Assisted Housing Programs

Licensing Rule:

**Part B. Residential Care Facilities**



Effective Date: September 18, 2025

**Department of Health and Human Services**

**Division of Licensing and Certification**

**State House Station 11**

**41 Anthony Ave.**

**Augusta, ME 04333-0011**

**Section 1 Purpose and Definitions 1**

A. Purpose 1

B. Definitions 1

**Section 2 Licensing 10**

1. Responsibility for compliance 10
2. License required 10
3. License non-transferable 10
4. Type and term of license 10
5. Application and licensure 10
6. Limitations on serving as legal representative 13
7. Issuance of license 13
8. Notification of changes 13
9. Number of licenses required 13
10. Adult Day Services Programs 13
11. Multilevel facility license 13
12. Provisional license 13
13. Conditional license 14
14. Posting the license 14
15. Right of entry 14
16. Filing Plans of Correction 15
17. Reapplication subsequent to licensing actions 15
18. Renewal applications 15
19. Actions requiring approval 16
20. Waiver of a licensing rule 16
21. Rates and contracts 16
22. Information to residents 18
23. Refunds 18
24. Use of personal funds by operator 18
25. Tenancy obligation 19
26. Administrative and resident records 19
27. Confidential information 20
28. Closure 20
29. Closure policy 20

**Section 3 Enforcement Procedures 22**

1. Inspections required 22
2. Frequency and type of inspections 22
3. Complaints 22
4. Statements of Deficiencies 22
5. Informal conferences 23
6. Grounds for intermediate sanctions 24
7. Intermediate sanctions 25
8. Financial penalties 25
9. Other sanctions for failure to comply 27
10. Appeal rights 27
11. Operating without a license 28

**Section 4 Resident Rights** 29

1. Rights 29
2. Notification of resident’s rights 29
3. Right to reasonable modifications and accommodations 29
4. Right to be informed of services provided by the facility/program 29
5. Right to be free from discrimination 30
6. Right to reside as couples 30
7. Right to privacy and consideration 30
8. Right to manage financial affairs 30
9. Right to personal clothing and possessions 30
10. Right to freedom of choice of provider 30
11. Right to refuse treatment or services 30
12. Right to a service plan 30
13. Right to refuse to perform services for the facility 30
14. Right to participate in activities of choice 30
15. Right to communicate privately with persons of choice 30
16. Rights regarding restraints and aversive conditioning 31
17. Right to freedom from abuse, neglect, or exploitation 31
18. Right to access to resident records 31
19. Right to confidentiality 31
20. Right to resident councils 32
21. Right to communicate grievances and recommend changes 33
22. Right to file a grievance(s) 33
23. Right to continued residence 33
24. Right to appeal an involuntary discharge 35
25. Right to information regarding Department survey deficiencies 35
26. Mandatory report of suspected abuse, neglect, or exploitation 36
27. Mandatory report of rights violations 36
28. Rights of persons with intellectual disabilities or autism 36
29. Resident adjudicated incompetent 36

DD. Right to Patient-Directed Care 36

EE. Notification of Changes 36

FF. Right of action 37

**Section 5 Medications and Treatments** **38**

1. Use of safe and acceptable procedures 38
2. Administration of medications 40
3. Unlicensed assistive personnel 40
4. Pro Re Nata (PRN) Medication 40
5. Medication storage 41
6. Medications leaving the facility 41
7. Medication labeling 42
8. Improperly labeled medications 42
9. Expired and discontinued medications 42
10. Medication owned by residents 42
11. Medication disposal 42
12. Scheduled II controlled substances 42
13. Bulk supplies 43
14. Medication/treatment administration records (MAR) 43
15. Medication containers 44
16. Breathing apparatus 44
17. First aid kit 44
18. Employee medication administration and treatments training 44

**Section 6 Scope of Licenses** **46**

1. Beds to be located in distinct part of facility 46
2. Resident care limitations 46

**Section 7 Administration** **47**

Administrator required 47

Qualifications of the applicant/licensee and administrator 47

Absent administrator 47

Change of administrator 47

Licensee responsibilities 48

Maximum number of sites and bed capacity for a single administrator………………………50

**Section 8 Administrative and Resident Records** **51**

1. Individual records required 51

Daily census 54

Personal funds 54

Discharge summary 55

Investigations 55

**Section 9 Staffing Requirements** **57**

General requirements 57

Staff training and qualifications 57

Shared staffing 58

Registered nurse services 58

Volunteers 59

Employee records 59

**Section 10 Food Storage and Meal Preparation** **61**

Common kitchen and areas used to prepare food 61

Employee cleanliness 61

Equipment and utensils 61

Food source 61

Food storage 62

Refrigerated storage 63

Thawing foods 63

Raw fruits and vegetables 63

Minimum cooking temperatures 63

Manual dishwashing 63

Mechanical dishwashing 64

**Section 11 Physical Plant Standards** **65**

1. Code compliance 65
2. General condition of the facility and surrounding premises 65
3. Public bathrooms 65
4. Hot water 65
5. Pets 65
6. Plumbing and electrical systems 65
7. Sewage disposal 65
8. Solid waste management 65

I. Hazardous and toxic materials 65

J. Insect and rodent control 66

K. Other standards 66

**Section 12 Infection Prevention and Control** **67**

1. Infection Prevention and Control (IPC) 67

**Section 13 Standards for Resident Care** **70**

1. General rule 70
2. Resident assessment 70
3. Service plan 71
4. Resident notes 72
5. Planned activity program 72
6. Residents rising and retiring 72
7. Reading and recreational materials 72
8. Resident instruction in evacuation procedures 73
9. Medical and health care 73
10. Residents with communicable diseases 73
11. Employees with communicable diseases 73
12. Transportation 73
13. Refusal of care or treatment 73

**Section 14 Staffing 75**

Minimum staff requirements 75

Minimum resident care staff to occupied bed ratios 75

Nursing services 75

Pharmacist consultant services 76

Qualified consultant dietitian 76

**Section 15 Dietary Services 77**

Dietary coordinator 77

Adequacy of diets 77

Planned menus 77

Menus posted and filed 77

Record of food served, menu changes and substitutions 77

Diet manual 77

Food supplies 77

Meal schedule 78

Record of food purchased 78

Resident participation in meal planning and preparation 78

Mealtime atmosphere 78

**Section 16 Physical Plant Requirements 79**

1. Facility design 79
2. Passable road 79
3. Heating systems 79
4. Temperature 79
5. Space utilization 79
6. Toilets and bathing facilities 80
7. Handrails 81
8. Telephone available 81
9. Water temperatures 81
10. Living and dining areas 81
11. Animals kept as pets 81
12. Resident bedrooms 82
13. Laundry services 83
14. Outside railings 84
15. Free standing stoves 84
16. Lighting 84
17. Smoking area 84
18. Fire safety plan 84
19. Emergency Planning 84
20. Facility Evacuation 85
21. Call Bells 85

**Section 17 Specialized Care Unit Standards** **86**

1. Memory Care Units 86
2. Admission requirements 86
3. Information for residents of Memory Care Units 86
4. Reassessment 87
5. Design standards 87
6. Physical safety 88
7. Therapeutic activities for Memory Care Units 88
8. Pre-service training for Memory Care Units 89
9. Staffing Requirements for Memory Care Units 89
10. Service Planning for Residents in Memory Care Units 90
11. Specialty Units other than Memory Care 90

**Statutory Authority** 90

**Appendices**

**Appendix A.** Standard Contract for Residential Care Facilities 92

**Appendix F.** 100

**Appendix B.** Direct Care Provider Competencies Checklist 101

**Section 1: Purpose and Definitions**

**A. Purpose**

Under 22 M.R.S. § 7852(2-A), the types of Assisted Housing Facilities are Assisted Living Facilities, Residential Care Facilities and Independent Housing with Services Programs. Private Non-Medical Institutions (PNMI) funded under 10-144 C.M.R. Ch. 101, MaineCare Billing Manual Section 97, are a type of residential care facility but PNMIs offering behavioral healthcare services may be subject to licensure under 10-144 C.M.R. Ch. 123, Behavioral Health Organizations Licensing Rule. Independent Housing with Services Programs are not covered by this rule because no license is required pursuant to 22 M.R.S. § 7807.

This part of 10-144 C.M.R. Ch. 113 establishes minimum standards for the licensing of Residential Care Facilities.

Assisted Housing Facilities provide housing, assistance with activities of daily living and instrumental activities of daily living, personal supervision, protection from environmental hazards, meals, diet care, care management and diversional or motivational activities, and may also provide medication administration and/or nursing services if licensed to do so under this rule. These rules require that services be individualized to meet resident needs and encourage each resident’s right to independence, choice and decision making, while living in a safe environment.

Facilities enrolled with the Office of MaineCare Services and providing care to MaineCare members must meet the relevant requirements of 10-144 C.M.R. Ch. 101, MaineCare Benefits Manual, in addition to the licensure requirements of an Assisted Housing Facility.

In this rulemaking, the Department has discontinued the use of Level I-IV to distinguish among residential care facilities. However, other statutes and rules continue to use this terminology. Therefore, the rule includes the meaning of Level I-IV only to clarify how other statutes and rules apply to facilities licensed under this rule:

Level I – a facility with a licensed capacity of one (1) or two (2) residents.

Level II – a facility with a licensed capacity of three (3) to six (6) residents.

Level III - a facility with a licensed capacity of three (3) to (6) residents and which employs three (3) or more persons who are not owners and are not related to the owner.

Level IV – a facility with a licensed capacity of more than (6) residents.

**B. Definitions**. The following terms have the meanings as specified.

1. “**Abuse**” means the willful infliction of injury, unreasonable confinement, intimidation or cruel punishment that causes or is likely to cause physical harm or pain or mental anguish; sexual abuse or sexual exploitation; financial exploitation; or the intentional, knowing or reckless deprivation of essential needs. Abuse includes acts and omissions.
2. “**Activities of Daily Living”** (ADLs) means tasks routinely performed by a person to maintain bodily functions, including bed mobility, transfers, locomotion, dressing, eating, toileting, bathing and personal hygiene.
3. **Adequate lighting** means illumination providing sufficient light levels to ensure that objects and surroundings are clearly visible to allow for safe movement by residents and staff, and for tasks and activities to be completed without causing strain on the eyes.
4. **“Administrator”** means the person responsible for the management of a licensed assisted housing facility, including compliance with this rule.
5. **“Adult Day Services”** means the care and supervision of consumers who attend the facility during daytime or nighttime hours but are not residents of the facility.
6. “**Advance Directive”** means an individual instruction from, or a power of attorney for health care by, an individual with capacity as described in 18-C M.R.S. § 5-802 et. seq.
7. **“Applicant**” means the person who owns the facility and is applying for a license, or the person who is applying for a license pursuant to a valid lease agreement, contract, or other agreement with the owner of the building that delineates the roles and duties under these rules.
8. **“Assisted Housing Facility”** means an assisted living facility, a residential care facility or an independent housing with services program.
9. **“Assisted Housing Services”** means the provision of housing, assistance with activities of daily living and instrumental activities of daily living, personal supervision, protection from environmental hazards, meals, diet care, care management, diversional or motivational activities, medication administration and nursing services. These services are further defined as follows:
10. Personal supervision, meaning awareness of a resident’s general whereabouts, even though the resident may travel independently in the community; and observation and assessment of each resident’s functioning or behavior to enhance his or her health or safety or the health or safety of others;
11. Protection from environmental hazards, meaning mitigation of risk in the physical environment to prevent unnecessary injury or accident;
12. Diversional, motivational, or recreational activities, meaning activities which respond to residents’ interests or which stimulate social interaction, both in individual and group settings;
13. Diet care services, meaning the provision of regular and therapeutic diets that meet each resident’s minimum daily food requirements, as defined by the Recommended Dietary Allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences; and
14. Care management services, meaning a process of working with a resident to identify his/her needs and strengths, develop a service plan and arrange for and monitor service delivery.
15. Administration of medications means services such as reading labels for residents, observing residents taking their medications, checking the dosage, removing the prescribed dosage from a pill bottle or medication packaging, filling a syringe and administering insulin and bee sting kits (when permitted), and the maintenance of a medication record for each resident.
16. Nursing services means services provided by professional nurses licensed pursuant to 32 M.R.S §2101 et seq. It may include coordination and oversight of resident care services provided by facility employees within the scope of their training.
17. **“Assisted Living Facility**” means a house or other place that, for consideration, is maintained wholly or in part for the purpose of providing assisted living services to residents in private apartments in buildings that include a common dining area, either directly by the provider or indirectly through contracts with persons, entities or agencies. A private apartment is a dwelling unit with an individual bathroom, bedroom, and food preparation area.
18. **“Assisted Living Services”** means the provision of assisted housing services by an assisted housing facility, either directly by the provider or indirectly through contracts with persons, entities or agencies.
19. “**Certified Nursing Assistant (CNA)”** means a person who meets the qualifications for listing and is currently listed on the Maine Registry of Certified Nursing Assistants and Direct Care Workers as an active CNA.
20. **“Cohorting”** means the practice of grouping residents infected with the same infectious agent together, to confine their care to one area, and prevent contact with susceptible residents.
21. “**Deficiency**” means a violation of State licensing rule.
22. **“Dementia”** means an acquired loss of cognitive functioning (primarily abstract thinking, memory, and judgment) of sufficient severity to interfere with a person’s ability to act independently and perform routine daily activities.
23. “**Department**” means the Maine Department of Health and Human Services.
24. “**Dietary Coordinator**” means the employee having the responsibility and authority to direct and control food preparation and service, who has successfully completed an accredited program such as Certified Food Protection Manager (CFPM) or other Department-approved program.
25. **“Discharge”** means to require the relocation of the resident by terminating the provision of services by an assisted housing facility to a resident.
26. “**Directed Plan of Correction**” means a Plan of Correction issued by the Department which directs how and when to correct cited deficiencies.
27. **“Distinct Part”** means a physically separate unit that is clearly identifiable from the remainder of the facility. Various beds scattered throughout the facility would not comprise a “distinct part”. The “distinct part” of a facility provides a level of care distinguishable from other levels of care in the facility.
28. “**Duly Authorized Licensed Practitioner**” means an individual currently licensed in the State of Maine as a physician, physician’s assistant or nurse practitioner.
29. **“Elopement”** means a resident leaving a secure facility without authorization or supervision.
30. **“Emergency”** means those events that demonstrate that a resident has an urgent medical or psychological need, which requires immediate acute care treatment, or that pose imminent danger to other residents. Emergency also means a natural disaster that damages or interrupts vital services to residents or the integrity of the physical plant.
31. **“Expired foods”** means packaged foods for which the manufacturer’s “use by” date has passed. Expired foods do not include packaged foods for which a “best by” or “sell by” date has passed.
32. “**Exploitation**” means the illegal or improper use of an incapacitated or dependent adult or his/her resources for another’s profit or advantage.
33. **“Exposure”** means a specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties.
34. “**False Information**” means any written or verbal statement or representation of fact that is not true and that was made intentionally, knowingly, or without having taken reasonable steps to ascertain whether or not the information was true.
35. “**Food Preparation Area”** means an area for the purpose of storing and preparing food in an individual’s apartment. This area must include, as a minimum, six square feet of clear countertop, a small refrigerator, bar-type sink, a cabinet for food storage and either two stovetop burners or a microwave oven.
36. **“Grievance”** means an allegation by a resident of violation of basic rights, including those enumerated in this rule.
37. **“Infectious Disease”** (also known as “contagious disease” or “communicable disease”) means a disease transmissible by direct contact with an affected individual (e.g., from person-to-person) or the individual's body fluids, or by indirect means (e.g., contaminated object).
38. “**Instrumental Activities of Daily Living (hereinafter IADLs)**” includes, but is not limited to, preparing or receiving of a main meal, taking medication, using the telephone, handling finances, banking, shopping, routine housework, laundry and getting to appointments.
39. “**Legal Representative**” means a guardian, conservator, agent under durable power of attorney, representative payee, or other person authorized by law, whose authority extends to the matter under consideration and who has provided the facility with documentation of their legal authority.
40. “**Licensee**” means the person, firm, agency, corporation, or other legal entity to whom a license is issued.
41. **“Licensed Administrator”** means an individual who holds a valid administrator license issued by the Nursing Home Administrators Licensing Board.
42. “**Licensed Health Care Professional**” means health care providers, including physicians, registered professional nurses, licensed practical nurses, physician assistants, nurse practitioners, occupational therapists, speech pathologists, physical therapists, dietitians and social workers who are authorized to practice a health care profession in accordance with Maine State law.
43. **“Medication Error”** means the administration of any medication incorrectly, e.g, dosage, selection of drug, selection of resident, time or method of administration, omission of prescribed medication, error in documentation or the administration of a medication without a valid order.
44. **“Medication guide”** means a Food and Drug Administration-approved document that addresses issues that are specific to particular drugs and can help patients avoid serious adverse events (side effects).
45. **“Memory** **Care Unit”** means a unit, facility or distinct part of a facility that provides services in a designated, separated area for residents diagnosed with neurocognitive impairment such as Alzheimer’s disease or other dementia.
46. “**Neglect**” means a threat to an adult’s health or welfare by physical or mental injury or impairment, deprivation of essential needs or lack of protection from these threats.
47. **“Notifiable disease”** means a disease listed in 10-144 C.M.R. Ch. 258, Control of Notifiable Diseases and Conditions Rule.
48. **“Novel virus”** means a virus that has not previously been recorded.
49. “**Outbreak**” means the diagnosis of a notifiable disease in any resident, or any employee who has direct care of residents, of an Assisted Living Program, Residential Care Facility or Private Non-Medical Institution governed by 10-144 C.M.R. Chapter 113.
50. **“Other Potentially Infectious Material”** means the following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any other body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids.
51. “**Person**” means any individual, owner, corporation, partnership, association, governmental subdivision, or any other legal entity.
52. **Person Centered Care** means a philosophy of care related to Alzheimer’s Disease/dementia, built around the needs of the individual and requires that providers understand the individual’s personal experience and seek to know them as a unique person living with a disease. This knowledge is continuously assimilated through the interpersonal, therapeutic relationship between the individual and the care providers. It becomes the basis for creating and modifying care plans throughout the course of the disease.
53. **“Personal electronic device”** (PED) means a device that can communicate, process data, or compute, and can include but is not limited to cell phones, tablets, smart watches, gaming devices, laptops, E-readers, MP3 players, and personal digital assistants. PEDs can also include devices that capture images or video, access the internet, or use cellular telephone signals.
54. **“Personal protective equipment”** (PPE) means protective items or garments worn to protect the body or clothing from hazards that can cause injury and to protect residents from cross-transmission.
55. “**Pharmacist**” means an individual currently licensed as a registered professional pharmacist in the State of Maine.
56. **“Physician”** means an individual currently licensed to practice medicine or osteopathy in the State of Maine.
57. **“Plan of Correction**” means a section of the Statement of Deficiencies completed by the provider, detailing the plan to correct deficiencies, prevent repeat occurrences, and the completion dates.
58. “**Provider**” means the licensee.
59. “**Psychotropic Medications**” means antipsychotic agents, major tranquilizers, antidepressant agents, anxiolytic agents and hypnotic agents.
60. **“Qualified Consultant Dietitian”** means an individual who is currently licensed to practice dietetics in the State of Maine.
61. “**Qualified Interpreter**” means an interpreter who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary.
62. “**Registered Nurse**” or “**Registered Professional Nurse (hereinafter RN)**” means an individual who is currently licensed by the Maine State Board of Nursing to practice professional nursing.
63. **“Repeated Deficiency”** means a violation of a rule more than once in a two-year period.
64. “**Resident**” means any person 18 years of age or older, who is not related by blood or marriage to the owner or person in charge of the facility or building in which the resident lives and who receives assisted housing services. Individuals related by blood or marriage are spouses, parents, children, grandparents, grandchildren, great-grandparents, great-grandchildren, brothers, sisters, aunts, uncles, nephews, nieces, and step-relations.
65. “**Resident Assessment**” means a comprehensive evaluation of an individual’s health, social, environmental, financial, and family or community supports, which will determine the strengths and needs of the individual.
66. **“Resident Assessment Instrument” (RAI)** is an assessment tool approved by the Department for use by the provider to obtain an accurate standardized, reproducible evaluation of each resident’s functional capacity. It includes the Minimum Data Set – Residential Care Assessment instrument (MDS-RCA), the training manual for the MDS-RCA tool, and any updates provided by the Department.
67. “**Resident Rights**” means those rights enumerated in 22 M.R.S. § 7921 and § 7923, and in Section 4 of this rule.
68. “**Residential Care Facility**” means a house or other place that, for consideration, is maintained wholly or partly for the purpose of providing residents with assisted living services. Residential care facilities provide housing and services to residents in private or semi-private bedrooms in buildings with common living areas and dining areas. Following are the levels of residential care facilities:
69. A facility with a licensed capacity of one to seven residents.
70. A facility with a licensed capacity of eight to fifteen residents.
71. A facility with a licensed capacity of sixteen or more residents.
72. “**Residential Service Plan**” **(“service plan”)** means a written service plan developed with a resident, based upon an assessment of the resident’s needs and abilities and including habilitative or rehabilitative goals and objectives as appropriate, program goals and objectives, and the resources and methods necessary to implement the plan.
73. **“Respiratory Hygiene/Cough Etiquette”** means measures to contain respiratory secretions that are recommended for all individuals with signs/symptoms of a respiratory infection.
74. “**Restraints**”means any device or other means, except mechanical supports used in normative situations to achieve proper body position and balance:
	1. Which is intended to restrict freedom of movement or access to one’s body; or
	2. Any medication which alters cognition or behavior and which is used for discipline or convenience and is not required to treat medical symptoms.

**65. “Risk assessment**” means the act of identifying possible risks, calculating how likely they are to happen, and estimating what effects they might have, especially in the context of a company taking responsibility for the safety of its employees or members of the public.

1. **“Self-Administration of Medication”** means a resident takes his/her own medication(s) independent of a staff person preparing the medication for the individual.
2. **“Serious harm”** means serious physical injury or impairment; serious mental injury or impairment that now or in the future is likely to be evidenced by serious mental, behavioral or personality disorder, including, but not limited to, severe anxiety, depression or withdrawal, untoward aggressive behavior or similar serious dysfunctional behavior; sexual abuse or sexual exploitation; or serious waste or dissipation of resources.
3. “**Shared Staffing**” means the use of licensed and unlicensed personnel who are employed, directly or under contract, by a long term care facility in more than one level of care provided by a single entity on the same premises.

