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## **ASSISTED LIVING RESIDENCE (ALR)**

### **Description:**

In New York State, an Assisted Living Residence (ALR) is defined in Section 4662 of the Public Health Law and in 10 NYCRR Part 1001 as an entity that provides or arranges for housing, 24-hour on-site monitoring, personal care (help with bathing, dressing, eating, grooming, and transferring), and/or home care services in a home-like setting to five or more adult residents. In addition, supportive services, socialization activities, meals, case management, and the development of an individualized service plan for each resident are also provided. Residents requiring continuing nursing or medical care are not eligible for an ALR.

Operators of Adult Homes (which are available to adults aged 18 and over) and operators of Enriched Housing (which are available to people aged 65 and over) are eligible for licensure to provide the additional levels of services and care provided under an assisted living license in New York, and ALRs are licensed and regulated the New York State Department of Health.

Across the country, the concept of "assisted living" began in the 1980s as a response to the very strong preference of older people for a non-institutional, flexible, home-like supportive living environment when frailties compromised their ability to continue living on their own. Development of assisted living facilities grew rapidly as the older population increased dramatically; and, over time, individual states gradually increased government oversight as the age and frailty of assisted living residents continued to rise. As a result, assisted living facilities exist all across the country, but models vary among states, as does the level of services and care provided, the extent to which these models are defined in law, the extent to which they are licensed and regulated, and the government agency selected to govern their oversight.

### *New York—*

In many states, any housing and services development or community for older people can market itself and call itself "assisted living." In New York State, any development, community, or facility that (1) calls itself assisted living, or (2) represents itself as offering "assisted living services," or (3) whose provision of services and care meets the law's description of assisted living must obtain an Adult Home or Enriched Housing Program license and an Assisted Living Residence license from the New York State Department of Health. For the most part, an ALR operates under the same rules and regulations as an Adult Home or Enriched Housing Program; however an ALR license does impose some additional requirements, particularly in the areas of resident protections and disclosures, as well as additional architectural and reporting requirements.

New York law identifies three levels of Assisted Living licensure:

- **Basic Assisted Living Residence (ALR)** – The characteristics and needs of residents in Basic ALR (admission and retention standards) are the same as those in Adult Homes or Enriched Housing Programs.
- **Enhanced Assisted Living Residence (EALR)** – A licensed Assisted Living Residence provider may obtain certification from the New York State Department of Health to provide an enhanced level of care, which authorizes the ALR provider to serve individuals who no longer meet the admission/retention criteria for the Adult Home/Enriched Housing program/basic assisted living residence—particularly residents who have become physically frailer. For example, EALR residents may need another person to assist them to walk, to transfer, to descend stairs, or to operate medical equipment. To achieve certification, the provider must show evidence of having appropriate levels of service capacity, staff, and staff training to provide an enhanced level of care; and, in some cases, EALR certification allows the provider to use his/her own licensed or registered nurse staff to provide some nursing services.
- **Special Needs Assisted Living Residence (SNALR)** – A licensed Assisted Living Residence provider may obtain certification from the New York State Department of Health to serve individuals who, due to Alzheimer’s Disease or other dementia conditions, require a need for more specialized services, more intense supervision, and a safer, secure environment specifically designed to appropriately meet their evolving needs as their cognitive abilities decline. To achieve SNALR certification, the provider must show evidence of having sufficient levels of programming, staffing, and services that address the specialized needs of SNALR residents.

The State's Assisted Living Residence regulations became effective in early 2008, and over 250 providers (most of which were existing Adult Home and Enriched Housing Program providers) applied for ALR licensure. By 2010, fewer than ten have completed the application process and have received the new license and certifications, with the remaining still being processed by the State Department of Health.

