



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF HEALTH FACILITY LICENSURE AND CERTIFICATION
ASSISTED LIVING PROGRAM**

Joe Manchin III
Governor

1 Davis Square, Suite 101
Charleston, West Virginia 25301-1799
Telephone: (304) 558-0050 Fax: (304) 558-2515

Patsy A Hardy, FACHE, MSN, MBA
Cabinet Secretary

OPENING AN ASSISTED LIVING FACILITY

The West Virginia Department of Health and Human Resources, Office of Health Facility Licensure and Certification (OHFLAC) is the office responsible for licensing and maintaining oversight of facilities which provide care and services to the elderly. Facility types included in the Assisted Living Program are Assisted Living Residences (ALR), Residential Care Communities (RCC) and Legally Unlicensed (L/U) Care Homes. State surveyors in the Assisted Living Program are responsible for evaluating compliance with the applicable standards for each facility type by conducting survey or investigation of complaints related to violation of licensure standards.

The information included in this document will assist the prospective owner or licensee in completing the licensing process. This information should also help in evaluating or determining the type of facility which may be appropriate for the type of resident population you intend to serve. Knowing and understanding the rules and regulations for your specific facility type is mandatory.

ASSISTED LIVING RESIDENCES

W. Va. Code §16-5D-1 et seq.

Any living facility or place of accommodation in the state, however named, available for four (4) or more residents, that is advertised, offered, maintained or operated by the ownership or management, for the express or implied purpose of providing personal assistance, supervision, or both, to any residents who are dependent upon the services of others by reason of physical or mental impairment, and who may also require nursing care at a level that is not greater than limited and intermittent nursing care. A small assisted living residence has a bed capacity of four (4) to sixteen (16). A large assisted living residence has a bed capacity of seventeen (17) or more.

RESIDENTIAL CARE COMMUNITY

W. Va. Code §16-5N-1 et seq.

A Residential Care Community is defined as any group of seventeen (17) or more residential apartments, however named, which are part of a larger independent living community, for the express or implied purpose of providing residential accommodations, personal assistance and supervision on a monthly basis to seventeen (17) or more persons who are or may be dependent upon the services of others by reason of physical or mental impairment or who may require limited and intermittent nursing care but who are capable of self preservation and are not bedfast. Each apartment in a residential care community shall be at least three hundred square feet in size, have doors capable of being locked and contain at least: (1) One bedroom; (2) one kitchenette that includes a sink and a refrigerator; and (3) one full bathroom that includes a bathing area, toilet and sink. Services utilizing equipment which requires auxiliary electrical power in the event of a power failure may not be used unless the residential care community has a backup power generator.

LEGALLY UNLICENSED HEALTH CARE HOME

W. Va. Code §16-5E-1 et seq.

A Legally Unlicensed (L/U) Health Care Home is defined as any residence in this state that provides accommodations, personal assistance and supervision, whether for compensation or not, for a period of more than twenty-four (24) hours, **to one (1) to three (3) persons** who are not related to the operator by blood or marriage within the degree of consanguinity of second cousin. These persons may be dependent upon the services of others by reason of physical or mental impairment or may require limited and intermittent nursing care, including those individuals who qualify for and are receiving services by a licensed hospice.

Frequently Asked Questions

1. How should I proceed in opening a care facility?

You should contact the Office of Health Facility Licensure and Certification (OHFLAC) for information. Information will be provided to you that will help you identify what type of facility you are interested in operating. It is recommended that you submit a letter of intent; however, requesting information by telephone can also accomplish this goal. After you review the attached information, if you have not already obtained a copy of the regulations, this should be your next step. The regulations provide more specific detailed information. After you obtain the regulations, you should review them carefully and if necessary, make note of specific questions you may want answered or clarified. You may contact OHFLAC for clarification on any regulation. To request an application or obtain a copy of the regulations, contact the Assisted Living Program at (304) 558-0050. There is a minimal charge for copies of the regulations; however, you can also obtain a copy of the regulations by connecting to OHFLAC's website @ www.wvdhhr.org/ohflac/rules.

2. I have a tract of land that I am interested in building a facility on. What should I do?

You must contact OHFLAC to request a site inspection. The office assistant will send you a site/building inspection form or you can download this document from the website at www.wvdhhr.org/ohflac. This form must be completed and submitted to OHFLAC prior to scheduling the inspection. After the inspection is completed, you will receive a report which identifies any problems noted with the site of the proposed facility. A minimum of thirty (30) days should be allowed for scheduling the inspection.