**a.** “Long term care facility” means an assisted living facility or residential care facility subject to licensure pursuant to chapters 1663 and 1664 and a nursing or intermediate care facility or unit subject to licensure pursuant to chapter 405.

**b.** “Level of care” means the intensity of supports provided to a person, and includes assisted housing services, nursing facility services, skilled nursing facility services, and intermediate care facility services.

1. **“Significant change”** means a major decline or improvement in a resident’s status that:
	1. Will not normally resolve itself without intervention by staff or by implementing standard disease-related clinical interventions,
	2. The decline is not due to a disease that resolves on its own, without or without treatment;

**c.** Impacts more than one area of the resident’s health status; and

**d.** Requires interdisciplinary review and/or revision of the care plan.

1. **“Standard Precautions”** means infection prevention practices that apply to all residents, regardless of suspected or confirmed diagnosis or presumed infection status, including but not limited to hand hygiene; use of gloves, gown, mask, eye protection, or face shield, depending on the anticipated exposure; safe injection practices; respiratory hygiene/cough etiquette; and the cleaning or disposal of equipment or items in the patient environment likely to have been contaminated with infectious body fluids.
2. “**Statement of Deficiencies**” means a document issued by the Department which summarizes the results of an inspection conducted by the Department and identifies provisions of this rule with which a licensee has failed to comply.
3. “**Submit**” means to deposit in the US mail, hand deliver, send by fax submission, or electronic submission to the Department.
4. **“Substantial compliance”** means no history of Class I or II violations that would threaten the health or safety of residents within the preceding two years, and:
5. Compliance with the laws of the State of Maine pertaining to or governing Assisted Housing Programs;
6. The applicant, licensee and administrator cooperate with Department personnel in gaining admission to a residence or in conducting an investigation or inspection;
7. The applicant, licensee and administrator adhere to the approved program description;
8. The applicant, licensee or executive director has not falsified any information in order to obtain a license; and
9. The applicant, licensee and administrator has furnished the Department with files, reports, or records as required by this rule.
10. “**Tenancy Obligation”** means a house rule that does not conflict with this rule, established by the facility and included in the admission agreement, that all residents must adhere to in order to continue their residence.
11. **“Transfer”** means the temporary relocation of a resident from an Assisted Housing program to another licensed facility.
12. **“Transmission-based Precautions”** means contact precautions, droplet precautions, and airborne precautions, based on the likely routes of transmission of specific infectious agents, which may be combined for infectious agents that have more than one route of transmission.
13. **“Treatment”** means prescribed care provided to improve a situation (especially medical procedures or applications) that are intended to relieve illness or injury. Examples of treatments include use of bottled oxygen or orthopedic devices.
14. “**Unlicensed Assistive Personnel**” means individuals employed to provide hands-on assistance with activities of daily living to individuals in assisted housing programs. Unlicensed assistive personnel does not include certified nursing assistants employed in their capacity as certified nursing assistants. Unlicensed Assistive Personnel are also referred to as “Direct Access Workers,” “Direct Care Workers,” or “Unlicensed Health Care Assistive Personnel.”
15. **“Unsafe wandering”** means a resident leaving a secure unit or the supervision of staff, thereby inadvertently exposing him or herself to harm without recognition that there is any danger.
16. **“****Willful”** means intentional, knowing, or reckless as defined in 17-A M.R.S. §35.
17. “**Working Days**” means weekdays, excluding legal holidays (when state offices are closed), also known as business days.

**Section 2: Licensing**

1. **Responsibility for compliance**. The applicant/licensee and all employees must comply with all provisions of this rule, excluding provisions formally waived by the Department under Section 2(T) of this rule.

**1.** Licensees must also comply with all other applicable rules, State and federal statutes, and federal regulations.

**2.** The applicant must adopt all policies and procedures required under this rule prior to applying for a license, and these policies and procedures are subject to review at the request of the Department prior to the issuance of a license

1. **License required.** No person, firm, partnership, association, corporation, or other entity shall manage or operate an Assisted Living or Residential Care Facility without a license.
2. **License non-transferable.** The license is valid only for the named licensee(s) and only for the location specified on the license.
3. A license may not be sold, assigned or otherwise transferred.
4. In order to purchase a licensed Assisted Housing facility, the potential new owner must:

**a**. Apply for a new license no less than 30 days prior to the anticipated sale date; and

**b.** Obtain a license prior to operating the facility/program.

1. **Type and Term of license.** A license may be provisional, full, or conditional.

**1.** A provisional license may be issued for a minimum period of 3 months or a longer period, as deemed appropriate by the Department, not to exceed 12 consecutive months.

**2.** A full license may be issued for a period of two years, if the licensee is in substantial compliance with this rule. If the applicant is not in substantial compliance, the Department may issue a license for less than two years or take other action as authorized by this rule.

**3.** A conditional license may be issued for a specific period, not to exceed one year, or the remaining period of the previous full license, whichever the Department determines appropriate based on the laws and rules violated.

**4.** Prior to the expiration of the license, the Department shall inspect for continued compliance with applicable laws and rules as often as deemed necessary by the Department.

1. In facilities/programs licensed for more than one level of care, the term of the license will be the term permitted for the highest level of care.
2. **Application and licensure.**

**1.** The applicant is required to submit an application for a license on a form approved by the Department, to include all required attachments.

1. A license must be issued prior to the commencement of operation, or the applicant may be subject to sanctions.
2. A non-refundable license fee must be submitted with the application. For a residential care facility, the annual license fee is $10.00 per licensed bed. The check must be made payable to the Treasurer, State of Maine.
3. A new applicant will be notified by the Department within two weeks of filing an application whether the application is complete.
4. Applications that are incomplete after sixty (60) calendar days from the date of receipt shall be void.

**2.** Applicants are required to provide the Department with a written admission policy at the time of application for a license. The policy must describe who may be admitted and scope of services provided, including scope of Nursing Services consistent with State of Maine Board of Nursing rules and be drafted in a manner consistent with other applicable laws, including but not limited to the Fair Housing Act and the Maine Human Rights Act, 5 M.R.S. ch. 337, as applicable.

**3.** Prior to the issuance of a license and prior to re-licensure, the applicant/licensee must:

1. Demonstrate compliance with the National Fire Protection Association Life Safety Code, which is done through inspection by the State Fire Marshal’s Office indicating that the facility has complied with applicable fire safety provisions;
2. Comply with all applicable laws and rules relating to fire safety, plumbing, water supply, sewage disposal and maintenance of sanitary conditions;
3. Comply with all applicable laws and rules pertaining to licensing;
4. Provide evidence of a licensed administrator, if required by 02-371 C.M.R. Ch. 26, Licensure of Residential Care Facility Administrators;
5. Provide evidence of a Registered Nurse (RN) on staff or under contract, when the facility:

**i.** Employs staff that provide medical treatment prescribed by a licensed practitioner; or

**ii**. Administers medications to residents.

**iii.** If RN services are required under this provision, the RN is required to be on site to perform the responsibilities of the position, in accordance with resident’s needs identified in assessments and service plans.

1. Provide evidence that all taxes applicable to Residential Care Facilities are filed and paid in accordance with 36 M.R.S. § 2872.
2. Provideevidence of a bond covering the applicant and any employee or agent of the applicant who manages, holds or otherwise is entrusted with resident funds in an amount sufficient to replace those funds in the event of loss.
3. Have evidence of valid lease or deed to the property.
4. Maintain and provide evidence of general and professional liability insurance adequate to protect residents in the event of personal injury to or theft from a resident.
5. Provide a supply of safe drinking water at each licensed site. Evidence of safe drinking water includes the following:
6. Applicants serving drinking water from their own well must demonstrate satisfactory water quality by testing for the following contaminants by a Maine-certified laboratory:
	* 1. Fluoride,
		2. Uranium,
		3. Arsenic,
		4. Lead,
		5. Total coliform bacteria, and
		6. Nitrates.
			1. Licensees serving water from their own well shall test their water annually for coliform bacteria and nitrates. Samples must be analyzed and the results reported by a Maine-certified laboratory. Licensees must maintain water quality reports for Department inspection.

**iii.** In addition to the annual testing required by Section 2(E)(3)(j)(ii) above, licensees serving water from their own wells must test their water every five years for at least the following contaminants: fluoride, uranium, lead (first-draw, 250 ml. sample) and arsenic.

**iv.** If the licensee chooses to use and serve bottled water for all food preparation and drinking purposes, then the licensee may operate under a written bottled water agreement with the Department. Under this agreement the licensee shall:

1. Use bottled water for all consumption and food preparation;
2. Conspicuously post the agreement where it can be seen by building occupants; and
3. Continue to conduct annual water testing in accordance with this rule.

**v.** During all hours of operation, drinking water and wastewater disposal must meet the standards of the Department to accommodate the licensed capacity of the licensee.

**vi.** If a facility serves water from its own source (well water) to 25 or more people per day or has 15 or more service connections, and operates for 60 or more days per year, the facility is a public water system and subject requirements in 22 M.R.S. Ch. 601 and 10-144 C.M.R. Ch. 231.

1. **Limitations on serving as legal representative.** No licensee, owner, proprietor, administrator, employee or a person with a substantial financial interest in the facility may serve as guardian, conservator or power of attorney of any resident, but may be a representative payee or manager of personal funds in accordance with 22 M.R.S. § 7857.

**G. Issuance of license**. The license shall specify the name of the owner, the name of the facility, the type of facility, the name of the administrator, the address of the premises where the facility is located, the maximum number of residents, the type of license, and the expiration date of the license.

**H. Notification of changes.** A licensee must notify the Department within seven business days whenever there is a change in administrator, contact person, or contact information, including telephone number or email address.

1. **Number of licenses required**. When one physical location houses more than one type of long-term care facility as defined by 22 M.R.S. § 7942, the Department may consider the following criteria in determining the number of licenses required:
2. The physical location;
3. The proposed structure of management;
4. In facilities providing more than one type of long-term care program as defined in 22 M.R.S. § 7860, the physically distinct part of the building designated for each assisted housing program; and
5. The administrative and regulatory burdens and benefits of granting a given number of licenses.
6. The Department will specify the number of licensed beds or apartments, as appropriate, for each type of program. The provider must not exceed the licensed capacity for any licensed type of program.
7. **Adult day services programs**. When an adult day services program serving three or more non-residents is physically located in an assisted living program or residential care facility, the adult day services programs must comply with the provisions of 10-144 C.M.R. Ch. 117, Regulations Governing the Licensing and Functioning of Adult Day Services Programs.
8. **Multilevel facility license.** Multilevel facilities are assisted housing programs that are located on the same contiguous grounds with licensed nursing facilities. For multilevel facilities:
9. A single license will be issued by the Department, identifying each level of service;
10. Multilevel facilities, when subject to licensing action or other sanctions, may have one or more of its levels sanctioned; and
11. The Department will specify the particular levels in writing.

**L.**  **Provisional license**. The Department may issue a provisional license under 22 M.R.S. §7802, for a minimum period of three months or longer as deemed necessary by the Department but not to exceed 12 consecutive months, only to an applicant who:

1. Has not previously operated the facility/program for which the application is made or is licensed and has not operated the facility during the term of that license;
2. Complies with all applicable laws and rules, except those which can only be complied with once residents are served by the applicant;
3. Provides the Department with all policies and procedures as required by this rule; and
4. Demonstrates the ability to comply with all applicable laws and rules by the end of the provisional license term.
5. **Conditional license**. The Department may issue a conditional license when:
6. The licensee is not in substantial compliance with applicable laws and rules; and
7. In the judgment of the Commissioner of the Department of Health and Human Services, the best interest of the public would be so served by issuing a conditional license.
8. The conditional license shall specify when and what corrections must be made during the term of the conditional license.
9. **Posting the license**. The licensee must post a copy of the license at each of its licensed locations, where it can be seen and reviewed by the public.

**O.** **Right of entry**. The Department’s authorized representatives, authorized representatives of the Maine Attorney General’s Office, and authorized representatives of the Maine Long Term Care Ombudsman Program shall have the right to enter any licensed facility at any time to determine the state of compliance with applicable laws and this rule.

1. Application for licensure constitutes permission for entry and inspection to verify compliance with applicable law and rules.

1. The Department may enter the premises of a facility that the Department knows or believes is being operated as an Assisted Housing facility without a license to inspect only with:
2. The permission of the owner or the person in charge; or
3. With an administrative inspection warrant authorizing entry and inspection issued by the District Court pursuant to the Maine Rules of Civil Procedure, Rule 80E.
4. Failure to comply with this provision of rule during a Department inspection or investigation constitutes impeding or interfering with the enforcement of rules and may result in intermediate sanctions. Impeding or interfering with the enforcement of rules includes, but is not limited to:

**a.** A failure to provide information that is requested by the Department and necessary to determine compliance with licensure requirements or to knowingly provide false or misleading information to the Department, or

**b.** A failure to allow the Department access, consistent with applicable confidentiality laws, to the premises or records of an Assisted Housing Program, in connection with the Department’s evaluation of compliance with licensure rules.

1. **Filing Plans of Correction**. Whenever the Department issues a Statement of Deficiency (SOD), the applicant/licensee must submit a specific Plan of Correction (POC), in the format required by the Department, within ten working days of the date the applicant/licensee received the SOD. The Department may:
2. Approve the POC as submitted;
3. Require the licensee to revise a POC if the submission is not an acceptable plan of correction as described in Section 3(D)(2); or
4. Reject a POC and issue a DPOC.
5. **Reapplication subsequent to licensing actions**. Subsequent to any of the following actions, a full license will not be issued until the deficiencies identified by the Department have been corrected:
6. Issuance of a conditional license;
7. Refusal to issue or renew a license;
8. Revocation or suspension of a license; or
9. Refusal to issue a provisional license.
10. **Renewal applications**. A renewal application must be received by the Department thirty (30) days prior to the license expiration date. Regardless of the term of the license, the licensee must pay a license fee annually.
11. Whenever a licensee has made a timely and sufficient application for renewal of a license:
	1. The applicant will be notified by the Department within two weeks of filing an application whether the application is complete; and
	2. The licensee will be notified by the Department that its existing license shall not expire until the application has been finally determined by the Department.
12. Prior to acting on the application for renewal, the Department may:
	1. Verify any information in the renewal application;
	2. Conduct an inspection of the facility/program; and
	3. Issue an SOD, as appropriate.
13. If cited deficiencies are not corrected within the established time frame, the Department may:
14. Deny the renewal application;
15. Impose a fine;
16. Issue a Directed POC; and/or
	1. Impose a conditional license.
17. **Actions requiring approval**. Modification, reconstruction, change of use, change of occupancy, or addition to the licensed building and/or program requires:
18. Completion of plan review and final approval from the State Fire Marshal; and
19. An updated license, which the Department will issue upon a determination of compliance with this provision.
20. **Waiver of a licensing rule**. A facility holding a full license may request, in writing, a waiver of a provision of this rule.
21. The Department may waive or modify a provision of this rule under the following terms and conditions:
	1. The facility must provide clear and convincing evidence, including expert opinion at the request of the Department, which demonstrates to the satisfaction of the Department that the organization's alternative method will comply with the intent of the rule provision;
	2. The provision is not mandated by State or federal law; and
	3. The waiver may not violate the rights of clients receiving services.
22. A waiver granted by the Department is enforceable as rule and a violation is subject to the enforcement procedures in this rule.
23. A waiver, when granted, must be for a specific period, not to exceed the term of the license.
24. A waiver may impact a facility’s ability to receive payment for services. It is the licensee’s responsibility to research any potential conflicts before requesting a waiver.
25. A facility may submit a written request for the renewal of the waiver at the time it applies for license renewal.
26. **Rates and contracts**.
27. Assisted housing programs must list all standard charges and make them available to the public.
28. Each provider and each resident, or someone authorized to act on the resident’s behalf, shall sign a standard contract issued by the Department, attached to this rule as Appendix A, at the time of any modification of an existing contract and with all new admissions.
29. The resident and/or resident’s legal representative must be given an original of the signed contract and the provider must keep a duplicate in the resident’s file;
30. No one other than the resident shall incur any responsibility for the resident’s obligations by signing the contract for admission of the resident;
31. Financial responsibility for the resident’s expenses can only be assumed according to Section 2(U)(4)(i) of this rule.
32. The contract must contain the following standard provisions:
33. Services and accommodations to be provided;
34. Rates and charges for services and accommodations; and
35. Charges not covered by the facility/program’s basic rate.
36. Each contract is subject to the following requirements:
37. No contract may contain a provision for the discharge of a resident which is inconsistent with state law or rule;
38. No contract may contain a provision that may require or imply a lesser standard of care or responsibility than is required by law or rule;
39. No contract or agreement will require a deposit or other prepayment, except one month’s rent in an assisted housing program which may be used as a security deposit;
40. The contract must state the explicit return policy of the facility with regard to any security deposit;
41. No contract may contain a provision which provides for the payment of attorney fees or any other cost of collecting payments from the resident; and
42. The contract may contain additional items and supplemental provisions that do not conflict with this rule.
43. The following must be given to the resident and/or legal representative at the time of admission:
44. Grievance procedure;
45. Tenancy obligations;
46. Resident rights; and
47. Copy of the admissions policy;
48. The contract signed for admission of the resident may not require or encourage anyone other than the resident to obligate himself/herself for the payment of the resident’s expenses;
49. If anyone other than the resident informs the facility that he/she wishes to guarantee payment of the resident’s expenses, he/she can do so only in a separate written agreement:
50. No provision in the separate written agreement can conflict with these rules; and
51. This separate written agreement must be provided to the guarantor of payment and must plainly state the following:

“Do not sign this agreement unless you voluntarily agree to be financially liable for paying the resident’s expenses with your own money. You may change your mind within 48 hours of signing this agreement by notifying the facility that you wish to revoke this agreement. You may call the Long Term Care Ombudsman Program for an explanation of your rights.”

**V.**  **Information to residents**. The licensee must provide an information packet that includes the following information to the resident and/or resident’s legal representative at the time of admission or within 60 calendar days of the effective date of this rule for all current residents who have not already been given this information:

1. Information regarding Advance Health Care Directives, as defined in 18-C M.R.S. § 5-802(1), and further described at 18-C M.R.S. § 5-803;
2. Information regarding the type of facility and the licensing status;
3. Contact information forthe Maine Long Term Care Ombudsman Program;
4. The contact phone numbers for the Maine Department of Health and Human Services Office Department for Aging and Disability Services, Adult Protective Services & Guardianship, and the Division of Licensing and Certification;
5. The process and criteria for placement in and transfer or discharge from the facility; and
6. The program’s staff qualifications.

**W. Refunds**. If a resident dies or is discharged, the provider must issue a refund to the resident, the resident’s legal representative or the resident’s estate for any advance payments on a pro-rated basis.

1. Refunds must be made within 30 calendar days of date of discharge or death.
2. If a resident is determined to be retroactively eligible for third party payment, upon payment from a third-party payer, the provider must repay the family or other payer any payments made for the period covered by third party payment.

**X. Use of personal funds by operator**. Under no circumstances shall any operator or agent of an assisted housing program use the personal funds of any resident for the operating costs of the facility or for items which are part of the contractual payment.

1. The personal funds of any resident must not be commingled with the business funds of the facility or with the personal funds or accounts of the owner, any member of the owner’s family or any employee of the facility.
2. No operator or agent of the facility shall borrow money from any resident.

**Y. Tenancy obligation.** Tenancy obligations, if they exist in the facility, must not conflict with this rule.

**Z. Administrative and resident records**.

1. **Confidentiality**. All administrative and resident records must be stored in a secure manner such that unauthorized persons cannot gain access to them. Personal electronic devicesused to store or transmit resident protected health information must be equipped with software and/or applications to ensure that the information cannot be accessed by unauthorized individuals.
2. **Location of records.** All resident records, resident finances, admission/discharge records and census logs must be readily accessible to the Department even in the event of a change of ownership or administration.
3. Other administrative records, including personnel records, must be made available within two business days of request by the Department, or such longer time as the Department approves based on the circumstances, including the accessibility of and immediate need for the records.
4. All records must be maintained in a format that is readily accessible and available to all appropriate staff.
5. All records must be legible.
6. **Inspection of records**. All reports and records, including electronic records, must be made available for inspection upon request by the Department or the Maine Attorney General’s Office consistent with applicable confidentiality laws. All reports and records, including electronic records, must be made available for inspection upon request by the Long Term Care Ombudsman Program in accordance with 22 M.R.S. § 5107-A. Failure to comply with this provision of rule during a Department inspection or investigation constitutes impeding or interfering with the enforcement of rules and may result in intermediate sanctions.
7. **Use of Electronic Records in the Survey Process**. A facility may use electronic records. If the facility uses an electronic record system for resident records, the facility must grant unrestricted access to the Department.
	1. Unrestricted access must be granted by the end of the first day of the survey;
	2. The surveyor must be provided with instructions, guidance, or information on how to use the electronic system; and
	3. The facility will designate an individual who will, when requested by the surveyor, access the system, respond to any questions or assist the surveyor as needed in a timely fashion.
8. **Copy of records surveyed.** The facility must make available to surveyors upon their request, a printout of any record or part of a record.
9. **Record retention**. All administrative and resident records must be maintained in an accessible format for at least seven years after the date of death or last discharge of the resident.

**7.** **Disaster Plan.** The facility must develop a written emergency disaster, hazard, and evacuation plan that is based on a risk assessment and which addresses, at a minimum, the following:

1. Natural disasters and man-made disasters, or other serious events;
2. Security of medication and records;
3. Safety of clients and staff, including an evacuation plan;
4. Notification of closure plan for staff and clients;
5. Responding to a public health emergency; and
6. How medication will be dispensed in the case of an emergency.

**AA. Confidential information.** Confidential information may not be released without a court order or a written authorization to release from the person about whom the confidential information has been requested, except as provided by law.

1. **Closure.** The facility must notify the Department, in writing, of its intent to close no later than five business days after the determination to close is made and provide a copy of the closure policypreviously developed in accordance with § 2 (CC) below.

