and-

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**PDF** http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-

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[NOTE: These profiles are available in the full HTML and PDF versions, as well as each state available as a separate PDF listed below.]

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Washington <a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-</a>

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West Virginia <a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-</a>

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Wisconsin <a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-</a>

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Wyoming <a href="http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-">http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-</a>

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