3. I have purchased an existing structure and would like to open a facility. How should I proceed?

Prior to opening a facility in an existing structure, whether it has been used as a care home/facility in the past or not, a building inspection must be completed by OHFLAC. The inspection will identify to the prospective operator, the number of beds the facility may be licensed for, as well as identify other environmental problems, such as lack of compliance with the Americans with Disabilities Act (ADA) requirements. The form may be requested from OHFLAC or obtained on the website. The form must be completed and the required fee submitted prior to conducting the building inspection. Once the inspection is completed, a report will be sent identifying what corrections must be made prior to licensing the facility.

In an existing structure, architectural drawings for additions and renovations must be submitted to OHFLAC and the State Fire Marshal for approval, prior to beginning any reconstruction or making changes to an existing structure.

4. I have completed the site and/or building inspection and am interested in proceeding with my project. What should I do next?

A letter of intent or completed application must be submitted prior to beginning new

construction or admitting residents to an existing structure. For existing homes, the application should be received in the office prior to any change of ownership or before purchasing an existing facility. If a letter of intent is submitted, it should specify:

- a. The proposed facility type
- b. The planned number of residents to be admitted to the facility
- c. The types of services to be offered or provided

To submit a letter of intent, you should use the address included at the beginning of this document.

5. I have submitted my letter of intent and want to proceed with building a new structure. What is the next step?

Architectural drawings and specifications (mechanical and electrical) are required for new construction in a large Assisted Living Residence or a Residential Care Community. Plans must be submitted to the Assisted Living Program for approval, prior to beginning the construction phase. The drawings and specifications should be prepared, sealed and signed by an individual registered to practice architecture in the State of West Virginia. The plans will be reviewed and a letter sent to you after the review is completed.

For a small Assisted Living Residence (4-16 beds), plans drawn to scale are acceptable.

6. Do I need a sprinkler or fire alarm system? Who should I contact?

All Assisted Living Facilities that have four (4) or more beds must have a sprinkler and alarm system installed.

For an existing facility, the State Fire Marshal Office (SFMO) should be contacted prior to purchasing an existing structure to inspect the sprinkler and/or alarm system. This will enable you to make appropriate decisions regarding the purchase. The fire marshal will also be able to provide accurate information regarding their oversight in an assisted living facility. If you have already purchased a facility, you should contact the SFMO immediately to assure the sprinkler and/or alarm are in good working condition. For an existing building that has never been licensed as an Assisted Living Facility, the SFMO must be contacted to provide direction on installation of a sprinkler and alarm system. The SFMO will determine what type and size of sprinkler and/or alarm needed for your facility.

For new construction, a copy of the architectural plans or plans drawn to scale (depending on the size of the facility) should be submitted to the SFMO. The SFMO will identify the type and size of the sprinkler and/or alarm system necessary for your facility. They will also provide information on all state fire code requirements. Prior to occupancy in any new structure, final approval must be given by the SFMO, as well as OHFLAC. For additional information, you may contact the SFMO at (304) 558-2191 extension 214.

7. Do I need to contact the WV Health Care Authority (WVHCA) for a Certificate of Need (CON)?

If it is anticipated that a capital expenditure of one million dollars or more is projected, you must call the WVHCA at (304) 558-7000, and speak with the CON Director. They will advise you if a CON is required.

8. Do I need to contact the local health department?

You should contact your local health department to discuss the need for a site inspection or to obtain information from the sanitarian regarding your dietary/food service area and sewage disposal system.

For an existing structure, the sanitarian will determine if the system in place will be adequate or appropriate for the proposed number of beds in the facility.

For a new structure, the sanitarian will be able to provide you with the specific information related to the food/dietary service requirements as well as the type of sewage disposal system required (if a public sewage system is not available in your area). Before a license can be issued, you will be required to submit approval of your food service area and sewage disposal (if applicable) by the county sanitarian. An annual inspection must also be conducted by the sanitarian, for license renewal.

9. My project is nearing completion; how will I know that the building is or will be approved?

A pre-opening or building inspection must be requested as your project nears completion. You or your architect should request a pre-opening building inspection by contacting OHFLAC. The request should be done at least thirty (30) days prior to the preferred inspection date and your architect or builder will be required to submit specific documentation validating substantial completion of your project.

10. I need to admit residents as quickly as possible; am I allowed to do this?

Legally Unlicensed Home

If a legally unlicensed home is converting to a licensed facility (4 or more beds) additional residents cannot be admitted until surveyors have completed the initial environmental and health inspections and the SFMO has given approval.

New Construction

Once the building inspection process has been completed and the building is approved, you may admit residents with the approval from OHFLAC. This information will be provided to you once the building is approved. You can admit up to **three (3) residents, until the health inspection is completed**. You are responsible for notifying OHFLAC when you are ready for your initial health inspection.

If you have purchased an existing assisted living residence, (the structure and the resident population) and the home has a valid and unexpired license, you may continue to operate the home for up to ninety (90) days, if an approved application has been received by OHFLAC. However, **you must be preparing your home for the Change of Ownership (CHOW) inspection, during that ninety (90) day period**.