**CC. Closure policy.** The licensee must develop policies and procedures related to closure of the facility. The closure policy must include, at a minimum:

**1.** The facility must provide residents with a written notice of closure at least 30 calendar days prior to the closure date, unless an emergency situation exists. The written notice of closure must include, at a minimum:

**a.** The reason for the closure;

**b.** The effective date of the closure; and

**c.** The name and address of administrative staff responsible for the oversight of the closure.

**2.** The roles and responsibilities of the licensee, administrator or temporary management, and staff during the closure process;

**3.** The sources of funding that will be required to maintain the facility’s daily operations until all residents are safely transferred or discharged, and funding necessary for record storage after closure;

**4.** A process that assures that the licensee will identify receiving facilities or programs taking into consideration the need, choice, and best interest of each resident in terms of quality, services, and location;

**5.** The ongoing assessment and treatment of residents, including provision of medications, if applicable during the closure;

**6.** The provision of resident information that will be sent to the receiving facility to ensure continuity of care;

**7.** A process for disposing of drugs and biologicals, as applicable, in accordance with federal and State laws; and

**8.** A specific plan for the secure storage and accessibility of the facility’s records.

**Section 3. Enforcement Procedures**

1. **Inspections required**. The provider must submit to regular and unannounced inspection surveys and complaint investigations in order to receive and/or maintain a license.
2. The provider must give unrestricted access to all records required by this rule, consistent with other applicable laws.
3. The provider must give unrestricted access to all parts of the facility necessary to determine compliance with this rule or applicable statutes.
4. The Department has the right to interview residents and employees in private.
5. Failure to comply with this section of rule constitutes impeding or interfering with the enforcement of rules and may result in intermediate sanctions.
6. **Frequency and type of inspections**. An inspection may occur:
7. Prior to the issuance of a license;
8. Prior to renewal of a license;
9. Upon complaint that there has been an alleged violation of licensing rules;
10. When there has been a change or proposed change in administrator, physical plant or services;
11. When necessary to determine compliance with a Plan of Correction or conditions placed on a license, or to evaluate whether cited deficiencies have been corrected;
12. For routine monitoring of resident care; or
13. To assess whether an assisted housing program has violated a provision of this rule or is operating without a license.
14. **Complaints**. The Department will accept complaints from any person about alleged violation(s) of licensing rules or statutory provisions.
15. The provider may not retaliate against any resident or his/her representative for filing a complaint.
16. Any licensing violations noted as a result of a complaint investigation will be provided to the assisted housing program in a Statement of Deficiencies.

1. **Statements of Deficiencies.** After inspection, a Statement of Deficiencies (SOD) will be sent to the licensee if the inspection identifies any failure to comply with licensing rules. An SOD may be accompanied by a Directed Plan of Correction (DPOC.)
2. **Plan of Correction (POC).** The licensee must complete a POC for each deficiency, sign the plan and submit it to the Department within ten working days of receipt of the SOD.
3. **Acceptable Plan of Correction.** An acceptable plan of correction must contain the following elements. It must:
4. Address how corrective action will be accomplished for those residents found to have been affected by the deficient practice;
5. Address how the facility will identify other residents having the potential to be affected by the same deficient practice;
6. Address what measures will be put into place or systemic changes made to ensure that the deficient practice will not recur;
7. Indicate how the facility plans to monitor its performance to make sure that solutions are sustained; and
8. Include dates when corrective action will be completed.
9. **Department Review of POC.** The Department will review and may approve the POC.
10. The corrective action(s) and completion date(s) must be acceptable to the Department;
11. If the plan of correction is unacceptable for any reason, the Department will notify the facility in writing, and the facility must submit a revised POC within two business days that addresses the reasons for rejection of the initial POC;
12. If the revised POC is acceptable, the Department will notify the facility in writing.
13. The Department’s determination of the acceptability of a POC is not subject to appeal.

**4.**  **Compliance Responsibility.** The facility is responsible for compliance with their submitted POC.

1. **Informal conferences.**
2. **Dispute of SOD Finding(s).** A provider wishing to dispute a deficiency cited in an SOD, a decision of the Department to deny a waiver request, or to require the revision of a POC must submit a written request for an informal conference to DLC within ten business days of receipt of the SOD.
3. The written request for an informal conference must specifically identify what citation(s) or decision is being disputed, include a reason for the request, and evidence to support the disputation.
4. Informal conferences may not be used to present evidence that was required to be available at the time of the survey/investigation.
5. Only one informal conference will be permitted in regard to each inspection that results in the issuance of a SOD, each waiver dispute, and each required revision of a POC.
6. Failure to appear at the scheduled time of the informal conference or failure to provide at least 24-hour notice of the need to reschedule the informal conference will result in a forfeit of the opportunity for an informal conference.
7. Upon receiving the request for an informal conference, DLC will evaluate the following factors:
8. Whether the request was timely filed;
9. Whether the request includes sufficient evidence and reason for contesting the Department’s citation or decision; and
10. If the subject of the informal conference is an SOD, whether evidence required by rule or statute to be available at the time of the survey/investigation was available, if applicable.
11. If the request meets the above requirements, DLC will schedule an informal conference.
12. Legal counsel is not necessary at an informal conference. If a facility chooses to be accompanied by counsel, then the facility must notify DLC of this in their request for an informal conference. DLC reserves the right to cancel an informal conference when a facility’s counsel arrives without prior notice.
13. Informal conferences will be scheduled upon availability of DLC staff.
14. A courtesy informal conference may result in no change to the SOD, POC refusal, or waiver determination, or revision to the SOD to accurately reflect the violations supported by the evidence, acceptance of a POC as submitted, or acceptance of a waiver request.
15. The Department will notify the facility, in writing, of the results of the courtesy informal conference. If there is a revision to an SOD, a revised SOD will be issued to the agency and a POC must be submitted within ten (10) business days.
16. A POC is required to be submitted to DLC within ten business days of the facility’s receipt of a SOD. The facility may not delay submitting a POC within the required timeframe because an informal conference has been requested. Failure to submit a POC within the required timeframe may result in the facility being issued intermediate sanctions, in accordance with this rule.
17. An informal conference will not delay any subsequent enforcement action against a facility or any other aspect of the inspection and/or licensing process. DLC retains the authority to conduct subsequent inspections that may result in additional actions.
18. There is no appeal process related to the Department’s decision to deny a facility’s request for an informal conference or to deny a facility’s requested modification following the informal conference.

1. **Grounds for intermediate sanctions**. The following circumstances shall be grounds for the imposition of intermediate sanctions:
2. Operation of an assisted housing program without a license;
3. Operation of an assisted housing program over licensed capacity;
4. Impeding or interfering with the enforcement of laws or rules governing the licensing of assisted housing programs, or giving false information in connection with the enforcement of such laws and rules;
5. Failure to submit a POC within ten working days after receipt of an SOD;
6. Failure to take corrective action in accordance with a POC, a Directed POC or Conditional License within the time frame established in a Plan of Correction or Directed Plan of Correction, or, if any extension has been granted by the Department, within the time frame of that extension; or
7. Failure to comply with state licensing laws or rules that have been classified as Class I, II, III or IV pursuant to Section 3 (H)(3).
8. **Intermediate sanctions**. The Department is authorized to impose one or more of the following intermediate sanctions when any of the circumstances listed in Section 3 (F) are present and the Department determines that a sanction is necessary and appropriate to ensure compliance with State licensing rules to protect the residents of an assisted housing program or the general public.
	1. The assisted housing program may be directed to stop all new admissions, regardless of payment source, or to admit only those residents the Department approves, until such time as the Department determines that corrective action has been taken;
	2. The Department may issue a Directed POC or Conditional License; or
	3. The Department may impose a financial penalty.
9. **Financial penalties**.
	1. The Department may impose a penalty upon a licensed assisted housing program for a violation of these rules.
	2. Certain provisions of this rule have been classified as noted below. Financial penalties for the violation of classified provisions may be imposed as set forth in Section 3(H)(6).
	3. Rule provisions that have been classified are followed by a notation (i.e., “Class I”). Classifications have been established according to the following standards:
		1. Class I - Any failure to comply with a rule where that failure poses an immediate threat of death to a resident(s);
		2. Class II - Any failure to comply with a rule where that failure poses a substantial probability of serious mental or physical harm to a resident(s);
		3. Class III - The occurrence of a repeated deficiency that poses a substantial risk to the health or safety of a resident(s); and
		4. Class IV - The occurrence of a repeated deficiency that infringes upon resident rights.

**4.** The Department will determine which classification is appropriate, on a case-by-case basis, by reference to the standards set forth in Section 3(H)(3).

1. If the Department assesses financial penalties, an Assessment of Penalties will be issued.
2. The Assessment must describe the classification of each violation found to have been committed by the facility, the rule or law that has been violated and the duration of that violation;
3. If the facility does not contest the imposition or amount of the penalty, the facility must pay within 30 calendar days of receipt of the Assessment of Penalties;
4. If the facility disagrees with the imposition or amount of the penalty, the facility may appeal the decision, in accordance with Section 3(J).
5. The amount of any penalty to be imposed shall be calculated according to the following schedule of penalties:

|  |  |
| --- | --- |
| Any failure to comply with rules classified as Class I pursuant to Section 3(H)(3)(a);Operation of an assisted living program or residential care facility over licensed capacity; or Impeding, interfering or giving false information in connection with the enforcement of laws or rules governing licensure. | $6.00 per resident per day |
| Any failure to comply with rules classified as Class II, pursuant to Section 3(H)(3)(b);Failure to submit a POC within ten working days after receipt of an SOD; orFailure to take timely corrective action in accordance with a POC, Directed POC or conditional license. | $5.00 per resident per day |
| The occurrence of a repeated deficiency in complying with rules classified as Class III, pursuant to Section 3(H)(3)(c);orThe occurrence of a repeated deficiency in complying with rules classified as Class IV, pursuant to Section 3(H)(3)(d); | $4.00 per resident per day |

1. Each day of violation constitutes a separate offense. A penalty or a combination of penalties imposed on a facility may not be greater than a sum equal to $10 times the total number of residents residing in the facility per violation, up to a maximum of $10,000, for each instance in which the department issues a statement of deficiency to an assisted housing facility.
2. Failure to comply with 22 M.R.S. § 7855(6) regarding timed fire drills, as described in Section 13 (H), is a civil violation for which a forfeiture of not more than $25 per bed for each occurrence of failure to comply may be adjudged.
3. Any licensee unable to immediately pay penalties may within 30 calendar days from receipt of notification of penalty assessment apply to the Department for a delay in payment or installment payments, or a reduction in payment amount:
4. In order to have the payment delayed or paid in installments, a provider must supply sufficient information to the Department to demonstrate that immediate full payment of the total amount due would result in the interruption of the provision of necessary services to residents; and
5. In order to have a fine reduced, a provider must supply sufficient information to the Department to demonstrate that payment in full would result in a permanent interruption in the provision of necessary services to residents.
6. The Department has the authority to determine whether the provider has supplied sufficient information.
7. **Other sanctions for failure to comply**. When an applicant or licensee fails to comply with applicable laws and rules, the Department may:
8. Refuse to issue or renew a license to operate an assisted living program or residential care facility;
9. Issue a conditional license or change a full license to a conditional license if the applicant or licensee fails to comply with applicable laws and rules, and, in the judgment of the Commissioner, the best interest of the public would be served;
10. Failure by the licensee to meet the conditions specified by the Department shall permit the Department to void the conditional license or refuse to issue a full license;
11. The conditional license shall be void when the Department has delivered in hand or by certified mail a written notice to the licensee, or, if the licensee cannot be reached for service in hand or by certified mail, has left written notice thereof at the agency or facility;
12. Request that the District Court suspend the license on an emergency basis, whenever conditions are found upon investigation which, in the opinion of the Department, immediately endanger the health or safety of the persons living in or attending the assisted housing program, pursuant to 4 M.R.S. § 184(6);
13. Suspend or revoke any license for violation of applicable laws or rules; committing, permitting, aiding or abetting any illegal practices in the operation of the assisted housing program; or conduct or practices detrimental to the welfare of persons living in or attending the facility/program. When the Department believes a license should be suspended or revoked, it shall file a complaint with the District Court as provided in 5 M.R.S. § 10051;
14. Petition the Superior Court to appoint a receiver to operate the assisted housing program in the following circumstances, pursuant to 22 M.R.S § 7931:
15. When the assisted housing program intends to close but has not arranged for the orderly transfer of its residents at least 30 calendar days prior to closure;
16. When an emergency exists which threatens the health, security or welfare of residents; or
17. When the assisted housing program is in substantial or habitual violation of the standards of health, safety or resident care established under State or Federal laws and rules, to the detriment of the welfare of the residents.
18. **Appeal rights**.
19. Any assisted housing program aggrieved by the Department’s decision to take any of the following actions, or to impose any of the following sanctions, may request an administrative hearing, as provided by the Maine Administrative Procedure Act, 5 M.R.S. § 10003:
20. Issue a conditional license;
21. Amend or modify a license;
22. Void a conditional license;
23. Refuse to issue or renew a full license;
24. Refuse to issue a provisional license;
25. Stop or limit admissions;
26. Issue a directed POC; or
27. Impose a financial penalty.
28. Administrative hearings will be held in conformity with the Department’s Administrative Hearings Rules. A request for a hearing must be made, in writing, to the Division of Licensing and Certification and must specify the reason for the appeal.
29. Any appeal request must be submitted within ten working days from receipt of the Department’s decision to take any action listed in Section 3(J)(1).

**K.** **Operating without a license.** A person, firm, partnership, association, corporation or other entity may not, without first obtaining a license, manage or operate an assisted housing program.

1. A person, firm, partnership, association, corporation or other entity who operates an assisted housing program without a license commits a civil violation and is subject to a civil penalty of not less than $500 nor more than $10,000 per day. Each day of violation constitutes a separate offense.
2. Notwithstanding any other remedies provided by law, the Office of the Attorney General may seek an injunction to require compliance with the provisions of Section 3(K).
3. The Office of the Attorney General may file a complaint with the District Court seeking civil penalties or injunctive relief or both for violations of Section 3(K) in accordance with 22 M.R.S. § 7702-B.
4. A person, firm, partnership, association, corporation or other entity that violates the terms of an injunction issued under Section 3(K) must pay a fine of not less than $500 nor more than $10,000 for each violation to the State. Each day of violation constitutes a separate offense.

# Section 4. Resident Rights

**A.**  **Rights.** The facility must promote and encourage residents to exercise their rights and to make informed choices. *[Class IV]*

1. **Notification of resident’s rights**. The facility must inform each resident and legal representative of these Resident Rights prior to or at admission and must provide them with a copy of these rights. *[Class IV]*
2. The facility must inform each resident and legal representative of any changes to this section of this rule within 30 calendar days of the effective date of the change and must provide them with a copy of the change. *[Class IV]*

1. The facility must accommodate for any communication barriers that may exist, to ensure that each resident is fully informed of his/her rights. *[Class IV]*
2. The facility must post the Resident Rights in a prominent location within the facility, visible to residents and visitors. *[Class IV]*
3. **Right to reasonable modifications and accommodations**. Nothing in this subsection exempts a licensee from the requirements of applicable state or federal laws governing reasonable accommodation or reasonable modification, and nothing in this subsection limits a resident’s rights under those laws. To afford individuals with disabilities the opportunity to reside in a residential care facility the provider must:
4. Permit directly, or through an agreement with the property owner if the property owner is a separate entity, reasonable modification of the existing premises, at the expense of the individual with a disability or other willing payer. Where it is reasonable to do so, the provider may require the individual with a disability to return the premises to the condition that existed before the modification upon discharge of that individual; and *[Class IV]*
5. Make reasonable accommodation in rules, policies, practices or services, including permitting reasonable supplementary services to be brought into the facility, to assist the resident achieve independent functioning, dignity, and well-being to the extent possible in accordance with the resident’s own needs and preferences. *[Class IV]*
6. The provider is not required to make the accommodation if it imposes an undue financial burden, endangers the health or safety of individuals or other residents, or results in a fundamental change to the program.
7. When a request is denied, the facility must inform the resident that they may have a right to file a complaint with the U.S. Department of Justice, the Department of Housing and Urban Development, and/or the Maine Human Rights Commission and must document providing that information in the resident’s record.
8. The provider must be able to offer services and supports in a language understood by the resident at all times.
9. **Right to be informed of services provided by the facility/program**. Residents must be fully informed of items or services which are included in the rate they pay. *[Class IV]*
10. **Right to be free from discrimination**. A resident must be provided services without regard to race, age, national origin, religion, disability, gender, or sexual orientation. *[Class IV]*
11. **Right to reside as couples.**  A couple residing in an assisted housing program has the right to share a room. *[Class IV]*
12. **Right to privacy and consideration**. Residents must be treated with respect. Residents must also be treated with respect and consideration with regard to their individual need for privacy when receiving personal care or treatment, and with regard to their preferred mode of language and communication. *[Class IV]*
13. **Right to manage financial affairs**. Residents shall manage their own financial affairs, unless there is a representative payee, other legal representative appointed or other person designated by the resident. *[Class IV]*
14. **Right to personal clothing and possessions**. Residents may retain and use their personal clothing and possessions as space permits, unless to do so would infringe upon the rights of other residents or impair the provider’s ability to meet the purpose of these rules. *[Class IV]*
15. **Right of freedom of choice of provider.** Each resident has the right to select a provider of his/her choice who is qualified, willing and able for the provision of services and supplies not provided by the licensee. *[Class IV]*
16. **Right to refuse treatment or services**. Residents may choose to refuse medications, treatments or services. *[Class IV]*
17. If the resident refuses necessary care or treatment, the facility must notify the resident’s duly authorized licensed practitioner, in accordance with Section 13(M) of this rule; and *[Class IV]*
18. No person without legal authority to do so shall order treatment that has not been consented to by a competent resident. *[Class IV]*
	1. **Right to a service plan.** The provider must assist residents to implement any reasonable plan of service developed with community or state agencies. *[Class IV]*
	2. **Right to refuse to perform services for the facility**. Residents may refuse to perform services for the facility. *[Class IV]*
19. **Right to participate in activities of choice**. Residents may participate in social, political, religious and community activities, unless to do so would infringe on the rights of others. *[Class IV]*
20. **Right to communicate privately with persons of choice**. Residents may associate and communicate privately with persons of their choice at any time, unless to do so would infringe on the rights of others. *[Class IV]*
21. They may receive personal mail, unopened, and shall be assisted when necessary with writing and mailing letters and making phone calls. *[Class IV]*
22. Residents must have privacy when having telephone conversations. *[Class IV]*
23. Residents have the right to receive visitors at any time that does not infringe on the rights of others. *[Class IV]*
24. **Rights regarding restraints and aversive conditioning**. There shall be no use of physical, chemical, psychological, or mechanical restraints or aversive conditioning, except in accordance with this section. *[Class I, II, III, IV]*
25. Full-length bedrails on both sides of the bed are considered restraints and must not be attached to the bed. *[Class IV]*
26. Half-length bedrails attached to the top half of the bed are permissible. One full-length bed rail and one half-length bed rail may be used if the full-length rail is on the side against the wall. *[Class IV]*
27. **Right to freedom from abuse, neglect or exploitation**. Residents must be free from mental, verbal, physical and/or sexual abuse, neglect and exploitation. *[Class I, II, III, IV]*
	* 1. Mandated reporters must report knowledge or reasonable suspicion of elder abuse, neglect, or exploitation, in accordance with 22 M.R.S. §3477. *[Class I, II, III, IV]*
		2. Any person shall be allowed to make a report if that person knows or has reasonable cause to suspect abuse, neglect or exploitation of a dependent or incapacitated adult, in accordance with 22 M.R.S. §3479, or has reasonable cause to suspect that an adult is incapacitated. *[Class I, II, III, IV]*
		3. Reports of abuse, neglect, or exploitation must be documented in the resident’s records. *[Class I, II, III, IV]*
		4. The facility must have a written policy regarding the management of employees when known by the facility to be under investigation by Adult Protective Services. *[Class I, II, III, IV]*
		5. The facility policy cannot prohibit an employee from filing an allegation of abuse, neglect, or exploitation. *[Class I, II, III, IV]*
28. **Right to access to resident records.** Residents and their legal representatives must have access to all records pertaining to the resident. *[Class IV]*
29. Access to records shall be at reasonable times, in the presence of the provider or his/her representative, within one business day of the request; *[Class IV]*
30. Residents and their legal representatives are entitled to have copies made of their record within one business day of the request; and *[Class IV]*
31. Records must not be removed from the facility, except as may be necessary to carry out this rule. *[Class IV]*
32. **Right to confidentiality**. Residents’ records and information pertaining to their personal, medical and mental health status is confidential. *[Class IV]*
33. The licensee and employees must have access to confidential information about each resident only to the extent needed to carry out the requirements of the licensing rules or as authorized by any other applicable state of federal law. *[Class IV]*
34. The written consent, also known as an authorization for release of information, of the resident or his/her legal representative must be required for release of information to any other person except authorized representatives of the Department or as otherwise permitted by state or federal law. *[Class IV]*
35. Upon admission, each resident shall sign and date a written consent which lists individuals, groups, or categories with whom the program may share information (e.g., sons, daughters, family members or duly authorized licensed practitioners, etc.). *[Class IV]*
36. A written consent to release of information must be renewed annually. *[Class IV]*
37. Consent may be withdrawn at any time. *[Class IV]*
38. The Department must have access to these records for determining compliance with this rule. *[Class IV]*
39. **Right to resident councils.** Residents of assisted housing programs have the right to establish a resident council, pursuant to 22 M.R.S. § 7923.
40. Residents and their families must be notified of this right, orally and in writing, within 30 days of signing the admission contract, in a manner understood by each resident and by a notice of the right to form a council being posted prominently in a public area. *[Class IV]*
41. The council has the following rights:
42. To be provided with a copy of the facility's policies and procedures relating to resident rights and to make recommendations to the administrator on how they may be improved; *[Class IV]*
43. To establish procedures that will ensure that all residents are informed about and understand their rights; *[Class IV]*
44. To elicit and disseminate information regarding programming in the facility and to make recommendations for improvement; *[Class IV]*
45. To help identify residents' problems and recommend ways to ensure early resolution; *[Class IV]*
46. To inform the administrator of the opinions and concerns of the residents; *[Class IV]*
47. To find ways of involving the families and residents of the facility; *[Class IV]*
48. To notify the Department and Long Term Care Ombudsman Program when the council is constituted; and *[Class IV]*
49. To disseminate records of council meetings and decisions to the residents and the administrator and to make these records available to family members or their designated representatives and the Department, upon request. *[Class IV]*
50. If a majority of the residents choose not to establish a council, they must be given the opportunity to choose otherwise at least once each year thereafter. *[Class IV]*
51. **Right to communicate grievances and recommend changes**. The facility/program must assist and encourage residents to exercise their rights as residents and citizens: *[Class III, IV]*
52. Residents may freely communicate grievances and recommend changes in policies and services to the assisted housing program and to outside representatives of their choice, without restraint, interference, coercion, discrimination or reprisal; *[Class III, IV]*
53. The resident has the right to be assisted throughout the grievance by a representative of his/her choice. *[Class III, IV]*
54. **Right to file a grievance(s).** Assisted housing programs must notify residents upon admission of their right to file a grievance and information about how to do so. *[Class IV]*
55. Assisted housing programs must establish and implement a procedure for the timely review and disposition of grievances. The procedure must include: *[Class IV]*

**a.** The requirement that a written response be provided to the grievant describing disposition of the grievance; *[Class IV]*

**b.**  That the resident be provided with a list of advocacy services which may be available; and *[Class IV]*

c. That the disposition of the grievance be finalized within 60 days of filing.

1. All grievances must be documented. *[Class IV]*
2. Grievance documents must be maintained and available for review upon request by the Department. *[Class IV]*
3. **Right to continued residence.** Each resident has the right to continued residence whenever a valid contract for services is in force. *[Class IV]*
4. The facility must show documented evidence of strategies used to prevent involuntary discharges. A resident shall not be discharged involuntarily, except for the following reasons:
5. When there is documented evidence that a resident has violated the admission contract obligations, despite reasonable attempts at problem resolution; *[Class IV]*
6. A resident’s continued tenancy constitutes a direct threat to the health or safety of others; *[Class IV]*
7. A resident’s intentional behavior has resulted in substantial physical damage to the property of the assisted housing program or others residing in or working there; *[Class IV]*
8. A resident has not paid for his/her residential services in accordance with the contract between the assisted housing program and the resident; *[Class IV]*
9. When there is documented evidence that the facility cannot meet the needs of the resident as the program is fundamentally designed; or *[Class IV]*
10. The license has been revoked, not renewed, or voluntarily surrendered. *[Class IV]*
11. The provider has an affirmative responsibility to assist in the discharge process and to produce a safe and orderly discharge plan. A safe and orderly discharge includes the following elements:
	1. The resident moves to a facility or home that is able to meet their care and treatment needs;
	2. Relevant information about the resident’s current status, care providers, and history is communicated to the new provider prior to the move; and
	3. All of the resident’s possessions and finances are transferred to the new provider prior to or concurrent with the move.
12. When a resident is discharged in a non-emergency situation, the resident or his/her guardian must be provided with at least 15 days advance written notice to ensure adequate time to find an alternative placement that is safe and appropriate. Each notice must be written and include the following: *[Class IV]*
13. The reason for the discharge, including events which are the basis for such action; *[Class IV]*
14. The effective date of the discharge; *[Class IV]*
15. Notice of the resident’s right to appeal the discharge as set forth in Section 4(X); *[Class IV]*
16. The mailing address and toll-free telephone number of the Long Term Care Ombudsman Program; *[Class IV]*
17. The facility’s license number, program type, administrator’s name, and the address and telephone number of the facility; *[Class IV]*
18. The resident’s right to be represented by himself/herself or by legal counsel, a relative, friend or other spokesperson at an administrative appeal hearing. *[Class IV]*
19. Until a safe and orderly discharge plan is in place, no involuntary non-emergency discharge shall occur. *[Class III, IV]*
20. Appropriate information, including copies of pertinent records, must be transferred with a resident to a new placement. *[Class III, IV]*
21. In the event of an emergency discharge, the facility must assist the resident and authorized representatives in locating an appropriate placement. [Class IV]
22. When an emergency situation exists, no advance written notice is required, but written notice must be given to the resident and/or resident’s representative within five days of the emergency discharge. *[Class IV]*
23. Transfer to an acute hospital is not considered a discharge and does not necessarily terminate the facility’s obligation to assist in locating an appropriate placement. *[Class III, IV]*
24. When a resident is away on a leave of absence and continues to pay for services in accordance with the contract, the resident must be permitted to return unless any of the reasons set forth in Section 4 (W)(1) are present and the resident or resident’s legal representative has been given notice as may be required in this rule. *[Class IV]*
25. Residents who choose to relocate must be offered assistance in finding alternative placement. *[Class IV]*
26. Residents of assisted housing facilities shall not be required to give advance notice when relocating.

**X. Right to appeal an involuntary discharge**. A resident has the right to an expedited administrative hearing to appeal an involuntary discharge: *[Class IV]*

1. A resident may not appeal a discharge due to the impending closure of the program unless he/she believes the transfer or discharge is not safe or appropriate.
2. To file an appeal regarding an involuntary discharge, the resident must submit the appeal within five calendar days of receipt of a written notice.
3. If a resident has already been discharged on an emergency basis, the provider must hold a space available for the resident pending receipt of an administrative decision. *[Class IV]*
4. Requests for appeals shall be submitted to the Division of Licensing and Certification, Community Healthcare Programs for submission to the Office of Administrative Hearings, 11 State House Station, Augusta, Maine 04333-0011. *[Class IV]*
5. The provider is responsible for defending its decision to discharge the resident at the administrative hearing.
6. **Right to information regarding Department survey deficiencies**. Residents have the right to be fully informed of deficiencies cited on the most recent survey conducted by the Department. *[Class IV]*
7. The provider must inform residents or their legal representatives that the survey results are public information and are available in a common area of the facility. This notification must take place within 15 working days from receipt of notice of survey results; *[Class IV]*
8. Residents and their legal representatives must be notified by the provider, in writing, of any actions proposed or taken against the license of the facility/program by the Department including but not limited to:
9. Decisions to issue a Directed Plan of Correction; *[Class IV]*
10. Decisions to issue a Conditional license; *[Class IV]*
11. Refusal to renew a license; *[Class IV]*
12. Appointment of a receiver; or *[Class IV]*
13. Decisions to impose fines or other sanctions. *[Class IV]*

**3.** If the facility receives notification from the Department of any actions proposed or taken against the license of the facility/program by the Department, the facility must notify residents of those actions within two business days of receipt of notification, regardless of any appeal by the provider.

1. **Mandatory report of suspected abuse, neglect, or exploitation.** Any person mandated to report, in accordance with 22 M.R.S. §3477, and who knows or has reasonable cause to suspect that an incapacitated or dependent adult has been or is likely to be abused, neglected or exploited must immediately report the alleged violation to the Department of Health and Human Services, Adult Protective Services at 1-800-624-8404 (Voice) or 711 (Maine Relay) and to DLC. *[Class I, II, III, IV]*
2. **Mandatory report of rights violations.** Any person who knows or has reasonable cause to suspect that a resident’s rights have been or are likely to be violated must report the alleged violation to the Department of Health and Human Services, Division of Licensing and Certification within 24 hours of the alleged violation. The report may be submitted by telephone or via the Department’s online reporting system.. In all cases, the facility must maintain documentation that a report(s) of a rights violation was made. *[Class II, III, IV]*
3. **Rights of persons with intellectual disabilities or autism**. Facilities/programs serving persons with intellectual disabilities or autism must post and comply with the Rights for Persons with Intellectual Disabilities or Autism set forth in 34-B M.R.S §§ 5601-5611 and 14-197 C.M.R. Ch. 5, Regulations Governing Behavioral Support, Modification and Management for People with Intellectual Disabilities or Autism. *[Class IV]*
4. **Resident adjudicated incompetent**. The rights of any resident adjudicated incompetent are exercised by the resident’s legal representative.
5. **Right to Patient-Directed Care.** In accordance with 22 M.R.S. §2140 an adult who is competent, is a resident of this State, has been determined by an attending physician and a consulting physician to be suffering from a terminal disease, and has voluntarily expressed the wish to die may make a written request for medication that the adult may self-administer. *[Class IV]*
6. **Notification of changes.** Except in a medical emergency or when a resident is incompetent, a facility must consult with the resident regarding any proposed significant changes in treatment or a plan of care.
7. The facility must notify the resident's physician, the resident's legal representative authorized to assist the resident with obtaining medical assistance, and, with the resident's or authorized legal representative’s written authorization, an interested family member within 24 hours, when there is:

**a.** An accident involving the resident which results in injury;

**b.** A significant change in the resident's physical, mental, or psychosocial status;

**c.** A need to alter treatment significantly; or

**d.** A decision to transfer or discharge the resident from the facility.

**2.** The facility must also notify the resident or appropriate legal representative, and with the written authorization of the resident or appropriate legal representative, the resident's interested family member within 48 hours when there is:

**a.** A change in room or roommate assignment; or

**b.** A change in resident rights under Federal or State law or regulations.

**FF.** **Right of action.** In addition to any remedies contained herein, any resident whose rights have been violated may commence a civil action in Superior Court for injunctive and declaratory relief pursuant to 22 M.R.S. § 7948 et seq. *[Class IV]*

**Section 5. Medications And Treatments**

**A.** **Use of safe and acceptable procedures**. The provider must ensure that all persons administering medications (except residents who self-administer) and treatments use safe and acceptable methods and procedures.

1. Ordering, receiving, storing, administering, documentation, packaging, discontinuing, returning for credit and/or destroying of medications and biologicals must be completed in accordance with the Department-approved medication administration training curriculum. *[Class I, II, III]*
2. All employees must practice proper hand washing and aseptic techniques. A hand-washing sink must be available for staff administering medications. *[Class III]*
3. Residents must receive the medications and treatments ordered by their duly authorized licensed practitioner in the correct dose, at the correct time, and by the correct route of administration consistent with pharmaceutical standards. *[Class I, II, III]*
4. Injectable medications may be administeredby an unlicensed person only when allowed by the Department’s approved medication administration course. *[Class I, II, III]*
5. Before using an anaphylaxis kit, unlicensed persons must be trained and certified in accordance with 10-144 C.M.R. Chapter 130, State of Maine Epinephrine Auto-Injection Training and Certification Rule. Documentation of training and certification must be included in the employee record. *[Class III]*
6. Unlicensed assistive personnel must be trained upon hire and, except as described in subsection (c), annually thereafter by a registered professional nurse in regard to the management of persons with diabetes including compliance with CDC guidelines for infection prevention during blood glucose monitoring and insulin administration. *[Class III]*
	1. Documentation of training must be included in the employee record. *[Class III]*
	2. Training and documentation must include: *[Class III]*

1. Dietary requirements;
2. Anti-diabetic oral medications, inclusive of adverse reactions and interventions, hyper- and hypo-glycemic reactions;
3. Insulin mixing including insulin action;
4. Insulin storage;
5. Injection techniques and site rotation including compliance with CDC guidelines for infection prevention during blood glucose monitoring and insulin administration;
6. Treatment and prevention of insulin reaction including signs/symptoms;
7. Foot care;
8. Lab testing, urine testing and blood glucose monitoring; and
9. Standard Precautions.

**c.** In facilities in which no resident is diabetic, the annual retraining may utilize a curriculum developed by a Registered Nurse.

1. Urine testing must not be done around medication or areas where food is stored or prepared. *[Class III]*
2. Standard Precautions, as defined by the Center for Disease Control relative to body fluids, must be implemented;
3. Toilets must be used for the disposal of urine and test sample waste; and
4. Toxic urine testing chemicals (tablets, solutions) must be stored in a locked area totally apart from oral medications.
5. For those residents for whom the facility is responsible for assistance with medication administration, no medications, including those brought into the facility by the resident, family or friends, may be administered or discontinued without a written order signed by a duly authorized licensed practitioner or other person licensed to prescribe medications. *[Class III]*
6. Orders for medications and treatments must be in writing, signed and dated by a duly authorized licensed practitioner: *[Class III]*
7. Orders must be in effect for the time specified by the duly authorized licensed practitioner, but in no case to exceed 12 months, unless there is a written reorder. *[Class III]*
8. Orders for psychotropic medications must be reissued every three months, unless otherwise indicated by the duly authorized licensed practitioner. *[Class III]*
9. Standing orders for individual residents are acceptable when signed and dated by the duly authorized licensed practitioner. *[Class III]*
10. In cases where facilities have created the option for a resident’s record to be maintained by computer, rather than hard copy, electronic signatures are acceptable:
11. Systems and software products must include protections against modification and should apply administrative safeguards that correspond to standards and laws. *[Class III]*
12. The individual whose name is on the alternate signature method and the provider bear the responsibility for the authenticity of the attested information.
13. Upon admission to another facility (including a hospital), all existing orders are discontinued. *[Class III]*
14. Upon return to the facility, all orders must be reviewed by the resident’s duly authorized licensed practitioner within 72 hours. Documentation of review must be maintained in the resident’s record. During that timeframe, orders that are signed and dated by the discharging duly authorized licensed practitioner are the current acceptable orders. *[Class III]*
15. Once the resident is admitted to another facility all medications must be removed from service and placed in a locked area in accordance with Section 5(E). *[Class III]*
	1. **Administration of medications**.
		1. **Self-administration.** Within 14 days of admission, if an individual desires to self-administer medications, their ability will be determined by an assessment of their need for assistance completed by a clinical provider in accordance with their individual scope of practice.. *[Class III]*
16. The resident/legal representative may elect (in writing) to have the facility administer the resident’s medications. *[Class III]*
17. An agreement for self-administration or assisted administration will be reached between the resident, his/her legal representative, his/her duly authorized licensed practitioner, and a facility representative. *[Class III]*

1. The agreement must be documented in the resident’s record. *[Class III]*
2. **Medications administered by facility.** For those medications and/or associated treatments for which the facility is responsible, the following apply:
3. Telephone orders must be accepted only by a registered or licensed nurse or pharmacist. *[Class III]*
4. Written/electronic/facsimile orders for telephone orders must be signed by the duly authorized licensed practitioner within 10 working days. *[Class III]*
5. **Unlicensed assistive personnel**. Unlicensed assistive personnel administering medications and/or treatments must successfully complete training approved by the Department:
6. There must be evidence available in the employee record that such training has been successfully completed; *[Class III]*
7. Whenever the standards or guidelines of the medication administration course are substantiallyrevised, unlicensed personnel must be re-certified. The Department will issue guidance to notify providers when there have been substantial revisions. *[Class III]*
8. An exception can be made on a case-by-case basis for persons who administer only dietary supplements and/or minor medicated treatments, shampoos, lotions and creams that could be obtained over the counter without a physician’s order; and
9. All unlicensed assistive personnel administering medications and/or treatments must complete a Department-approved eight hour recertification course for re-certification within two years of the original certification. *[Class II, III]*
10. **Pro Re Nata (PRN) Medications.** The following provisions apply to the administration of PRN medications:
11. Psychotropic medications ordered "as needed" (or “PRN”) by the duly authorized licensed practitioner must not be administered unless the duly authorized licensed practitioner has provided detailed behavior-specific written instructions, including symptoms that might require use of medication, exact dosage, exact time frames between dosages and the maximum dosage to be given in a 24 hour period; *[Class III]*
	1. Facility staff must notify the duly authorized licensed practitioner within 24 hours when such a medication has been administered, when instructed in writing by the duly authorized licensed practitioner; and *[Class III]*
12. A person qualified to administer medications must be on site at the assisted housing program whenever a resident(s) has medications prescribed “as needed” (PRN) if this medication is not self-administered; *[Class III]*
13. **Medication storage**.
14. Residents who self-administer medications and who handle their own medication regimen may keep medications in their own room. To ensure the safety of the other residents, the facility will provide or ensure the resident has a locked area/container. *[Class III]*
15. All medications must be stored according to manufacturer’s instructions. *[Class III]*
16. Medications administered by the facility that do not require controlled temperature storage, such as refrigeration, must be kept in their original containers in a locked storage cabinet. *[Class III]*
17. The cabinet must be equipped with separate cubicles, plainly labeled, or with other physical separation for the storage of each resident's medications; *[Class III]*
18. The cabinet must be locked when not in use. The key must be kept in a secure location accessible only to persons responsible/qualified to administer medications; and *[Class III]*
19. Medications/treatments administered by the facility for external use only must be kept separate from any medications to be taken internally. *[Class III]*
20. Medication requiring temperature-controlled storage kept in a food storage area must be kept in a locked container. *[Class III]*
21. A process must be in place to ensure appropriate temperatures are being maintained within the required ranges for the medications stored. *[Class III]*
22. The facility must have a defined process for the disposal of medication from a refrigerator or freezer that has deviated from the specified temperature range. *[Class III]*
23. Residents who self-administer their medications may store their medications in a facility refrigerator.
24. **Medications leaving the facility.** The RN consultant must develop policies and procedures regarding medications leaving and returning to the facility. The policy must address, at a minimum: *[Class III]*
25. Acceptable methods and procedures for preparing medications for leaving the facility; *[Class III]*
26. Counting and/or measuring and documenting supplies upon leaving and returning to the facility; and *[Class III]*

1. Medications held by residents who self-administer their medications. *[Class III]*
2. **Medication labeling**. Each prescription dispensed by a pharmacy must be clearly labeled in compliance with requirements of 32 M.R.S. § 13794 to include: *[Class III]*
3. The prescription number;
4. The date of filling;
5. The patient’s name;
6. Directions for use;
7. The name and strength of the drug and the amount dispensed;
8. The brand name of the drug, or if a generic and therapeutically equivalent drug or interchangeable biological product is dispensed, the label must be in accordance with 32 M.R.S. § 13781;
9. The beyond use date of the drug meaning a date beyond which the contents of the prescription are not recommended to be used; and
10. The name, address and telephone number of the pharmacy where the prescription was compounded and dispensed.
11. The facility may have the RN consultant develop policies and procedures regarding labeling of medications to address prescription changes while the medication is still being administered.
12. **Improperly labeled medications**. For medications administered by the facility, all pharmaceutical containers having soiled, damaged, incomplete, illegible, or makeshift labels must be returned to the original dispensing pharmacy or must be disposed of in accordance with the requirements contained in Section 5(K). *[Class III]*
13. **Expired and discontinued medications**. For medications administered by facility, medications must be removed from use and properly destroyed after the expiration date and when discontinued, according to procedures contained in Section 5(K). Medications must be taken out of service and locked separately from other medications until reordered or disposed of. *[Class III]*
14. **Medication owned by residents**. Prescribed medicines are the property of the resident and must not be given to or taken by other residents or any other person**.** *[Class II, III]*
15. **Medication disposal.**  All discontinued medications, expired medications, or medications prescribed for a deceased resident must be properly destroyed according to procedures contained in Section 5(L)(5). *[Class II, III]*
16. **Schedule II controlled substances**. Schedule II controlled substances listed in 21 U.S.C. § 812 are subject to the following standards:
17. For all Schedule II controlled substances, there must be an individual record in which must be recorded the name of the resident, prescription number, the date, drug name, dosage, frequency and method of administration, the signature of the person administering it and verification of the balance on hand; *[Class II]*
18. There must be a recorded and signed count of all Schedule II controlled substances at least once a day, if such substances have been used in the facility that day; *[Class II]*
19. All Schedule II controlled substances on hand must be counted at least weekly and records kept of the inventory in a bound book with numbered pages, from which no pages may be removed. At least two individuals must sign for inventory; *[Class II]*
20. All Schedule II controlled substances must be stored under double lock in a separate locked box or cabinet within the medication cabinet or in an approved double-locked cabinet attached to the wall; and *[Class II]*
21. The licensee must ensure that a facility disposes of Schedule II controlled substances on behalf of a person who resides, or has resided, at the facility by adhering to the requirements of Maine’s Unused Pharmaceutical Disposal Program or other process authorized by state or federal law: *[Class II]*
22. The administrator or a licensed or registered nurse and another person employed by the facility must list all such unused substances, count such medications weekly, and keep the same in a securely locked area apart from all other drugs. *[Class II]*
23. Excess, expired, and undesired controlled substances in the possession of a licensed facility and no longer required for a resident must be disposed of no more than seven days after discontinuation of use by the resident. *[Class II]*
24. **Bulk supplies**. Facilities may stock in bulk supply those items regularly available without prescription at a pharmacy. *[Class III]*
25. **Medication/treatment administration records (MAR).** Individual medication/treatment administration records must be maintained for each resident for medications administered by the facility including all treatments and medications ordered by the duly authorized licensed practitioner. *[Class III]*
26. Each MAR must include:

**a.**  The name of the resident, allergies, weight, special diet, and other relevant information;

**b.** The name of the medication, name of prescribing physician, dosage, route, frequency and time to be given;

**c.** Whenever a medication or treatment is started, given, refused or discontinued, including those ordered to be administered PRN, the medication or treatment must be documented on the medication/treatment administration record. It must be initialed by the administering individual. A medication or treatment must not be discontinued without evidence of a stop order signed and dated by the duly authorized licensed practitioner;

**d.** Administration of medications ordered PRN must be documented and must include date, time given, medication and dosage, route, reason given, results or response and initials or signature of administering individual;

**e.** A record of treatments as ordered by the licensed practitioner, including daily monitoring and record of oxygen saturation levels for residents prescribed continuous oxygen, and

**f.** Documentation of efforts to obtain medications and orders when not immediately available from a pharmacy or licensed practitioner, which must be maintained with the Medication Administration Record.

1. Documentation of treatments ordered and time to be done must be maintained in the same manner. *[Class III]*
2. Medication errors and reactions must be recorded in an incident report in the resident's record. Medication errors include errors of omission, as well as errors of commission. Errors in documentation or charting are errors of omission. *[Class II]*
3. Medication Guides for each medication administered at the facility must be accessible to staff at all times. *[Class III]*
4. **Medication containers**. Graduated medicine containers, for the accurate measurement of liquid medications, must be used. If not disposable, medicine containers must be returned to the facility's dishwashing unit for sanitization after each use. Only sterile disposable syringes and needles must be used for the injection of medications. Disposable medicine containers must not be reused. *[Class III]*
5. **Breathing apparatus**. When the facility assists a resident with a hand-held bronchodilator, metered dose nebulizers, intermittent positive pressure breathing machine or oxygen machine, there must be documentation of the following: *[Class III]*
6. A copy of the duly authorized licensed practitioner’s order; *[Class III]*
7. Possible side effects to be monitored and specific instructions as to when the duly authorized licensed practitioner must be notified regarding side effects; *[Class III]*
8. Instructions to the resident on the use of the breathing apparatus and documentation of the resident’s ability to self-administer the breathing apparatus; *[Class III]*
9. Staff training to use the specific equipment and/or to mix medications, the nature of their training, the date and who provided it; and *[Class III]*
10. The name of the distributing agency and the frequency and specific directions for cleaning the equipment. *[Class III]*
11. **First aid kit.** A first aid kit containing supplies which may be necessary for the first aid treatment of minor injuries such as cuts, scrapes or first degree burns must be included and available in the facility. *[Class III]*
12. All staff must be instructed in the location of the kit.