If OHFLAC receives any complaints, prior to your receiving a license for the CHOW, an inspection can be conducted at any time. You should request the inspection as soon as possible to avoid delay in obtaining your license. If any enforcement action has been implemented against the previous owners, this may limit your ability to operate under the previous owner's license and may delay the licensing process, depending on the type and severity of the enforcement.

11. I am completing the application and you have included a Criminal Investigation Background check card. What should I do with this and why is it required?

Criminal Record Check through the Central Abuse Registry

As part of the licensing process, a criminal record check must be conducted on all new licensees, owners or operators for all facility types. A record request check card will be included with the application and should be returned when the application is submitted. The instructions for completing the card and providing the prints will be included. Please follow

the instructions carefully and submit to OHFLAC with a \$10.00 money order made payable to the Superintendent, West Virginia State Police. OHFLAC will forward this information to the WV State Police and the results will be provided to OHFLAC. The licensee/owner/operator will be responsible for obtaining criminal record checks on all employees, including the administrator of the home. These will be sent to the facility.

If the application is not complete, it may be returned or you may be contacted by OHFLAC office staff for additional information.

12. What type of residents can I admit to my facility?

Residents with extensive and/or ongoing nursing care needs CANNOT be admitted to any of type of assisted living setting.

You may admit residents with limited and intermittent nursing care needs; however, if you plan to provide limited and intermittent nursing care in your facility, you must meet the requirements as specified in each rule, prior to admitting a resident. **Limited and Intermittent nursing care is defined as direct hands on nursing care of individuals who need no more than two (2) hours of nursing care per day for no longer than ninety (90) days in duration.** Residents that require nursing care that exceeds ninety (90) days may only be admitted to the home if you have requested a **waiver** of the ninety (90) day limitation prior to admitting the resident. Examples of limited nursing care would be: B12 injections, routine doses of insulin, indwelling Foley catheters, wound care, etc. If in doubt as to what is considered limited and intermittent nursing care or extensive and ongoing nursing care, you should always contact OHFLAC. Requesting a waiver for the nursing care does not guarantee an approval of the waiver. The waiver may be denied if there are multiple complaints on the home or there is inadequate staff, or a licensed nurse is not employed around the clock.

13. How many residents can I keep in my facility?

Legally Unlicensed Home: You can only keep three (3) residents in a legally unlicensed home. Exceeding the census of three (3) may result in assessment of civil monetary penalties.

Large ALR Residence: You may keep seventeen or more residents, as long as you have the required amount of bedroom, leisure and dining space per regulation. You must also satisfy the state fire code requirements, sanitation requirements and other state and local building requirements. Admitting more residents than the facility is licensed for can result in deficiencies being given to the facility.

Small ALR Residence: You can keep four (4) to sixteen (16) residents, as long as you have adequate bedroom, dining and leisure space per regulation and meet all other licensing requirements.

Residential Care Community: The residential care community is defined as a group of seventeen (17) or more **apartments**; therefore, you may admit seventeen (17) or more residents, depending on the size of the facility. There is no limit on the maximum number of apartments. The community must also satisfy all state fire code requirements, sanitation requirements and local zoning and building requirements.

14. I want my staff to administer medications to the residents. Is there any special training required?

There are **three methods** that can be utilized in an assisted living setting for administering medications to residents.

- A. Residents may self-administer their medications
If you utilize this method, there are specific regulatory requirements to comply with including certification by the physician that the resident is competent to self-administer.
- B. Unlicensed staff may administer medications
If you propose to have medications administered by unlicensed personnel in your facility you must comply with **W. Va. Code §16-5O-1 et seq. and 64CSR60 Medication Administration by Unlicensed Personnel. To obtain information on how to comply with this requirement, you should contact the Assisted Living Program.** Prior to utilizing unlicensed staff to administer medications, you must have a qualified RN to train the unlicensed staff and staff must complete the required testing through the designated testing agency. You must also submit your facility Medication Administration Policies and Procedures to the Assisted Living Program for approval. **Training or testing should not begin until the medication policies and procedures have been approved.** Only Assisted Living Residences can utilize unlicensed staff to administer medications. This law does not apply to Legally Unlicensed Homes.
- C. Licensed nurses may administer medications
You may employ or contract with an LPN or RN to administer medications to the residents.

15. I have completed all the application and building requirements, can I now admit residents?

Once the building has been inspected and approved, **you may admit up to three (3) Residents and notify OHFLAC. You may also request your initial health inspection at that time.** Scheduling of the initial inspection will be coordinated as quickly as possible, if you have demonstrated your readiness with compliance with regulations. For your initial inspection, you will be notified of the date of your inspection. To help you prepare for the inspection, you can request a list of the documents that surveyors will ask for on entrance to your facility. When the initial inspection is conducted, you should have all your documentation and all policies and procedures related to the operation of your facility in place.