1. The kit should be checked and resupplied as needed on a monthly basis.
2. **Employee medication administration and treatments training.** Unlicensed personnel may only administer medications, provide treatments, or use medical equipment within the scope of their certification(s), credential, or training. *[Class II, III]*

**1.** There must be documentation in the employee file whenever employees (including licensed and unlicensed personnel) are provided in-service training or are taught procedures, the use of equipment, or anything else which impacts resident care. *[Class III]*

1. A registered nurse or other professional such as a physician, dietician, physical therapist, pharmacist, or other licensed practitioner may only teach or provide in-service training to unlicensed personnel on medical issues, treatments, and/or medical equipment not specifically outlined in this rule within their scope of practice and as allowed by their professional license, and there must be documentation in the employee file. *[Class II, III]*
2. All medication training must be conducted in compliance with state-approved medication administration course or courses. *[Class II, III]*

**Section** **6. Scope of Licenses**

1. **Beds to be located in distinct part of facility**. In facilities providing more than one licensed level of care, assisted housing services must be provided in a physically distinct part of the facility.
	1. An independent building, floor or wing containing only residential care beds may constitute a distinct part.
	2. Several beds physically proximate to one another, such as all beds on one side of a corridor or on one end of a hall, may qualify as a distinct part.
2. Such determination must be made by the Department upon written request prior to the operation of such a distinct part.
3. The Department will approve the request only if it is shown that such a distinct part will comply with all laws and rules and no other reasonable alternatives are available.
4. **Resident care limitations**. The facility must screen each resident prior to admission to assess the resident’s service/health needs, including but not limited to behavioral health, substance use disorder, and behavioral support needs, in a manner that complies with applicable laws. When the scope of services identified in a facility’s admission policy can meet the resident’s needs, the facility may not refuse admission if these criteria are met, except as provided below:
5. If it is determined that the individual meets the admission criteria but requires professional or skilled nursing services beyond those assisted housing services described in Section 1(B)(10), the facility may admit the resident provided the nursing needs of the resident can be met.
6. Registered and licensed nurses employed in or practicing in an assisted housing facility, home health nurses, and nurses in private practice whose services to residents exceed those described as assisted housing services may not delegate those nursing duties to unlicensed personnel employed by the facility, unless allowed under 02 -380 C.M.R. Ch. 5, Regulations Relating to Training Programs and Delegation by Registered Professional Nurses of Selected Nursing Tasks to Certified Nursing Assistants~~.~~ or Ch. 6, Regulations Relating to Coordination and Oversight of Patient Care Services by Unlicensed Health Care Assistive Personnel.
7. If facility staff observe a significant change in resident function, the facility must ensure that ongoing resident needs are assessed, and document its ability, through direct services or contracted services, to meet the identified needs in order for the resident to maintain continued residency in the program.
8. Any person whose tenancy may result in substantial physical damage to the property of the facility or the potential harm to those persons living in or working in the facility may be refused admission (See Section 4 (W)(1) regarding Involuntary Discharge).
9. Those persons who cannot meet the admission criteria or tenancy obligations even with the provision of reasonable accommodation and modification as required by Section 4 (C) or other applicable laws may be refused admission.
10. Nothing in this rule requires that a facility admit any person whose tenancy would constitute a direct threat to the health or safety of other individuals.

**Section 7. Administration**

1. **Administrator required**. There must be a designated administrator for each licensed assisted housing facility. *[Class III]*
2. An administrator must be licensed, if required by 02-371 C.M.R. Ch. 26, Licensure of Residential Care Facility Administrators. *[Class III]*
3. The administrator must perform all functions in compliance with all applicable laws and rules. *[Class III]*
4. The administrator must ensure the following data is submitted to the Division of Licensing and Certification, no less frequently than on a quarterly basis, beginning no later than 60 days after the written notice by the Department of Health and Human Services that a reporting system has been developed and is ready for facility data submission:
5. The facility's daily number of staff for each shift who were present and working each day providing direct care to residents during each shift;
6. The facility’s number of staff who are working as temporary staff and were hired through a temporary nurse agency or other temporary staffing agency or Internet-based system, and the name of the agency;
7. The facility's staff turnover rate for each quarter; and
8. The facility's resident census for each day.
9. **Qualifications of the applicant/licensee and administrator**. The applicant/licensee and administrator must meet the following requirements:
	1. The applicant/licensee and administrator must demonstrate to the Department’s satisfaction the capacity to operate and manage the facility with regard for the health and safety of residents and consistent compliance with this rule and all relevant laws. *[Class III]*
	2. The applicant/licensee and administrator, as part of the license application and renewal process, must consent to the release of all information that may be relevant to this subsection. In making any determination under this subsection, the Department may consider:
10. Records of professional licensing boards, registries, past compliance history, any criminal record, child protective record, or adult protective record relating to the applicant/licensee and administrator;
11. Whether the facility is required to have a licensed administrator by the Maine Nursing Home Administrator’s Licensing Board, and whether the administrator’s license is current and valid;
12. Financial ability and fiscal responsibility of the applicant/licensee (such as a history of timely payment of employee Federal withholding taxes, capability of obtaining financing for working capital and repairs, or history of legal action for financial mismanagement);
13. Experience in the field of health care, social services or areas related to the provision of assisted housing services. A Residential Care or Multi-Level Facility Administrator’s License will be accepted as evidence that this standard is met;
14. Understanding of and compliance with resident rights;
15. Any information reasonably related to the ability to provide safe and compassionate services.
16. **Absent administrator**. Any planned absence of the administrator for a period longer than 30 calendar days must be reported in writing to the Department at least five business days prior to the planned absence, including the name of the designated individual responsible for compliance with this rule, prior to the planned absence. *[Class III]*
17. **Change of administrator**. In the event of the absence of the administrator, other than a planned absence, the licensee must notify the Department in writing within 72 hours. *[Class III]*
18. The written notice must include the name of the designated individual responsible for operation of the facility in the absence of an Administrator; *[Class III]*
19. The licensee must submit a change of administrator application with the name of the new administrator within thirty business days. *[Class III]*
20. A facility that requires a licensed administrator may have a temporary administrator for a period not to exceed 90 calendar days. The temporary administrator must have a license in accordance with the rules of the Maine Nursing Home Administrators Licensing Board. If an extension to that license is granted by the Maine Nursing Home Administrators Licensing Board, the licensee must notify the Department, and the temporary administrator may continue to serve as permitted by the license. *[Class III]*
21. **Licensee responsibilities**. The owner and the administrator are responsible for the overall operation of the facility, which includes the following: *[Class II, III]*
22. Ensure that all staff are qualified and competent and are performing their duties consistent with all rules and provisions of law; *[Class II, III]*
23. The licensee must comply with the requirements of 22 M.R.S. Chapter 1691, Maine Background Center Act; *[Class II, III]*
24. Assure that each resident’s abilities and needs are adequately assessed, that a pertinent service plan based upon assessment is developed and that each resident is offered all services as indicated in the service plan; *[Class II, III]*
25. Make work assignments according to the qualifications of staff and the number and needs of the residents; *[Class III]*
26. Ensure that information regarding resident(s) is communicated to legal representatives and/or family members, as agreed upon by resident(s);
27. Respond to Department communications and requests within 2 days of the date the request was made, with the exception of requests made in the course of an inspection or investigation; *[Class III]*
28. Develop, maintain and carry out written policies and procedures to implement this rule. Policies must indicate what staff are responsible for coordination or implementation of policies and procedures. Required policies include: *[Class III]*
29. Hospice care, including but not limited to: coordination requirements between facility and hospice provider, additional staff training and resident monitoring
30. Protocols regarding resident falls, including but not limited to: staff response, continued monitoring, supervisory or administrator notification, and need for reassessment and service planning updates;
31. Protocols regarding situations in which residents unsafely wander from the facility, including but not limited to: staff response, reporting requirements and assessment of ongoing resident needs related to supervision.
32. Resident to resident altercations, including but not limited to: staff response, continued monitoring and intervention strategies to prevent further incidents;
33. Resident care alerts, including but not limited to: methods for communicating resident needs and changes between shifts, and communication between direct care staff and administrator or clinical staff;
34. Resident grievance procedures;
35. Personnel (including hiring procedures, reference checks, job qualifications and descriptions, lines of authority, employee benefits, work rules, annual evaluation of performance of tasks as described in the job description and disciplinary procedures);
36. Dietary;
37. Medications (administration, returning, discontinuing, destroying, charting, pharmacy consultation);
38. Medication inventory procedures, including but not limited to: role and responsibilities related to medication inventory, ordering and accessing medications.
39. Fire and emergency procedures;
40. Maintenance/service agreements and schedules;
41. Admission /discharge and scope of services policy;
42. Confidentiality;
43. Activities/Social Services;
44. Staff training and development (including orientation and in-service education);
45. Nursing services;
46. Refusal of treatment/care/services;
47. Emergency medical procedures, including emergency transfers; and
48. Other policies may be developed at the discretion of the facility to ensure the orderly conduct of resident care.
49. Ensure written policies and licensing rules are available to and reviewed by staff.
50. Review reports completed by Registered Nurse and/or Pharmacist consultant and ensure that recommendations are implemented.
51. Ensure that resident care is coordinated between the facility and other service providers.
52. Make policies available for review by interested parties, including residents, their legal representatives, and legal and advocacy groups working with or on behalf of the resident.
53. Provide a safe environment which supports residents’ rights and aging in place.

**F.**  **Maximum number of facilities and bed capacity for a single administrator.** A licensed administrator may not have oversight responsibility for more than 160 residents in a licensed facility, or, if overseeing multiple facilities, no more than 3 facilities with a total licensed capacity of 50 residents. *[Class II, III]*

**1.** If an administrator has responsibility for more than one licensed facility, the Department may limit the number of beds that administrator can oversee, or require that the administrator perform a designated number of hours on-site at each facility through issuance of directed Plan of Correction.

**2.** No administrator who has oversight of more than one facility may have responsibility for oversight of more than 50 beds in total.

**3.** Any administrator who has oversight of more than one facility must spend onsite hours sufficient to ensure compliance with this rule at each facility each week.

**4.** Administrative hours shall be indicated on the facility’s weekly schedule.

**5.** The Department may require a specified number of onsite Administrator hours at a facility, or limit the number of facilities or beds assigned to an administrator through issuance of directed Plan of Correction.

**Section 8. Administrative and Resident Records**

1. **Individual records required**. The facility must maintain information pertaining to a resident centralized in an individual record that is chronologically organized and legible. The record must contain the following, where applicable: *[Class IV]*
	1. A summary, completed at admission and updated with changes as needed, that includes the following information, as applicable: *[Class IV]*
		1. Name, previous address, and identification number of resident;
		2. Birth date, gender, and marital status;
		3. Date of admission and source;
		4. Religious affiliation;
		5. Duly authorized licensed practitioner's name, address, and telephone number, and any known resident allergies;
		6. Dentist's name, address, and telephone number, and denture use, if applicable; with the name, address, and telephone number of the denture manufacturer;
		7. Name, address, and telephone number of the legal guardian/conservator or legal representative, if applicable;
		8. Name, address, and telephone number of the person who will make payments for boarding care (if other than the resident);
		9. Name, address, and telephone number of nearest relative or friend;
		10. Name, address, and telephone number of person to be notified in an emergency;
		11. Day program name, telephone number, address, and contact person, if applicable;
		12. Current diagnoses and/or physical or mental disabilities and instructions as to any special care required;
		13. Language spoken/communication method;
		14. Discharge date, destination, summary of care and services provided, and reason for discharge;
2. The procedures to be followed in an emergency to cover the immediate care of the resident and disposition of the body at the time of death, and the name, address, and telephone number of the person to be notified, if different from Section 8(A)(1)(j) above.
3. It must be noted in the record if any of the above entries do not apply to a resident, what efforts were made to obtain the information, or the reason why the information is not available.
	1. A listing of all personal property of significant value to the resident that includes such things as clothing, jewelry, radios, television sets, dentures, appliances, and other valuables: [Class IV]
		1. Where serial numbers are available, these must be included as part of the record;
		2. The record must be signed and dated by the resident or his/her legal representative;
		3. When significant items of personal property are brought into or removed from the facility, it must be noted in the record;
		4. It must be noted in the record if a resident has no personal property of significant value.
	2. A record or statement from the duly authorized licensed practitioner showing the date of the resident’s last annual physical examination and any pertinent information on the resident's diagnosis, physical condition and medical history. *[Class III]*
4. A complete physical must be scheduled upon admission, if no physical exam has been done in the past year; *[Class III]*
5. If a resident has had a physical examination or wellness check within one year prior to the date of admission, a copy of the report must be obtained and placed in the resident's record; or *[Class III]*
6. If the resident refuses to have a physical examination, the refusal must be documented in the resident’s record. *[Class III]*
7. Written and dated orders signed by a duly authorized licensed practitioner for all treatments, medications and therapeutic diets. *[Class III]*
8. Other information including:
9. Appropriate documentation to establish proof of guardianship, conservatorship, representative payee, power of attorney or other legal representative, if such a relationship exists; and *[Class III]*
10. Signed standard contract and other legally binding agreements or conditions of residency. *[Class III]*
11. Incident reports, which must be completed: *[Class II, III]*
12. For any resident death, including date and time of death and immediate cause of death;
13. Allegations of rights violations and/or allegations of abuse, neglect, or exploitation,
14. Sustained harm in the facility, while being transported by the facility, or in an activity supervised by facility staff;
15. Injury that requires medical follow-up;
16. When a resident:

**i.** Unsafely wanders from the facility;

**ii.** Has sustained or caused a fall, injury or accident in the facility, while being transported by the facility, or in an activity supervised by facility staff,

**iii.** Is involved in an altercation with another resident; and

**iv.** Has a medication reaction, or when an error is made in the documentation or administration of medication.

**1.** The report shall describe the incident and indicate the extent of the reaction and necessary treatment.

1. The dispensing pharmacy shall be consulted regarding incidents involving medications, in order to assist in assessing adverse drug reaction, drug-drug interaction, drug-food interaction and allergies/sensitivities.
2. If, in the opinion of the administrator or person in charge, the incident is not serious enough to call an examining duly authorized licensed practitioner, an incident report shall still be recorded in the resident's record.
3. The administrator shall initial the record within seventy-two (72) hours. If examination and treatment by a duly authorized licensed practitioner is necessary as a result of an incident, the facility shall notify the appropriate legal representative, if any, as soon as possible, within seventy-two (72) hours.

**f.** If the incident involves harm to a resident, the facility must take and document the following steps:

1. If examination and treatment by a duly authorized licensed practitioner is necessary as a result of an incident, the facility must notify the appropriate legal representative, if any, within 72 hours.
2. If, in the opinion of the administrator or person in charge, the incident is not serious enough to call an examining duly authorized licensed practitioner, an incident report must still be recorded in the resident's record.
3. The report must describe the incident and indicate the extent of the injury or reaction and necessary treatment.

**g.** The administrator or temporary designee, in the administrator’s absence, or responsible party must review and initial the record within 72 hours.

**7.** The facility must report and document reporting the following incidents to the Department:

1. Unsafe wandering;
2. Allegations of abuse, neglect, and/or misappropriation;
3. Resident to resident altercations resulting in injury;
4. Injuries requiring medical treatment;
5. Alleged rights violations; and
6. Adverse reactions because of medication error.
7. The report shall describe the incident and indicate the extent of the injury or reaction and necessary treatment.
8. The resident’s record must contain documentation when a resident refuses to consent to care or treatment which the facility is required to provide in accordance with the service plan, standards for resident care, or as prescribed by a duly authorized licensed practitioner. The resident record must contain documentation of: [Class II, III]

**a.** Efforts to educate the resident, and

**b.** A review of the resident’s need for additional care and the facility’s ability to provide that care.

1. Documentation must be provided to the receiving facility when any resident is transitioned from one facility to another facility, institution, or agency; or to another level of care within the same facility. *[Class II, III]*
	* 1. A copy of a transfer form must be kept in the resident's record.
		2. The transfer form must contain a summary of information about the discharged resident to ensure continuity of care, including:
2. A copy of the resident’s most recent history, including the most recent MAR;
3. A physical examination report;
4. A duly authorized licensed practitioner's orders; and
5. A copy of the resident's most recent assessment and service plan.
6. Records may be electronic. Users must be adequately trained in accessing, reading, and maintaining these records. *[Class IV]*
	1. Records must be readily accessible and available to all authorized persons.
	2. Licensees using an electronic record must have a policy and procedure regarding a backup system for duplication of and access to all electronic records, including privacy and security measures to prevent unauthorized access.
7. **Daily census**. The facility must record a daily census and keep it in the facility. *[Class IV]*
8. **Personal funds.**
9. No provider or agent of a provider shall manage, hold, or deposit in a financial institution the personal funds of any resident of the facility, unless written permission is received from the resident or the resident’s legal representative. *[Class III]*
10. Any provider or agent who, after receiving written permission pursuant to Section 8(C)(1), manages or holds the personal funds of any resident, must maintain an up-to-date, accurate account for these funds, which must include for each resident; *[Class III]*
	* 1. A separate, itemized accounting for the use of the resident’s personal funds;
		2. Supporting documentation for every expenditure in excess of $2.00;
		3. Provision of a quarterly report to the resident or the resident’s legal representative for their review.
11. The Department may require the facility to deposit the personal funds of a resident in a financial institution if the resident has a legal representative who cannot be reached. *[Class III]*

**D. Discharge summary**. Discharge summaries must be completed and placed in the resident record. Documentation must be inclusive of, but not limited to the following: *[Class III]*

1. Reason for discharge and any strategies used to prevent involuntary discharge;
2. Summary of care provided and level of functioning upon discharge; and
3. Identification and coordination of skills and supports and steps necessary for discharge to occur.

**E. Investigations.**

**1.**   Licensees must investigate allegations of resident abuse, neglect, and/or exploitation involving facility staff. The investigation report must include, but is not limited to, the following documentation: [Class III].

1. Date and time of the alleged events;
2. The nature of the allegation;
3. Date and time all required individuals were notified in accordance with § 4(Q), (Z), (AA), and (BB);
4. Name and contact information of the initial reporter;
5. Name and contact information of the alleged perpetrator and their title, if any;
6. Date and time the alleged perpetrator was removed from duty, if an employee;
7. Documented interviews with the resident, all individuals with possible knowledge of the alleged incident, and the alleged perpetrator;
8. A conclusion statement; and
9. An action plan.

**2.** The alleged perpetrator, if an employee, may not work with any resident until an investigation has been completed.

**3.** The facility must submit the investigative report containing information listed in § 8 (E)(1)(a-i) to the Department no later than the close of business on the seventh calendar day after the alleged incident.

**4.** The facility must report any reasonable suspicion of a crime involving the resident, as the victim, to law enforcement within the following time frames if the report can be made consistent with applicable confidentiality laws: [Class III]

* 1. Any event that caused reasonable suspicion and resulted in serious bodily injury to a resident must be reported immediately, but not later than two hours after forming the suspicion.
	2. An event that caused reasonable suspicion and did not result in serious bodily injury to a resident must be reported not later than 24 hours after forming the suspicion.

**5.** The licensee may not interfere with, impede or obstruct an investigation by the Department, including but not limited to influencing or limiting resident or staff participation in Department investigative activities. interviewing persons receiving services or persons with knowledge of the agency. [Class I].

**Section 9 Staffing Requirements**

1. **General requirements**. The facility must provide staffing adequate to meet resident needs, implement service plans, and provide a safe setting. Staff must be present 24 hours per day.
	1. The Department may require additional personnel or modify the requirements of this section due to the level of supervision and care required by the residents, the size of the facility, and distinct parts or distribution of residents throughout the physical plant;
	2. Directives to increase the number of staff described in Section 9(A)(1) shall be made through a Directed Plan of Correction or conditional license issued by the Department;
	3. The facility must develop and implement policies and procedures that address when the facility will use resident care staff to occupied bed ratios that exceed the minimum ratios in this rule, to assure that residents have access to staff to meet resident needs and to provide care and emergent assistance at all times; and
	4. The facility must have the name, address, and telephone number of all employees of the facility available to the Department
2. **Staff training and qualifications**.
	1. Prior to providing unsupervised direct care, each direct care employee must receive site-specific orientation training, to include: *[Class III]*
		1. Fire safety;
		2. Mandatory reporting;
		3. Confidentiality and resident rights
		4. General resident care needs;
		5. Signs and symptoms of dementia and required coordination of care;
		6. Communication skills; and
		7. De-escalation training, as needed.
	2. Within 120 days of hiring, all staff, other than CNAs and licensed professional staff, whose job responsibilities include direct resident care, must successfully complete the certification course(s) approved by the Department.
	3. Additional training content relevant to emergent needs may be identified and required by the Department. Directives to conduct specific training shall be made through a Directed Plan of Correction or conditional license issued by the Department.
	4. All employees must demonstrate the following:
		1. Conduct which demonstrates an understanding of, and compliance with, residents' rights;
		2. The ability to comply with this rule; and
		3. Eligibility for hire in accordance with 10-144 C.M.R. Ch. 60, Maine Background Check Center Rule.
		4. All staff must receive in-service training at least annually and in response to emergent resident needs, in areas related to the specific needs of the residents served and any duties performed by the employee.
		5. The licensee must assure that each employee receives a performance evaluation at least annually.
		6. Prior to employing licensed or certified staff, the facility must verify that the person has a valid and current license or certification.
3. **Shared staffing**. Staff may be shared with other levels of assisted housing programs and nursing facilities on the same premises when the following conditions are met:

**1.** The facility must maintaina clear, documented audit trail containing the employee’s name and the hours the employee worked on each level;

**2.** The staffing in the facility must remain adequate to meet the needs of residents and the required resident care staffing ratios; and

**3.** Existing facilities licensed prior to the adoption of this rule that operate under multiple licenses of the same level within the same building must meet the staffing requirements for each license.