Once the survey is complete and based on surveyor findings and/or citations, the decision to allow admission of additional residents to the facility will be determined by OHFLAC. Requests to admit more than three residents to the facility prior to the initial inspection will be determined on an individual basis. Factors which may influence this determination may be previous complaints received, number of staff and/or qualifications of staff, problems with pre-opening issues, etc. These requests must be directed to the Assisted Living Program Manager.

After your initial or CHOW inspection has been completed, **you will be invoiced for this inspection** in accordance with W. Va. Code §16-5D-6. **Payment must be received by OHFLAC prior to issuance of your license. If you receive any Class I deficiencies, you will not be issued a license until the citations are corrected.**

16. What are the costs or fees involved with getting copies of regulations and inspections?

Copies of Regulations (rules):

Assisted Living Residences	\$10.00
Residential Care Communities	\$10.00
Legally Unlicensed Homes	\$ 2.00

Initial Application Fee: \$65.00

Initial Licensure Inspection Fee Averages approximately \$700 - \$800

**This is a one time fee that is calculated by averaging the previous ten (10) surveys for the specific type of facility inspected.

Site or Building Inspection: Ranges from \$250.00 - \$500.00

Annual Bed License Fee: Ranges from \$4.89 - \$6.52

Copies of rules and regulations may also be obtained on OHFLAC's website @ www.wvdhhr.org/ohflac/rules

SPECIFIC POINTS TO REMEMBER

Assisted Living Residences

- a. To be licensed, a completed application must be submitted to OHFLAC along with the application fee of \$65.00 and within ninety (90) days prior to opening.
- b. The home must obtain a license by demonstrating substantial compliance with the rules or regulations identified at 64CSR14- Assisted Living Residence Licensure Rule.
- c. For a Small ALR, the administrator must have a High School diploma or GED. For a Large ALR, the administrator must have an Associate Degree or educational equivalent.
- d. You may keep four (4) or more residents, up to the approved licensed bed capacity.
- e. A sprinkler and fire alarm system are required. The State Fire Marshall's Office (SFMO) should be contacted to discuss state fire code requirements.
- f. If you are assuming operation of a previously licensed care facility, the home will be reviewed under current space requirements. Therefore, the number of beds the home was previously licensed for may be reduced.
- g. To obtain a copy of the licensure rule, you may submit a request in writing along with a check or money order in the amount of \$10.00 payable to OHFLAC or through our website.
- h. If you plan to administer medications, you must comply with the Medication Administration Rule or have licensed staff administered medications.
- i. A criminal investigation background check must be completed through the Central Abuse Registry maintained by the West Virginia State Police and submitted with the registration application.

Residential Care Community

- a. A completed application must be submitted along with the \$65.00 application fee.
- b. The home must obtain a license by demonstrating substantial compliance with the rules and regulations identified at 64CSR75- Residential Care Communities.
- c. A criminal investigation background check must be completed through the Central Abuse Registry maintained by the West Virginia State Police and submitted with the application.
- d. The administrator must have an Associate Degree or education equivalent.
- e. To obtain a copy of the Residential Care Community licensure rule you must submit a request in writing along with a check or money order in the amount of \$10.00 payable to OHFLAC or from OHFLAC's website.
- f. Only licensed staff can administer medications or the residents may self administer their medications, if the physician certifies that residents are capable of self-administration

Legally Unlicensed Home

- a. A Legally Unlicensed home is NOT licensed. The home is **REGISTERED** through OHFLAC.
- b. The registration must be completed and returned to OHFLAC.
- c. A criminal investigation background check must be completed through the Central Abuse Registry maintained by the West Virginia State Police and submitted with the registration application.
- d. Verification of registration will be sent to the home, once all requirements have been met.
- e. These homes must comply with all the rules applicable to Legally Unlicensed (L/U) Health Care Homes identified at §64CSR50.
- f. You may obtain a copy of the Legally Unlicensed Health Care Home rule by submitting a request in writing along with a check or money order in the amount of \$2.00 payable to OHFLAC or obtain from OHFLAC's website.
- g. A maximum of three (3) residents (excluding relatives) may be kept in these homes. You will be required to provide proof of relationship to relatives. It is recommended that these residents be capable of vacating the home in case of an emergency (self preservation), since a sprinkler system is not required.
- h. Only one unlicensed home can be operated by an individual. (Husband and wife are considered as one)
- i. You cannot admit any resident who has nursing care needs such as Foley catheters, feeding tubes, wound or dressing care, injections (insulin).
- j. You must notify OHFLAC if you move or close your home.