1. **Registered nurse services**. Each facility must retain a registered nurse, either on staff (other than the Administrator) or on a contractual basis, to assure compliance with this rule and provide documentation to include: [Class III].
2. Observation of residents' signs and symptoms;
3. Review of resident records for completeness and accuracy;
4. Review of medication records to include review of Medication Administration Records and written orders for each prescribed medication;
5. Review of medication administration practices and procedures, including:
	* 1. Observation of medication administration to residents and
		2. Disposal of discontinued medications.
6. Review of therapeutic diets;
7. Recommended staff training; and
8. Other reviews or other recommendations to improve facility resident care practices.
9. The registered nurse must be present on-site according to the following schedule:
10. For facilities licensed for 1-10 residents - a minimum of quarterly;
11. For facilities licensed for 11-25 residents - a minimum of every sixty (60) calendar days;
12. For facilities licensed for 26-40 residents - a minimum of monthly; and
13. For facilities licensed over 40 residents - a minimum of weekly.
14. **Volunteers.** If permitted consistent with other applicable laws, volunteers with direct care responsibilities may be utilized only after completion of a background check with no disqualifying offenses. [Class III]
15. Volunteers must have designated responsibilities.
16. Volunteers may be included in the staff ratio only when they conform to the same standards and requirements as paid staff and meet the job qualification standards of the organization.
17. Volunteers must have a personnel file.
18. There must be an orientation program for all new volunteers who provide direct care that includes a review of applicable program policies, consumer rights, emergency procedures and fire safety, job description and related responsibilities, confidentiality, communication skills, needs of the population served, elder abuse reporting, Standard Precautions and licensing regulation
19. The orientation program for those volunteers who are not involved with providing direct care may be limited to those items that are consistent with the responsibilities of the volunteer. Under all circumstances, the facility will be responsible for the actions of the volunteer.
20. **Employee records**. Facilities must maintain individual records on all employees. Records may be computerized.
	1. Records must contain the initial date of employment, date of birth, home address and telephone number, experience and qualifications, social security number, copy of current occupational license (if applicable);
21. Background check information in accordance with10-144 C.M.R. Ch. 60, Maine Background Check Center Rule;
	1. If the results of the criminal history check include non-disqualifying convictions and/or arrest(s) for potentially disqualifying convictions, the record must include assessment of any potential risk to residents resulting from hire,
22. Results of an Adult Protective Services check;
23. Department of Motor Vehicles driving record, when the operation of a motor vehicle to transport residents is reasonably expected as part of an employee’s job duties;
24. Verification of prior employment including start and end dates and eligibility for rehire;
25. Job description;
26. Record of participation in in-service, orientation, or other training programs, including date, content area, and trainer, including training conducted under Section 9(B)(1) of this rule;
27. Results of annual personnel evaluations;
28. Disciplinary actions; and
29. Date of and reason for termination, as applicable.

**Section 10. Food Storage and Meal Preparation**

1. **Common kitchen and areas used to prepare food**. Kitchen and areas used to prepare food must be located away from possible food contamination sources.
2. **Employee cleanliness**. All employees must conform to good hygienic practices as described below. *[Class II, III]*
3. Any person affected with any disease in a communicable form or while afflicted with boils, infected wounds, sores, or any acute gastrointestinal or respiratory infection may not work in any area of food service. *[Class II, III]*
4. All employees must thoroughly wash their hands and arms with soap and warm water before starting work, as often as may be required to remove soil and contamination, and immediately after visiting the restroom. Employees must keep their fingernails clean. *[Class II, III]*
5. Employees may not use tobacco in any form while engaged in food preparation or service or while in equipment and utensil washing or food preparation areas. *[Class II, III]*
6. **Equipment and utensils**. All kitchenware and equipment used in the preparation, service, display or storage of food must be maintained in a clean and sanitary manner. *[Class II, III]*
7. All tableware, kitchenware and utensils must be stored off the floor in a clean and sanitary manner;
8. All kitchenware and food contact surfaces of equipment must be washed, rinsed and sanitized after each use;
9. Meals must be served with non-disposable kitchenware and utensils, unless circumstances require the use of single service (disposable) items.
10. Single service items must not be reused; and
11. Food preparation surfaces, including countertops, must be in good repair and easily cleaned. Food preparation surfaces must be:
	* 1. Smooth;
12. Free of breaks, open seams, cracks, chips, inclusions, pit, and similar imperfections;
13. Free of sharp internal angles, corners, and crevices; and
14. Accessible for cleaning and inspection.
15. An ice machine must show evidence of routine cleaning and the ice scoop must be stored outside of the machine in a designated, sanitary holder. *(Class I, II)*
16. **Food source**. Food must be safe for human consumption. *[Class I, II]*
17. Food must be obtained from sources that comply with all laws pertaining to food and food labeling;
18. Food prepared in a private home may not be provided by the facility;
19. Fresh produce may be purchased at farm stands and/or grown in the facility’s own produce garden.
20. Products such as unlabeled canned goods, home canned goods, improperly sealed or unsealed containers or packages, spoiled or expired foods, and similar foods may not be served to residents. *[Class I, II]*
21. Only Grade “A” pasteurized milk and milk products may be used. *[Class I, II]*
22. Milk served for drinking must be dispensed from the original container received from the dairy or poured directly into the resident's glass at mealtime. Approved bulk dispensers may be used;
23. No reconstituted powdered milk or evaporated milk may be served for drinking. Powdered or evaporated milk may only be used for cooking.
24. Permitted eggs and egg products include: *[Class I, II]*
25. Clean, whole eggs, with shell intact, without cracks or checks;
26. Pasteurized, liquid, frozen, or dry eggs or pasteurized dry egg products;
27. Hard-boiled, peeled eggs; and
28. Commercially prepared and packaged eggs.
29. Shell stock and shucked shellfish must be kept in the container in which they were received until they are used. *[Class I, II]*
30. **Food storage**. All food must be stored using safe and sanitary methods. *[Class I, II]*
31. Food must be stored in a clean, dry location where it is not exposed to splash, dust, or other contamination;
32. Food and beverage containers must be stored at least six inches above the floor on clean racks, dollies or other clean surfaces;
33. Food or containers of food must not be stored under, or exposed to, unprotected sewer lines or water lines that are not shielded to intercept potential drips, except for automatic fire protection sprinkler heads that may be required by law;
34. Food or containers of food must not be stored under leaking water lines, including automatic fire sprinkler heads, or under lines on which water has condensed;
35. Shelving in storage areas, refrigerators and freezers must be in good condition with cleanable surfaces;
36. Food that is expired, damaged, spoiled, or incorrectly stored must be discarded, and
37. Food not subject to further washing or cooking before serving must be stored in such a manner as to be protected against contamination from food requiring washing or cooking.
38. **Refrigerated storage**. All perishable foods must be stored at such temperatures as will protect against spoilage. *[Class I, II]*
39. Foods requiring refrigeration must be stored at a temperature of 41° Fahrenheit or below;
40. Frozen food must be kept frozen and must be stored at a temperature of 0° Fahrenheit or below;
41. Perishable foods that do not have a manufacturer's use by date must be served or discarded within 4 days of preparation.
42. Ice used for cooling stored food, food utensils, and food containers must not be used for human consumption;
43. Sufficient numbers of refrigerators or freezers must be provided to assure the maintenance of food at the required temperatures during storage;
44. Conspicuous, easily readable thermometers must be provided in each refrigerator and freezer in the facility; and
45. A safe temperature for food must be maintained throughout the transport and service of meals.
46. **Thawing foods**. Foods must be thawed as follows: *[Class I, II]*
	1. In refrigerator units at a temperature not to exceed 41° Fahrenheit; or
	2. Under potable running water at a temperature of 70° Fahrenheit or below, with sufficient water velocity to agitate and float off loose food particles into the overflow; or
	3. In a microwave oven, only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire uninterrupted cooking process takes place in the microwave oven; or
	4. As part of a continued cooking process.
47. **Raw fruits and vegetables**. All raw fruits and vegetables must be washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served or offered for human consumptions. *[Class II]*
48. **Minimum Cooking Temperatures.** Providers must have a meat thermometer available for use. All meat, poultry, seafood, and other cooked foods must be cooked until it has reached a safe internal temperature that is hot enough to kill harmful germs that cause food poisoning. *[Class I, II]*
49. **Manual dishwashing**. When manual dishwashing is employed, equipment and utensils must be thoroughly washed in a detergent solution having a temperature of at least 120° Fahrenheit and then must be rinsed free of such solution. Eating and drinking utensils must be sanitized by one of the following methods: *[Class II]*

1. Immersion for at least one-half minute in clean hot water at a temperature of at least 170° Fahrenheit, allowed only in settings where residents do not have access to the dishwashing area; or
2. Immersion for at least one minute in a hypochlorite solution containing at least 50 parts per million of available chlorine and at a temperature of at least 75° Fahrenheit.
3. **Mechanical dishwashing**. When mechanical cleaning and sanitizing is used, the following standards must be met: *[Class II]*
4. All dishwashers must be in good working order.

**a.** When the dishwasher is equipped with a thermometer,the measured wash-water temperature must be at least 130° Fahrenheit.

**b.** When hot water is relied upon for sanitization, the final or fresh rinse water must be at least 180° Fahrenheit in a commercial dishwasher, unless otherwise stated in the manufacturer's specifications.

1. When chemicals are relied on for sanitization, they must be applied in such concentration and for such a period of time as to provide effective bacterial treatment of the equipment and utensils.

**a.** When chemical sanitizing solutions are used for either manual or mechanical sanitization, a sanitizer test kit must be used to measure the percentage of the sanitizing solution as in Section J (2) above.

**b.** Machines (single-tank, stationary rack, door-type machines and spray-type glass washers) using chemicals for sanitization may be used, provided that:

* + 1. The wash-water is kept clean;
		2. Chemicals added for sanitization are automatically dispensed; and
		3. The chemical sanitizing rinse-water temperature is not less than 75° Fahrenheit, nor less than the temperature specified by the machine manufacturers.

**Section 11. Physical Plant Standards**

**A. Code compliance**. Buildings must comply with all applicable local, state and federal rules and regulations.

**B. General condition of the facility and surrounding premises**.

* 1. The facility and surrounding premises must show evidence of routine maintenance, repair of wear and tear, and ongoing housekeeping, to include records of purchases and maintenance orders and receipts.
	2. The facility must take immediate steps to correct any condition in the physical facility or on the premises which poses a danger to a resident’s life, health, or safety. *[Class II, III]*

**C. Public bathrooms.** Public bathrooms must be safe and sanitary.

**D.**  **Hot water.** The hot water temperature for resident use must be between 105°F. and 120°F. and in adequate supply. [Class II, III]

**E. Pets.** The facility must establish a policy regarding pets to assure the safety of all residents and visitors. Policy must include, but not be limited to facility requirement(s) for vaccination, care of pets and building access.

1. **Plumbing** **and electrical systems**. All plumbing and electrical systems must be constructed, inspected, and maintained in compliance with applicable state and local codes, laws, ordinances and rules. *[Class II, III]*
2. **Sewage disposal.** All water-carried sewage must be disposed of by means of a public sewage system or an approved sewage disposal system which is constructed and operated in conformance with applicable State and local laws, ordinances and rules. *[Class II]*
3. **Solid waste management**. All refuse collected in common areas or from resident rooms must be stored in washable, rodent-proof, covered containers pending removal. All solid waste must be disposed of in accordance with local and state of Maine laws, codes, and rules. *[Class II]*
4. **Hazardous and toxic materials**. When not in use, hazardous and toxic materials such as household cleaning solutions, compounds, and other non-food supplies, must be stored in locked compartments which are used for no other purpose: *[Class I]*
5. They must be separated from the food storage and preparation areas, clean equipment and utensil storage rooms, and medication storage areas;
6. Household bactericides and cleaning compounds shall not be stored in the same cabinet or area of the room with insecticides, rodenticides, or other poisonous materials;
7. All containers must be properly labeled for identification; and
8. Safety Data Sheets (SDS), formerly known as Material Safety Data Sheets (MSDS), must be available for all poisonous and toxic materials used and/or stored in the facility. All materials shall be used and stored accordingly.
9. **Insect and rodent control**. There must be no evidence of rodent or insect infestation. *[Class III]*
10. All reasonable actions will be taken to control insects and rodents in the facility; and
11. All openings to the outer air must be protected against the entrance of insects by self-closing doors, closed windows, screening, or other effective means.

**K. Other standards.** Facilities must comply with all applicable local, state and federal rules and rules regarding building safety, fire safety, handicap accessibility and fair housing practices. *[Class II, III]*

**Section 12. Infection Prevention and Control**

**A.** **Infection Prevention and Control (IPC).** The facility must establish, implement, and maintain an Infection Prevention and Control Plan (IPCP) to control the transmission of infectious diseases amongst residents, staff, visitors, and other individuals providing services under a contractual arrangement. *[Class II, III]*

**1.** The facility must employ or contract with a person with certification or training in IPC to oversee the development and implementation of the IPCP. *[Class III]*

**a.** The certification or training must include the following content areas, at a minimum:

**i.** Standard precautions;

**ii.** Transmission-based precautions;

**iii.**  Respiratory protection; and

**iv.** Use of PPE and source control measures.

**2.** The facility must develop a written IPCP. The development process must include: *[Class II,III]*

**a.** A risk assessment and overall program review. The risk assessment and program review must include:

**i.** Identification of resources necessary to care for residents during day-to-day operations and emergencies;

**ii.** Identification of any policies/protocols that need to be developed; and

**iii.**  Review of current Maine Center for Disease Control and Prevention (MeCDC) standards and federal Center for Disease Control (CDC) guidelines. The facility should keep a log noting specifically what guidelines were utilized, and identification of any changes needed to meet those standards.

**b.** The facility must review and update the plan and all related policies/protocols annually, and whenever there is any change or plan for change that would require a substantial modification to any part of the current IPCP.

**c.** The plan must be updated as needed to reflect current Maine Center for Disease Control and Prevention (MeCDC) standards and federal Center for Disease Control (CDC) guidelines. The facility should keep a log noting specifically what guidelines were utilized, and identification of any changes needed to meet those standards.

**3.** The IPCP must include policies and procedures for the prevention of the spread of any infectious disease, including: *[Class II, III]*

1. Requirements for staff to perform hand hygiene before and after each direct and indirect resident contact for which handwashing is indicated by nationally recognized professional practice;
2. Use of PPE and source control measures;
3. A respiratory protection program;
4. Identification of the adequate amount of PPE to have on hand at all times, and measures to take when PPE is not readily available;
5. The conduct of environmental cleaning and disinfection, specifying the cleaning agents and processes to be used;
6. Documentation of random visual observations of staff use of PPE throughout an outbreak of an infectious disease;
7. Notification of the MeCDC, all other residents and their primary family contact, staff, and the Division of Licensing and Certification (DLC) in the event of an outbreak of a notifiable disease;
8. Transmission-based precautions and isolation of the resident, when the MeCDC determines that a resident needs isolation to prevent the spread of infection;
9. Work-exclusion processes and steps to be taken in the event of a staff or resident exposure, when the type of infectious disease requires instituting specific work restrictions;
10. An exposure control plan to address potential hazards posed by blood and body fluids and other potentially infectious material (OPIM) or infectious diseases;
11. A crisis staffing plan;
12. A process for reporting notifiable diseases to the MeCDC; and
13. A policy requiring consultation with the MeCDC in the management of any outbreak of a reportable infectious disease or novel virus.

**4.**  The facility must implement any recommendations of the MeCDC, including but not limited to: *[Class II, III]*

**a.** Universal testing and resident cohorting, when applicable;

**b.** Practices for safe visitation or alternatives to in-person visits, and practices to assure resident safety during departures from the facility;

**c.** Reasonable methods and processes to allow residents to communicate with family and friends in ways that maintain resident safety;

**d.** Conditions and protocols for screening all full and part-time staff, all essential healthcare individuals who enter the facility (such as hospice staff, physicians, etc.), and any other individual entering the facility.

**5.**  The facility must provide education on IPC to all staff at hire. *[Class II, III]*

**a.** The training must include:

**i.** Standard Precautions, including:

**1.**  Hand hygiene, which must include procedures to be followed by staff involved in direct patient care or food preparation;

**2.** Bloodborne pathogens;

**3.** The proper selection and use of Personal Protective Equipment (PPE); to include putting on (donning) and taking off (doffing); and

**4.** Respiratory hygiene/cough etiquette;

**ii.** Environmental cleaning and disinfection;

**iii.** Transmission-based precautions; and

**iv.** Sharps/injection safety, including immediate actions to take when exposure to blood or other potentially infectious material (OPIM) occurs.

**b.** Documentation of staff training and observed to be competency in Infection Prevention and Control must be maintained in each employee’s personnel file. *[Class IV]*

**c.** In the event of an outbreak of an infectious disease, the facility must provide a refresher training to all employees. *[Class II, III]*

**d.** The facility must maintain a copy of the IPC training curriculum utilized to provide education to staff.

**Section 13. Standards for Resident Care**

1. **General rule.** Facilities must provide the residents individualized services that help them age in place, function optimally in the facility and in the community, engage in constructive activity, and manage their health conditions. Residents must be encouraged to be as independent as possible in their functioning, including ADLs and IADL’s. This must be evidenced in the assessment of individual needs, in the development and implementation of individual service plans, and in ongoing progress notes.
2. **Resident assessment**. Within 30 calendar days of admission, the facility must assess residents for the following: *[Class III]*
	* 1. Need for assistance with ADLs as defined in Section 1 of this rule;
		2. Need for psychological or supportive services, as may be evidenced by:
3. Resident’s adjustment to the facility;
4. Social and emotional issues;
5. Communications/relations with others, behaviors; or
6. Compatibility with staff and other residents.
7. Need to maintain or develop family and community ties;
8. Desire for educational, religious or community vocational services;
9. Need for assistance with legal or financial problems;
10. Ability to manage personal affairs, use the telephone, handle finances, read and write correspondence, express likes and dislikes and register to vote;
11. Desire for social, recreational and leisure time activities;
12. Needs regarding hearing, vision, speech, communication, mobility and memory impairments, and use of related adaptive equipment;
13. Need for assistance with securing necessary health care, including medical, nursing, dental, day treatment, psychological, mental health or substance use disorder services, qualified sign language interpreters and other communication assistance;
14. Need for arranging transportation to meet medical, social, and business needs;
15. Need for assistance to be independent in the community, including need for supervision related to unsafe wandering from the facility;
16. Need for assistance regarding administration of medications; and
17. Need for discharge planning.
18. A resident must be reassessed when there is a significant change in the resident’s condition or every twelve months, whichever occurs first. *[Class III]*
19. The resident and resident’s legal representative, as well as staff or other persons approved by the resident or resident’s legal representative who are knowledgeable about the resident, must participate in or be consulted concerning the assessment and reassessments;
20. Facility assessments and reassessments must cover the areas listed in Section 13(B). The assessment and reassessments must also include other needs not listed in Section 13(B) that are identified through the assessment or reassessment, expressed by the resident or the legal representative, or exhibited through the resident’s behavior or actions.
21. **Service plan**.  Within 30 calendar days of admission, the facility must develop and implement a service plan for each resident based upon the findings of the resident’s assessment: *[Class III]*
22. The plan must address those areas in which the resident has needs or interests identified in the assessment;
23. The resident and, as applicable, the resident’s legal representative and others chosen by the resident, must be actively involved in the development of the service plan, as demonstrated by signature on the service plan, unless the resident, legal representative, and/or others chosen by the resident are unable or unwilling to participate;
24. The facility must maintain documentation in the resident’s record identifying who participated in the development of the service plan and the ability and willingness of the resident and, as applicable, the resident’s legal representative and others chose by the resident to participate.
25. The facility must offer a copy of the service plan to the resident or legal representative and maintain documentation in the resident’s record that a copy was offered to the resident or legal representative;
26. The service plan must describe strategies and approaches to meet the resident’s needs, including:
	1. Name/title of who will arrange and/or deliver services,
	2. when and how often services will be provided; and

* 1. goals to improve or maintain the resident’s level of functioning.
1. The service plan must be modified, as necessary, based upon changes identified in the assessment process, at least every 12 months; and
2. The service plan must include a diabetes management plan, if applicable;
3. Residents shall never be required to perform activities specified in the residential service plan or any other activities, and cannot be used to replace paid staff.
4. The service plan must be available and accessible to all staff whose job duties involve implementation of any service plan activities.
5. **Resident notes**. The facility must maintain ongoing notes for each work shift, including assistance provided with activities of daily living, upon admission. [Class III]
6. Notes must begin within 24 hours of admission and include an initial summary of basic care needs, circumstances of resident’s placement and resident’s adjustment to the facility,

including support and services provided and any information necessary for oncoming staff to perform duties.

1. Notes must be made for:
	1. Monthly summary of any significant changes in the resident’s life, including any increases or declines in the resident’s physical and mental functioning that should be considered at the time of assessment or adjustment of the service plan;
	2. Health history and treatments provided while in residence;
	3. Visits to or by the duly authorized licensed practitioner or other health professional (e.g., dentist, audiologist or other specialist);
	4. Documentation of progress in reaching service plan goals and other information needed to properly assess and evaluate the resident; and
	5. Any overnight absences from the facility.
2. **Planned activity program**. The facility must develop and implement an activity plan for diversional and motivational activities suited to the residents’ needs and interests, as identified by the Resident Council and/or Section 13.B.7 for each resident. *[Class IV]*
3. The program must consist of a variety of activities designed for both group and individual participation and must include activities outside the home, during the week and on weekends;
4. The facility must provide or arrange accessible transportation to outside activities;
5. The facility must post the activity schedule in resident areas;
6. Where necessary, the facility must modify activities to eliminate or reduce barriers to resident participation due to physical or cognitive limitations or language differences. The facility’s obligation to modify activities includes assisting the resident in learning the skills or obtaining the knowledge to participate in activities, or providing other assistance to residents necessary for participation.
7. The facility must document cancelation of planned activities, including the date of cancelation and reason(s) for doing so.
8. **Residents rising and retiring.** The facility must consider individual preferences of the residents for times of rising and retiring, except as may be provided in the service plan.
9. **Reading and recreational materials**. The facility must have a variety of reading and recreational materials available to the residents at all times. These must include at a minimum, a daily newspaper, internet access, a variety of current magazines, a radio, and an operational television. A facility's obligation to provide these materials is not waived when residents have their own.
10. **Resident instruction in evacuation procedures**. The facility must conduct and document regularly scheduled fire drills that residents and staff must participate in, as required by the Maine State Fire Marshal’s office.  *[Class II]*
11. **Medical and health care**. The facility must promptly coordinate and assist in accessing appropriate services for residents. *[Class III]*
12. The health care of every resident must be under the supervision of a duly authorized licensed practitioner for medications and treatments managed and/or coordinated by the facility.
13. Each resident that has granted consent for such care must have an annual wellness check, unless otherwise specified by the duly authorized licensed practitioner.
14. Documentation from the licensed practitioner’s physical examination must be maintained in the resident record, i.e., progress notes.
15. **Residents with communicable diseases**. The facility must provide accommodations such as Standard Precautions when admitting residents with a communicable disease to reduce or eliminate the risk of exposure if that resident's condition or behavior endangers the health and welfare of other residents. If no accommodation can be made to protect other residents, then a facility may deny admission. *[Class III, IV]*
16. **Employees with communicable diseases**. No facility shall knowingly permit any person to serve therein, in any capacity, if such person has an infectious disease which would threaten the health and welfare of the residents, in conformance with the facility’s IPCP. *[Class III]*
17. **Transportation**. The facility must provide or arrange transportation to medical and other appointments. The facility must also provide or arrange other transportation to meet residents’ recreational, social, and business needs of a reasonable nature. This does not apply to transportation by ambulance. *[Class IV]*
18. **Refusal of care or treatment**. The facility must draft and implement a policy detailing when repeated refusals of recommended or prescribed health care or treatment must be reported to the resident’s licensed practitioner. The policy must address the severity and frequency of refusals that would determine a need to inform the resident’s licensed practitioner. In the event that a resident refuses recommended or prescribed health care or treatment, the facility must notify the resident's duly authorized licensed practitioner or other appropriate individuals in accordance with their policy in order to ensure that residents receive necessary services. However, in no case shall a person who does not have legal authority to do so order treatment that has not been consented to by a resident. The facility must also: *[Class III]*
	1. Reassess the resident and modify the service plan as appropriate;
	2. Assess the resident for decision-making capacity and inform the resident’s legal representative authorized to assist the resident with obtaining medical assistance if the resident does not have decision-making capacity;
	3. Determine and document what the resident is refusing;
	4. Advise the resident about the consequences of refusal,
	5. Document any referral to the resident’s licensed medical professional in the resident’s record; and
	6. Continue to provide all other appropriate services.

**Section 14. Staffing**

**A. Minimum staff requirements.**

* 1. The facility must have present at all times when residents are present staff who are, at a minimum, qualified, awake, on duty, and readily available to perform direct resident care, provide supervision of residents, and to act effectively in the event of an emergency. [Class II, III]
1. Direct resident care is care provided by staff that provide “hands on” help with activities of daily living (ADLs) and Instrumental Activities of Daily Living (IADLs) to residents, including care and supervision.
2. Staff whose job descriptions contain duties solely related to laundry, housekeeping, maintenance, administration, and dietary services are not considered direct care staff and may not be counted toward staffing ratios listed in Section 14(B).
3. If employees performing the functions listed in Section 14(A)(1)(b) also perform assistance with ADLs, the hours assigned to each function must be shown on the weekly time schedule and the staff must be trained to perform direct resident care.
4. Only persons who are 18 years of age or older, except for a CNA who may be 16 years of age or older, shall perform direct resident care, and be counted toward staffing requirements for resident care.
5. **Minimum resident care staff to occupied bed ratios**. A minimum direct resident care staff to occupied bed ratio shall be maintained at all times.

**1.** In facilities with more than ten (10) beds, the ratio shall be:

**a.** 1:12 from seven a.m. to three p.m. (7:00 a.m. to 3:00 p.m.),

**b.** 1:18 from three p.m. to eleven p.m. (3:00 p.m. to 11:00 p.m.)

**c.** 1:30 from eleven p.m. to seven a.m. (11:00 p.m. to 7:00 a.m.).

**2.** The facility must post weekly time schedules that include each employee’s name, job function/title, hours of work, and assigned workdays for the week, and:

1. All employees, including the administrator, must be listed on the time schedule;
2. When an employee has more than one function, the breakdown of hours must be done by function;
3. Time schedules must reflect the actual days/hours worked by all employees in the time period of the schedule and must be made available to the Department's authorized representatives.
4. **Nursing services**. Nursing services may be provided directly by, or under the supervision of, registered nurses or licensed practical nurses employed by the facility or by contract with home health agencies or other persons permitted by law to provide nursing care, subject to the limitations of the 02-380 C.M.R. Ch. 6, Regulations Relating to Coordination and Oversight of Patient Care Services by Unlicensed Health Care Assistive Personnel. *[Class III]*
5. **Pharmacist consultant services**. Each facility with a licensed capacity of 16 or more residents must retain the services of a pharmacist consultant no less than quarterly to: *[Class III]*

* 1. Review written policies and procedures for pharmaceutical services;

* 1. Monitor for potentially significant adverse drug reactions, drug-to-drug and drug-food interactions, allergies, contraindications, rationality of therapy, drug use evaluation and laboratory test results;
	2. Review medication areas for proper labeling, storage, access, and disposal in accordance with 02-392 C.M.R. Ch. 3, Applicability of Rules to Unregistered Facilities.
	3. Review to ensure that only approved drugs and biologicals are used in the facility;
	4. Review medication records, and initial and date the records when reviewed;
	5. Review adherence to stop orders; and
	6. Review staff performance in carrying out pharmaceutical policies and procedures.
	7. The pharmacist consultant must provide the administrator with a timely written report of findings, with specific recommendations in each of the areas reviewed.
	8. A facility with a licensed capacity of fewer than 16 residents must retain a pharmacist consultant to perform the services in subsection (D) at the direction of the Department when there are serious or multiple deficiencies in medication administration.
1. **Qualified consultant dietitian**. The Department reserves the right to require the facility to obtain the services of a qualified consultant dietitian in the event that serious or multiple deficiencies in dietary service are noted. *[Class III]*

**Section 15. Dietary Services**

1. **Dietary coordinator**. In facilities with a licensed capacity of 16 or more residents, the facility must designate at least one employee as the Dietary Coordinator.
	* + 1. The Dietary Coordinator must have training and experience to safely coordinate and manage the food services program in the facility. *[Class III]* This includes knowledge of:
2. Menu planning, food purchasing, and food storage, preparation and serving;
3. Minimum daily food requirements;
4. How to use dietary reference or other resource materials to meet daily and therapeutic nutritional needs; and
5. How to measure portions for therapeutic diets.
6. **Adequacy of diets**. The facility must offer each resident a nourishing, well-balanced diet that

 meets the daily nutritional and special dietary needs of each resident and accommodates resident allergies.

* 1. All menus must be approved by a qualified registered dietitian at least annually and whenever there are changes to an approved menu. Substitutions of similar nutritive value may be offered and must be documented.
	2. Therapeutic diets are considered treatments and shall be ordered in writing by the duly authorized licensed practitioner. *[Class III]*
	3. Menus for medically prescribed therapeutic diets must be planned in writing and approved by a qualified registered dietitian.
1. **Planned menus**. The facility must ensure that menus are planned in accordance with resident needs and preferences. The facility must offer a variety of foods and fresh fruits and vegetables in season.
2. **Menus posted and filed**. The facility must post menus for each week conspicuously in the food service area and in an area used frequently by residents, and must keep weekly menus on file for three (3) months. The posted menu must be in large enough print for all residents to be able to read easily.
3. **Record of food served, menu changes, and substitutions**. The facility must record daily any changes made in the planned menu and changes must be consistent with Section 15.B. Substitutions of similar nutritive value may be offered when menu items have been refused. *[Class II]*
4. **Diet manual**. Each facility must have a diet manual, not more than five years old, that is recommended or approved by a qualified registered dietitian. When facilities utilize an online resource to meet this requirement, link(s) to the resource must be provided to the Department upon request.
5. **Food supplies**. The facility must have emergency supplies of foods for a three-day period on hand to meet the requirements of the planned menus. *[Class I, II]*
6. **Meal schedule**. The facility must offer residents at least three meals in each 24-hour period. The facility must offer nourishing between-meal snacks. The facility must make available additional foods and beverages 24 hours per day.
7. **Record of food purchased**. The facility must record the type and quantity of food purchased and maintain records for 3 months.
8. **Resident participation in meal planning and preparation**.
9. Residents must be encouraged to participate in menu planning.
10. Residents involved in food preparation must be trained in safe food handling or supervised by a person trained in safe food handling.
11. Facility policies may prohibit resident involvement in food preparation and serving if it interferes with food service safety.
12. **Mealtime atmosphere**. The facility must make the dining area accessible and may encourage its use as the primary area for dining area by residents. The facility may not restrict or limit meals to residents who choose not to take meals in the dining area as a result of that choice.

**Section 16. Physical Plant Requirements**

1. **Facility design.** The facility must be designed, operated, and maintained in a manner appropriate to the special needs of the population to be served.
2. **Passable road**. The facility must be served by a road that is regularly maintained and passable at all times of the year. *[Class III]*
3. **Heating systems**. The facility must have a central heating plant connected to each room or area used by residents or staff by means of a radiator, convector or register. *[Class III]*
	1. The heating system must be capable of maintaining a temperature of 75° Fahrenheit throughout resident areas of the facility;
	2. Alternate types of heating systems may be used, with written approval by the State Fire Marshal; and
	3. Systems other than electric heating must have an annual inspection and the heating source must be tagged as being inspected by a qualified inspector, certified by the state of Maine for the applicable heating system.
4. **Temperature**. The facility must maintain resident areas of the facility at a temperature of seventy degrees (70°), or higher as necessary to ensure the comfort of the residents. *[Class II, III]*
5. Thermometers must be placed in all resident areas.
6. Temperature requirements do not apply to bedrooms where residents control the temperature.
7. Facilities must have a written policy to address resident preferences in temperature and resolving disputes regarding preferred shared room temperature.
8. **Space Utilization**.
	1. The distinct part of the facility licensed pursuant to this rule shall have no rented apartments, rooms, or space for persons other than residents, except when used by the licensee, administrator, immediate family members or employees of the facility.

**2.** If providing Adult Day Services to three or more persons, the facility must comply with 10-144 C.M.R. Ch. 117, Regulations Governing the Licensing and Functioning of Adult Day Services Programs.

1. The facility may only provide respite or emergency care for less than 30 days and within the bed capacity licensed by the Department. The facility must maintain records for residents receiving respite or emergency care that include, at a minimum:
2. Screening and assessment to assure that the facility can meet the resident’s needs;
3. Face sheet;
4. Description of services to be provided;
5. Releases of information; and
6. MAR.
7. **Toilets and bathing facilities**. The facility must have toilet and bathing facilities that are indoors, safe, private, and kept in a clean and sanitary condition.
8. The facility must have toilet and bathing facilities that are constructed in accordance with applicable building codes.
9. In licensed facilities constructed prior to July 1, 2003, a bathroom(s) equipped with flush toilets and hand-washing facilities at a ratio of at least one flush toilet for each six users must be available. Users include residents as well as staff on duty.
10. In facilities constructed, or renovated to increase capacity, on or after July 1, 2003, there must be a bathroom(s) equipped with flush toilets and hand washing facilities at a ratio of at least one flush toilet for each six residents.

1. Facilities with toilets in private resident rooms must also have adequate separate toilet facilities for staff and visitors. There must be bathrooms for staff and visitors at a ratio of:
2. 1-25 residents – one public bathroom;
3. 26-50 residents – two public bathrooms;
4. 51-75 residents – three public bathrooms;
5. 76-100 residents – four public bathrooms;
6. 101-125 residents – five public bathrooms; or
7. 126-150 residents – six public bathrooms.
8. Any public bathrooms accessible to residents must be equipped with call bells.
9. For all facilities initially licensed on or after May 30, 2002, there must be at least one bathroom that includes, at a minimum, a toilet and hand-washing sink, on each floor that has resident bedrooms.
10. The facility must have the following essential items in bathrooms: *[Class III]*
11. An adequate supply of hand-cleansing soap or detergent;
12. An adequate supply of paper towels or a bathroom hand-drying device;
13. An adequate supply of toilet paper at each flush toilet;
14. Lined waste disposal containers; and
15. A mirror over each sink.
16. Reusable towels and drinking cups are prohibited in public bathrooms.
17. The facility must keep commodes, urinals, and bedpans used in resident bedrooms clean and sanitary. *[Class III]*
18. In order to accommodate resident privacy, doors or stalls must have privacy locks, unlockable by authorized persons from the exterior in case of emergency;
19. All facilities are required to have at least one shower that is physically accessible to residents.
20. Facilities initially licensed after May 29, 1998, must have at least one tub or shower for each floor that has resident bedrooms;
21. For facilities initially licensed prior to May 30, 2002, there must be tubs or showers at a ratio of one per 15 users;
22. For facilities initially licensed on or after May 30, 2002, there must be tubs or showers at a ratio of one per ten users;
23. Facilities initially licensed after July 1, 2003, must have a toilet and hand-washing sink in each bathroom;
24. All toilets, tubs, and showers must be equipped with grab bars;
25. Knock lights and visual alarms must be installed in bathrooms used by a deaf resident, or when there is medically determined need.
26. **Handrails**. The facility must equip inside and outside stairs and ramps used by residents with handrails and have Life Safety Code compliant guards on each side. *[Class III]*

1. **Telephone available**. The facility must have an operational telephone with a listed number available and located in an area designated for residents that provides maximum privacy.
2. For facilities with ten residents or more, a telephone line dedicated for residents’ use, separate from the facility's business telephone, must be provided; and

1. All local calls must/ be free of charge to the resident.
2. **Water temperatures**. Hot water temperatures in resident areas must be at least 105° and may not exceed 120° Fahrenheit. Hot water must be available in quantities to meet the requirements of this rule, including but not limited to bathing and cleaning. *[Class II]*
3. **Living and dining areas**. The facility must provide a distinct living area and a distinct dining area, with comfortable furnishings appropriate to the use of the room(s).
	1. No folding chairs or patio furniture may be used indoors; and
	2. These areas must be well lighted and free of hazards.

1. **Animals kept as pets.** Pets must not present a danger to residents or guests.
2. Household pets, except fish in aquariums and service animals (e.g., guide dogs), may not be permitted in common dining areas during meals;
3. No animals, except for service animals (e.g., guide dogs), may be permitted in common food preparation areas*;*
4. There must be proof of rabies vaccinations for household pets; and
5. The facility must be free of pet odors and waste must be disposed of daily.
6. **Resident bedrooms**. The facility must meet the following standards for resident bedrooms:
	1. A minimum of 100 square feet of usable floor space per person must be provided in a bedroom designed for single occupancy;
	2. A minimum of 80 square feet of usable floor space per person must be provided in multiple occupancy bedrooms:
	3. Usable floor space maybe calculated only for that floor space having a ceiling height of at least six feet, except for the criterion described in subsection (L)(2)(d);
	4. Corridors, passageways, vestibules, kitchenettes, closets and alcoves must be excluded from the calculations of usable floor space;
	5. In a unit with a kitchenette, a minimum of 30 square feet must be deducted for kitchenette space; and
7. Usable floor space may include 50% of any areas having a ceiling height of between four and six feet . (i.e., two square feet yield one usable square foot.) Up to 20 square feet of such areas (yielding up to ten square feet) may be counted toward usable floor space for the room.
8. No more than two people may share a single bedroom.
9. Each resident bedroom must have a solid door which can be closed. A door knock notification system must be installed at the bedroom door for any resident who is deaf or if there is a medically recommended need; *[Class IV]*
10. Each resident bedroom must have a primary and secondary means of escape in accordance with the Life Safety Code; *[Class II, III]*
11. Each resident bedroom must have at least one exterior wall and window;
	* 1. Windows must be equipped with window covers (shades or an equivalent) that provide privacy;
		2. Window covers must be kept in good repair; and
12. If an egress window is required as a secondary means of escape, that window must be operable and may not be blocked by an air conditioner.
13. Each resident bedroom must have direct access to a corridor without passing through a bathroom or another resident's bedroom. No resident room shall be used for access to other rooms or corridors; *[Class III]*
14. Each resident must be provided with adequate closet or wardrobe space for hanging clothing;
15. Each resident must be offered a bed and mattress at least thirty-six (36) inches wide, substantially constructed, in good repair, and adequate for the resident. Rollaway beds, metal cots, or folding beds are not acceptable;
16. Beds must be placed so they are easily accessible and not subjected to extremes of heat or cold. No bed may be placed within three feet of a heating unit, unless the unit is properly protected;
17. Each resident must be offered the following items:
18. A minimum of two dresser drawers;
19. A comfortable non-folding chair in good repair;
20. A bedside table; and
21. A reading lamp.
22. The facility must document refusal by the resident to receive any or all of these items;
23. The facility must permit and encourage residents to use their own furnishings, space permitting and when the furnishings comply with the standards of this rule;
24. Employees must regularly clean and maintain resident rooms and furniture when residents need assistance with personal housekeeping to comply with the standards of this rule;
25. Resident rooms must be well-lighted and in good repair;
26. Kitchen and food preparation areas in apartments must be located away from possible food contamination sources; and
27. There shall be no more than two beds per single room.
28. **Laundry services**. The facility must have adequate towel, linen, and bedding supplies, in addition to those in use, so that a complete clean linen change for each person is available in the facility at all times.
29. The facility must ensure that linen and clothing are regularly laundered and are handled using proper sanitary techniques;
30. Soiled and clean laundry must be collected, transported, and stored separately;
31. Soiled laundry shall not be carried through food preparation areas unless enclosed in a container;
32. The laundry room shall not be located in an area used to prepare or serve food;
33. The laundry room must be maintained in a sanitary manner and kept in good repair; and
34. Dryers must be vented to the exterior of the building.
35. **Outside railings**. Open porches and verandas must have secure railings. *[Class II, III]*
36. **Free standing stoves.** Freestanding heating stoves located in areas accessible to residents must be surrounded by a non-combustible railing to prevent residents from coming in contact with the stove. *[Class III]*
37. The railing must be of such construction as to prevent injury to residents from coming into casual contact with the stove;
38. If the stove is designed to prevent burns on contact, a protective railing is not required.
39. **Lighting**. All areas of the facility must have adequate lighting. Candles, oil lanterns, and other open-flame methods of illumination are prohibited. *[Class III]*
40. **Smoking area**. Facilities which permit smoking must have a clean, self-contained, adequately ventilated smoking area that is accessible to residents that is located outdoors and no less than 20 feet from entryways, vents, windows, and doorways, in accordance with 22 M.R.S. §1580-A. *[Class III]*
41. **Fire safety plan.** Each facility must develop a fire safety plan that accounts for the needs and capabilities of residents. [Class III]

**S. Emergency planning.** A facility must have a written disaster, hazard and evacuation plan, based on a facility’s all-hazards risk and hazard vulnerability assessment, which assigns specific tasks and responsibilities to facility personnel, which may be developed with the assistance of qualified fire, health and safety agencies. At a minimum, the plan must address the following:

1. Conspicuously posting emergency numbers in a place visible to persons using the telephone, including telephone numbers for fire, police, physicians, poison control, hospital, and ambulance;
2. Posting evacuation procedures in conspicuous locations throughout the facility;
3. Training personnel and clients to report fires and other emergencies, in accordance with written emergency procedures;
4. Training residents and personnel to evacuate the building, including specialized training for the evacuation of persons with disabilities or other conditions that may impair their ability to evacuate, as necessary, or their ability to understand the nature or purpose of the evacuation;
5. Training personnel on all shifts to perform assigned tasks during emergencies, including the use and location of emergency equipment;
6. Accounting for the whereabouts of residents and personnel;

1. Coordination with emergency responders;
2. Plans for notifying the Department that clients have been evacuated from a facility for any reason other than a timed drill, after clients are safely evacuated; and
3. Plans for notifying the SFMO immediately after residents are safely evacuated.
4. **Facility evacuation.** If the residents are evacuated from the facility for any reason other than a planned fire drill, the administrator or a facility representative must notify the Department and the Office of the State Fire Marshal immediately after residents are safely evacuated. *[Class III]*

**U.** **Call bells.** Each facility must have a call bell system to meet the needs of the residents to ensure that residents can call for staff assistance when not in common areas of the facility.

**Section 17. Specialized Care Unit Standards**

1. **Memory Care Units**. A facility that operates a Memory Care Unit must meet the requirements of this Section.
2. **Admission requirements.**  The facility must meet Memory Care Unit admission requirements as follows:
3. At the time of admission to a Memory Care unit, the resident’s individual record must contain:
4. Documentation of the legal representative’s authority for placement, including but not limited to:
5. The order, instrument or other documentation upon which the legal representative or facility relies upon for authority;
6. The name, address and telephone number of the individual(s) consenting to placement; and
7. All other documentation required by State and Federal law for valid authority.
8. Documentation of eligibility for admission to the unit, including:
9. Physical history and exam by the current attending medical professional; and
10. An evaluation completed by a qualified, licensed, and/or certified professional, which indicates a diagnosis of Alzheimer's disease or other form of dementia.
11. Within 30 days of admission to the unit, the facility must obtain a functional assessment of each resident and document it in the resident’s record. The functional assessment must include but is not limited to:
12. An evaluation on the resident’s activities of daily living (ADLs) and instrumental ADLs;
13. A review of risk factors, including abuse and exploitation, depression, falls, elopement, self-neglect, and weight loss;
14. An evaluation of social environment factors such as cultural, spiritual and recreational activities, support resources, and lifestyle preferences;
15. Cognitive status as it relates to the resident’s ability to manage his/her own affairs and direct his/her own care; and
16. Advance directives.

**C. Information for residents of Memory Care Units.** When a provider operates a Memory Care Unit under this rule as all or part of its program, the facility must provide residents and family members, or any other authorized representative, the following information:

1. A written statement of philosophy;
2. The process used for resident assessment and establishment of residential services, including information on staffing to meet resident needs;
3. Those physical environment and design features that support the functioning of adults with cognitive impairments;
4. The frequency and types of group and individual activities provided by the program;
5. A description of family involvement and the availability of family support programs;
6. A description of security measures provided by the facility;
7. A description of in-service training provided for staff;
8. Policies with criteria and procedures for admission and discharge of residents to and from the facility/unit; and
9. Information regarding legal advocacy services, which also must be posted in an area of the facility accessible to residents.

**D. Reassessment.** A cognitive reassessment must be completed by a licensed practitioner whenever a question arises by facility staff, the resident’s legal representative, or other service provider as to the appropriateness of placement on a secure unit.

**E.** **Design standards**. The unit must be designed to accommodate residents with dementia, enhance their quality of life, and promote their safety: *[Class I, II, III]*

In addition to the basic physical plant standards required for licensure, a Memory Care Unit must have the following physical design elements:

The unit, facility, or distinct part must be locked, segregated, or secured to limit access by residents inside and outside the designated or separated area;

Adequate space for dining, group and individual activities and family visits;

Secured outdoor space and walkways which allow residents to ambulate, but prevent undetected egress;

High visual contrasts between floors and walls and doorways and walls in resident use areas;

Non-reflective floors, walls and ceilings;

Adequate and even lighting which minimizes glare and shadows; and

A staff work area for charting and storage of resident records, and a communication system such as a telephone or two-way voice actuated call system.

The designated Memory Care Unit must:

Provide freedom of movement for the residents between common areas and his/her room;

Provide assistive equipment that maximizes the independence of individual residents;

Label or inventory all resident’s possessions;

Be secured with locked doors that prevent resident egress into non secured parts of the facility.

Provide comfortable, non-institutional seating in the common use areas;

Encourage residents to decorate and furnish their rooms with personal items and furnishings, as appropriate;

Individually identify resident’s rooms as appropriate; and

Only use a public address system in the unit (if one exists) for emergencies.

**F. Physical Safety**

The designated Memory Care Unit must have policies and procedures regarding residents who may wander or elope, which must address safe resident access to secured outdoor spaces during inclement weather. *[Class I,II,III]*

The procedures must include actions to be taken in case a resident elopes, including notification to the Department in accordance with mandatory reporting requirements in Section 4 of this rule. *[Class I,II,III]*

If the unit uses keypads to lock and unlock doors entering the unit, then directions for access to the unit must be posted on the outside of the door. *[Class II,III]*

**G.** **Therapeutic activities for Memory Care Units.**  All facilities with Memory Care Units must conduct a variety of individual or group activities on a daily basis that meet the needs of residents. Facilities with a Memory Care Unit must conduct a weekly activities program developed and coordinated by a designated activities coordinator, with staff identified for each activity. The weekly schedule must include: *[Class IV]*

1. Gross motor activities (e.g., exercise, dancing, gardening, cooking, etc.);
2. Self-care activities (e.g., nails, hair care, dressing, yoga, , etc.);
3. Social activities (e.g., games, music, reminiscing, etc.);
4. Crafts (e.g., decorations, pictures, etc.);
5. Sensory enhancement activities (e.g., auditory, visual, olfactory and tactile stimulations, etc.);
6. Outdoor activities (e.g., walking outdoors, field trips, etc.); and
7. Spiritual activities.

**H.** **Pre-service training for Memory Care Units.** All facilities with Memory Care Units must provide a minimum of eight hours classroom orientation and eight hours of clinical orientation to all new staff assigned to the unit prior to working with residents: [Class III]

1. The trainer(s) must be qualified with experience and knowledge in the care of individuals with Alzheimer’s disease and other dementias.
2. The classroom orientation must include the following topics:
3. A general overview of Alzheimer’ Disease and related dementias;
4. Communication basics, including understanding difficult behavior as communication;
5. Creating a therapeutic environment;
6. Activity focused care;
7. Dealing with difficult behaviors; and
8. Family issues.

 **3.** The clinical orientation must include the following topics:

1. Hands-on experience with resident care;
2. Chart review to ensure that staff are able to locate, understand and implement items within the resident chart;
3. Service planning;
4. Personal histories of residents;

**I.** **Staffing Requirements for Memory Care Units.** Memory Care Unitsmust provide the following minimum ratios of direct care staff to residents: [Class II, III]

**1.** At the time of final adoption of this rule:

**a.** 1:12 from seven a.m. to three p.m. (7:00 a.m. to 3:00 p.m.);

**b.** 1:18 from three p.m. to eleven p.m. (3:00 p.m. to 11:00 p.m.); and

**c.** 1:30 from eleven p.m. to seven a.m. (11:00 p.m. to 7:00 a.m.).

1. Memory Care Units must provide additional staffing that is sufficient to meet the care and safety needs of residents.
2. Staff schedules and/or corresponding documents must include assigned duties for each staff person listed on the schedule.
3. The facility must complete a Staff Competency Evaluation (see Appendix B) prior to scheduling direct care staff on a Memory Care Unit; and
4. The facility must provide annual staff training of 8 hours in dementia-related topics to all staff working on a Memory Care Unit.

**J. Service Planning for Residents in Memory Care Units**

**1.** Memory Care Units must provide opportunities for family member engagement in the service planning process, which may include utilization of surveys or questionnaires to gather feedback regarding the care provided.

**2.** Memory Care Units must utilize a Person Centered Care approach to service planning.

**K. Specialty Units other than Memory Care.** The provider may apply, or be required to apply, for specialty program status when serving an identified population of residents with comparable needs and diagnoses, such as a psychogeriatric unit.

1. The unit must be designed to accommodate any unique needs of residents who will be admitted to the unit.
2. The provider must submit a program description to the Department for review and approval prior to admitting residents, or for existing units, upon request of the Department. The program description must address, at a minimum:

**a.** Staffing of the unit, to include staff ratios, training, and credentialing;

**b.** Therapeutic and treatment activities related to the demographics of the resident population;

**c.** The physical site of the unit; and

**d.** Any waivers of this rule required to serve the residents of this unit.

**3.** The admissions policy for the unit must indicate if the facility serves only residents with the specific demographics of the specialty unit, or maintains a discrete area dedicated to residents with the identified needs.

 **4.**  The facility must provide services in accordance with the approved program description.

**Statutory Authority**

Public Law 2007, Chapter 324 (5) (6) (7) (11).

22 M.R.S. Chapters 1661,1663,1664 1666 and 1666-B; and 22 M.R.S. § 42

22-A M.R.S. §205(2)

**Regulatory History**

AMENDED:

June 1, 2006 [major substantive rulemaking process]

APAO ACCESSIBILITY CHECK: September 2, 2025

REPEALED AND REPLACED:

 September 18, 2025 – filing 2025-165 (Major Substantive Rule)

**Appendix A**

Licensed Residential Care Facility

Standard Contract

This contract is entered into between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter “the Provider”) and you, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.This contract describes your financial obligations, as well as other responsibilities and rights. It also describes the rights and obligations that apply to the Provider in the course of providing services to you.

This contract is a standard contract required for use in the State of Maine. Providers may add additional provisions to the standard contract in a customized addendum but these additional provisions may not conflict with or replace the use of the standard contract. The intent of having a standard contract in Maine is to permit you to compare costs and services among providers. Providers are required to disclose their contracts and rates.

**In consideration of the payment and promises made in this contract, you and the Provider agree as follows:**

1. **STANDARDS**

The Provider will help to further your independence and respect your privacy and personal choices, including your choice to continue to reside here for as long as the Provider and program, as it is fundamentally designed, is able to meet your needs. The Provider’s programs will be consumer oriented and meet professional standards of quality at all times.

This means that if your needs exceed the Provider’s ability to provide services, the Provider will assist you in making other arrangements including moving somewhere else, if necessary.

1. **PROVIDER LICENSE**

The Provider is licensed in conformity with the requirements of the State of Maine. The type of provider is stated on the license issued by the Maine Department of Human Services and posted for public inspection in the \_\_\_\_\_\_\_\_\_\_\_ \_. This Provider is licensed as a Residential Care Facility.

[ ]  This box will be checked if you rent your unit from a separate entity (referred to in this contract as the “Landlord’) that is not the Provider. The Landlord is responsible for enforcing the terms and conditions of the lease. The Provider is responsible for assuring that the terms and conditions of your lease agreement with the Landlord do not conflict with this contract. The State of Maine has reviewed the separate lease agreement and has determined that it complies with all laws and rules related to the provision of assisted living services. A copy of this lease is attached for reference as Appendix F to this contract. Even though you have a lease with separate landlord, you have the same rights as you would have if the landlord and provider were one and the same.

1. **APPENDICES**

The following Appendices are attached and made a part of this contract:

##### [x]  Appendix A: Admissions Policy

[x]  Appendix B: Your Rights

[x]  Appendix C: Grievance Policy

[ ]  Appendix D: Tenancy Obligations (check if this applies)

[ ] Appendix E: Additional terms in Customized Addendum (check if this applies)

[ ]  Appendix F: Applies only if you rent your unit from an entity (the “Landlord”) that is not the Provider

# ADMISSION POLICY

There is an Admission Policy that meets the requirements of the State of Maine that describes who can be admitted and the types of services provided. A copy of this policy is attached as Appendix A.

# SERVICES PROVIDED DIRECTLY OR INDIRECTLY BY PROVIDER INCLUDED IN THE DAILY/MONTHLY RATE

A. You agree to purchase:

[ ]  Housing and Basic Services.

[ ]  Housing and Identified Services (See Section E below.).

B. You agree to pay the following current rate to the Provider:

[ ]  Daily rate of $\_\_\_\_\_\_\_\_

[ ]  Monthly rate of $\_\_\_\_\_\_\_\_

[ ]  The amount you pay will be determined by the MaineCare Program.

C. If you rent your unit from a landlord that is a different entity from the Provider, you understand that:

The landlord is\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The amount of your current monthly rent is \_\_\_\_\_\_\_\_\_\_\_.

1. Certain basic services must be provided in all licensed assisted housing programs. If you have decided to purchase assisted living services, these basic services are provided under the daily/monthly rate you pay for your care. This means the Provider must act in accordance with the rules to:
2. Observe and assess how you function and/or your individual behaviors for the purpose of enhancing your health and safety or the health and safety of others;
3. Protect you from environmental hazards by mitigating risk in the physical environment to prevent unnecessary injury or accident; and
4. Identify your needs and strengths, develop a service plan and arrange for and monitor service delivery.
	1. There is a wide range of services available. Those services and their costs are listed in Appendix E. What you actually receive for services will be based on whether you are purchasing assisted living services, and on your individual assessment and service plan.

If checked below, the service is offered by the Provider as part of your current daily/monthly rate and there is no additional charge to you if it becomes part of your service plan:

1. Personal Supervision.

[ ]  Even though you may travel independently in the community, the Provider will keep track of your general whereabouts

[ ]  Staff will accompany you to medical appointments

[ ]  The Provider provides an escort for regular travel

[ ]  The Provider has qualified staff in the building 24-hours/day

[ ]  Other\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]  Additional provisions: See Appendix E

1. Assistance with activities of daily living. (These are tasks that you may routinely need assistance with in order to maintain your best level of physical function.)

[ ]  Walking

[ ]  Changing position in bed

[ ]  Transferring from place to place

[ ]  Dressing

[ ]  Eating

[ ]  Using the bathroom

[ ]  Bathing

[ ]  Personal hygiene, such as help washing your hair

[ ]  Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]  Additional Provisions: See Appendix E

1. Incidental activities of daily living.

[ ]  Using the telephone

[ ]  Handling your finances

[ ]  Banking

[ ]  Shopping

[ ]  Light housekeeping

[ ]  Heavy housekeeping

[ ]  Getting to appointments

[ ]  Barber/beautician services

[ ]  Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]  Additional Provisions: See Appendix E

1. Medication assistance.

[ ]  Obtaining medications from the Pharmacy of your choice:

[ ]  Ordered by Provider

[ ]  Delivered by the Pharmacy

[ ]  Ordered by you/family member

[ ]  Picked up by Provider

[ ]  Picked up by you/family member

[ ]  Provide qualified staff to help you take your medications (such as reading the container labels, watching while you take a medication, checking the correct dosage, removing the dosage from the container, administering prescribed dosage, filling a syringe, administering any medication as allowed by applicable licensing rules.)

[ ]  Maintaining an individual medication administration record for you that will include all the medications and treatments that your physician orders for you, and a record that includes, for example, information that they have been administered at the right time and in the right dose

[ ]  Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]  Additional Provisions: See Appendix E.

5. Food Service.

[ ]  Meal preparation (including the cost of food) \_\_\_\_\_ times each day

[ ]  Meal preparation (food purchased separately by you) \_\_\_\_\_\_\_\_\_ times each day

[ ]  Nutritious between-meal snacks \_\_\_\_\_\_\_\_\_\_ times each day

[ ]  Special diets ordered by your physician as follows: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]  Shopping for groceries you purchase

[ ]  Meal planning

[ ]  Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]  Additional Provisions: See Appendix E

1. Transportation services.

[ ]  Arranging transportation (cost of transportation included) \_\_\_\_\_\_\_\_miles roundtrip

[ ]  Arranging transportation (cost of transportation not included)

[ ]  Transportation without escort to medical appointments within \_\_\_\_\_\_\_\_ miles roundtrip

[ ]  Transportation with escort to medical appointments within \_\_\_\_\_\_\_\_ miles roundtrip

[ ]  Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Nursing services. Some providers provide the services of a registered professional nurse. Others use registered professional nurses to coordinate the services and oversee staff who are not nurses. The following nursing services are part of your daily/monthly rate:

[ ]  None

[ ]  Skilled nursing services provided by a registered professional nurse.

[ ]  Registered professional nurse who oversees staff and coordinates your health care needs.

1. Housing Costs. These costs include those associated with your housing instead of your services, and may include things such as heat, lights, cable TV, telephone, your unit and other costs. Check all that apply:

[ ]  All housing costs (there will be no extra charges)

[ ]  All housing costs except:

[ ]  Semi-private room

[ ]  Shared bathroom

[ ]  Private room

[ ]  Private bathroom

[ ]  Efficiency apartment

[ ]  One Bedroom Apartment

[ ]  Two Bedroom Apartment

[ ]  Other:

[ ]  Additional Provisions: See Appendix E

[ ]  You have a lease agreement with a landlord other than the Provider: See Appendix F

1. Equipment and supplies. The Provider will supply the following equipment and supplies, as needed, as part of the daily cost that you pay:

[ ]  None

[ ]  Non-prescription analgesics and antacids

[ ]  Bedroom furnishings:

[ ]  Pillows, sheets, linens, towels

[ ]  Laundry supplies and equipment

[ ]  Laxatives

[ ]  Thermometers

[ ]  Non-prescription skin creams/lubricants

[ ]  Mouthwash

[ ]  Toothpaste

[ ]  Other non-prescription ointments:

[ ]  Shampoo

[ ]  Soap

[ ]  Facial tissue

[ ]  Toilet tissue

[ ]  Paper towels

[ ]  Incontinence supplies

[ ]  Other:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

10. Additional Services

[ ]  See Appendix E

**VI. SERVICES NOT INCLUDED IN THE DAILY RATE**

In some instances you may wish to purchase services beyond those included in your daily rate at an additional charge.

[ ]  See Appendix E for listing of items that are available at an additional charge.

**VII. BILLING AND PAYMENT**

A. Payment for services covered by the daily/monthly rate. The Provider requires you to pay for your care under the terms of this contract within the following time frame: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. If there is a separate lease agreement, payment must also be made in accordance with that agreement. You should be aware that failure to pay for your services in accordance with this contract may result in your discharge from the Provider’s facility or program. The Provider may not hold you responsible for the payment of attorneys’ fees or any other cost of collecting payment.

B. Source of payment for services covered by the daily/monthly rate:

[ ]  Self-pay

[ ]  Self-pay and billing to a third party:

C. Payment for services not covered by the daily/monthly rate. You agree to be responsible for payment for any services or convenience items not specifically included by this contract in the daily/monthly rate. Those that are provided by the Provider will be billed directly to you at the end of each month in addition to the daily/monthly rate.

D. Source of payment for services not covered by the daily/monthly rate:

[ ]  Self-pay

[ ]  Other\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

E. Holding your unit. If you are away temporarily, you are still responsible for paying for your unit and you may return as long as you continue to pay and this contract is in force.

F. Security deposit. A security deposit may be charged only for apartment units in an assisted living program.

[ ]  There is a security deposit. This security deposit will not exceed one month’s rent (currently $\_\_\_\_\_\_\_\_\_\_\_\_), and will be refunded to you within thirty (30) days from date of discharge/death.

[ ]  The following costs may be deducted from the security deposit: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]  Security deposits are part of your separate lease with the Landlord.

G. Calculation of refund. You are entitled to a refund for any advance payments you make on a prorated basis when you are discharged. This will include a refund for the day in which you are discharged.

[ ]  In residential care facilities, the refund is calculated by multiplying the amount you paid per day times the remaining number of days in the month, including the date of discharge.

[ ]  In assisted living programs, your refund is calculated from the date your apartment unit is vacated or from the last day of any required notice period, whichever is later. The refund is calculated by multiplying the amount you paid per day times the remaining number of days in the month, including the date your unit is vacated or the last day of any required notice period, whichever is later.

**VIII. RIGHTS REGARDING TRANSFER AND DISCHARGE**

You have certain rights under law and rules regarding transfer and discharge. A copy of a document explaining your rights is attached as Appendix B.

**IX. MODIFICATION OF CONTRACT TERMS**

At least thirty (30) days written notice is required for any modifications of contract terms including, but not limited to, rate and charge changes, responsibilities, services to be provided or any other items included in this contract. The thirty (30) days notice will not be required if you are the one requesting additional services not already included in the rate you pay pursuant to this contract.

**X. NOTICE PROVISION**

Any notice required by this contract must be in writing. The notice shall be considered delivered on the date of its receipt, if hand delivered. If the notice is deposited with the U.S. Postal Service, it shall be considered delivered three (3) days from the date of deposit in the mail. Notice to the Agent shall be by delivering it to him/her at the address provided at the end of this contract.

**XI. ACKNOWLEDGEMENT**

A. You acknowledge that your rights, attached as Appendix B and included as part of this contract, have been explained to you and you have signed that attachment.

B. You acknowledge that you have been given a copy of the Provider’s admission policy, grievance policy and any tenancy obligations (See Appendix A, C and D).

C. You have made arrangement for the management of your affairs, either personal and/or financial, as follows:

[ ]  Manage own affairs

[ ]  Durable Financial Power of Attorney

[ ]  Health Care Power of Attorney

[ ]  Representative Payee

[ ]  Guardian

[ ]  Conservator

[ ]  Trustee

[ ]  Advance Directive/Living will

[ ]  Other

You agree to supply copies of all relevant information about those individuals who are responsible for your affairs as they relate to your care under this contract.

**XII. CHANGES IN LAW**

Any provision of this contract that is found to be invalid or unenforceable as a result of a change in Federal or State law or rule will not invalidate the remaining provisions of this contract and it is agreed that, to the extent possible, you and the Provider will continue to fulfill your respective obligations under this contract consistent with law.

**XIII. SIGNATURES**

This contract may not require or encourage any person other than yourself to obligate himself/herself for the payment of your expenses. If any person informs the Provider that he/she wishes to guarantee payment of your expenses, he/she can do so only in a **separate written agreement**. **The separate written agreement allows for the guarantor of payment to change his/her mind within forty-eight (48) hours of signing this separate written agreement.**

If someone else who you authorize (hereinafter “your Agent”) signs this contract in his/her capacity as Agent, the individual may or may not be able to make health care or other decisions on your behalf. The extent of the Agent’s authority depends on the nature of that legal relationship.

Seen and agreed by:

|  |  |
| --- | --- |
|  Your Name Your Signature or Signature of Your Agent  Your Address Date |  Name of Provider Signature of Provider Representative  Provider’s Address Telephone Number |

**APPENDIX F**

This Appendix applies only if you rent your unit from an entity (the “Landlord”) that is not the Provider.

1. Your landlord is: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
2. Your current monthly rent is:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
3. Among other things, your lease provides that you will receive the following (check all that applies):

[ ]  All housing costs (there will be no extra charges)

[ ]  All housing costs except:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]  Semi-private room

[ ]  Shared bathroom

[ ]  Private room

[ ]  Private bathroom

[ ]  Efficiency apartment

[ ]  One Bedroom Apartment

[ ]  Two Bedroom Apartment

[ ]  Other

D. Your lease is attached here for reference.

**Appendix B**

**Direct Care Provider Competencies Checklist**

Providing care for people with dementia can be challenging for care partners because of the varied symptoms that can be present in people with changing cognitive abilities, including “behavioral expressions” that can be easily misunderstood.

Educational Components

 Understanding Dementia  Communication  Reduction of Preventable Hospitalization

 Dining and Nutrition  Pain Management  Empowering the Person  Palliative and End-of-Life Care

|  |  |  |  |
| --- | --- | --- | --- |
| Understanding Dementia  | Completed | Date of Competency Assessment | Reassessment Needed? |
| Understands the different types of Dementia and knows the difference between irreversible and reversible Dementia.  |  |  |  |
| Understands the difference between Alzheimer’s disease and Dementia.  |  |  |  |
| Knows the causes and symptoms of Dementia.  |  |  |  |
| Understands factors relating to an individual’s experience of Dementia.  |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| Communication | Completed | Date of Competency Assessment | Reassessment Needed? |
| Understands the factors that can influence communication and interaction with individuals living with Dementia.  |  |  |  |
| Understands how to respond to behaviors that can challenge those supporting individuals living with Dementia through person centered approaches.  |  |  |  |
| Uses culturally appropriate ways to communicate with the person living with Dementia and their families.  |  |  |  |
| Uses positive and respectful communication that can be understood by the individual, and actively listens and responds in a respectful and caring manner.  |  |  |  |
| Uses simple and clear terms that individuals living with Dementia and their families can understand.  |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| Reducing Unnecessary Readmissions | Completed | Date of Competency Assessment | Reassessment Needed? |
| Assists family and individuals with dementia in medication management. |  |  |  |
| Ensures the safety of individuals with dementia to prevent injury related to falling. |  |  |  |
| Understands the appropriate use and misuse of psychotropic medications. |  |  |  |
| Understands that the individual with dementia can have comorbid conditions and is attentive to abnormal signs and symptoms. |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| Dining and Nutrition | Completed | Date of Competency Assessment | Reassessment Needed? |
| Understands meal preferences of the individual. |  |  |  |
| Creates a pleasant and calm environment during meals by recognizing individual preferences of the resident. |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| Pain Management | Completed | Date of Competency Assessment | Reassessment Needed? |
| Is aware of the nonverbal signs of pain and that behavioral changes may be a symptom of pain.  |  |  |  |
| Observes and listens carefully to the individual if they try to communicate any difficulty or distress. |  |  |  |
| Understands that failure to manage pain can result in behavioral symptoms. |  |  |  |
| Routinely monitors for verbal and nonverbal signs of pain and recognizes it as a “fifth vital sign”. |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| Empower the Person living with Dementia | Completed | Date of Competency Assessment | Reassessment Needed? |
| Supports and encourages the individual to engage in meaningful activities.  |  |  |  |
| Provides information and advice to support individuals in undertaking desired occupational and nonoccupational activities.  |  |  |  |
| Recognizes the importance of sleep and rest for individuals with Dementia and maintains an appropriate environment. |  |  |  |
| Is aware that sleep habits (time, temperature of room, lightening, etc.) may vary from individual to individual. |  |  |  |
| Understands knowing the person and their life-story is important to provide the appropriate environment.  |  |  |  |
| Recognizes and honors the importance of pleasurable activities in a person’s life including sexual activity, the need for intimacy, and feeling close to others.  |  |  |  |
| Contributes to the protection of individuals living with Dementia from harm and abuse.  |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| Palliative and End of Life Care | Completed | Date of Competency Assessment | Reassessment Needed? |
| Understands the meaning of palliative care for persons living with Dementia.  |  |  |  |
| Understands the individual’s code status, the chains of communication within the facility, and where they can go to get additional help in advocating for the person.  |  |  |  |
| Provides psycho-social and spiritual support to the person and family.  |  |  |  |
| Understands the cultural and traditional preferences of the individuals living with Dementia and their families.  |  |  |  |

Adopted from “Dementia Care Change Package”, created by the Maine Dementia Care Partnership ©2022

[DCP Change Package FINAL 02072022.pdf (mehca.org)](https://www.mehca.org/files/Education/2021-2022/DCP%20Change%20Package%20FINAL%2002072022.pdf)