A Certificate of Need process (administered by the State Department of Health), which is required to obtain an Adult Home or Enriched Housing Program license, is also required to obtain licensure and certification as an ALR. ALR applicants must successfully demonstrate that there is need for their proposed project in the community and pass financial feasibility, character and competence, legal, and architectural reviews. The applicant must also obtain letters of support for their project from the county Social Service District and the Area Agency on Aging. To date, such letters of support have been successfully obtained because, in general, localities recognize growing consumer demand for the socially based assisted living level of housing and services, and they welcome the job creation and increased tax revenues associated with the ALR’s development and operation.

Assisted Living Residences can be successfully implemented in all geographic areas of New York—urban, suburban, and rural—with their sizes, architectural designs, and programming reflecting the characteristics of the residents and the communities in which they are located. For example, in small and rural communities, an ALR may be a house integrated into a residential neighborhood. In urban areas, they are more likely to be larger and purpose-built.

### **Benefits:**

*For both older residents and younger residents with disabilities:*

- The various levels of assisted living, as additions to Adult Homes and Enriched Housing, provide a continuum-of-housing-and-services for residents, eliminating the need for multiple relocations when increasing frailties require higher levels of care. This is important for younger-aged residents with disabilities, but particularly critical for older residents, for whom the trauma of multiple relocations has a significant negative impact on mental and physical health.
- For older people who can no longer successfully live at home or who need more care than is provided in other senior housing options, Assisted Living Residences provide an advanced level of care in a home-like, flexible living environment, lessening the need to relocate into a nursing home.
- Assisted living services are personalized, based on each individual's needs, with the goals of (1) promoting residents' independence to the greatest extent possible, and in a dignified manner; and (2) regardless of a person's level of need, making paramount the ability of residents to make choices about their own lives.
- Special Needs Assisted Living Residences provide a safe, secure living environment where specialized design elements, programming, and services provide maximized freedom together with appropriate care for residents with Alzheimer's Disease and other cognitive disabilities.

*For the community:*

- There are Assisted Living Residences of all shapes and sizes throughout the State, providing a housing alternative that meets the unique profile of each community's population and level/type of need.

### **Impediments or barriers to development or implementation:**

- **Community-level problems** – such as antiquated or unclear zoning laws, lack of municipality provided utilities, or poor community planning efforts can make it difficult for developers to construct new Assisted Living Residences.
- **Zoning** – zoning requirements differ from one community to another—each municipality may consider an ALR in a different way. When considering a potential location, it is important to find out early if a potential site location is

zoned appropriately, needs to be re-zoned, or if you can apply for a special use permit from the municipality to allow for a specific use.

- **“Not In My Back Yard” (NIMBY)** – Assisted Living Residences can experience the same neighborhood resistance as other congregate or multiunit residential options for special-needs populations. Typically, neighborhood opposition stems from a fear of how such a development will change the character of the neighborhood, change traffic flow or density, lower land or housing values, increase noise, and alter community aesthetics. These issues can be mitigated, public sentiment influenced, and potential opposition disarmed by (1) having good communication with the municipality and the residents of the town/village/city, and providing community residents with ample opportunity to express concerns and ask questions via town or city meetings, and (2) educating residents about housing needs and about assisted living residents, and showing evidence from studies of existing Assisted Living Residences about the impact on neighborhoods. Such efforts can convince local residents that a good-quality ALR can be a community asset and is an important part of any comprehensive community planning effort.
- **Funding for operations** - development and, ultimately, operation is much more challenging in economically depressed areas of the State because government funding for low-income residents (SSI Level 3) is inadequate to cover the costs of the base Adult Home/Enriched Housing program, let alone the additional services associated with the three levels of ALR services. The only viable funding available at this time for ALR/EALR/SNALR development and operation is the consumer's private resources. If there is not a market or adequate pool of consumers who have private financial means to pay market-rate monthly rent and service charges, the development may not be feasible.

#### **Resource—examples:**

- **Case Study – Newark NY**

While attempting to develop a 58-bed full-service adult home/assisted living community, a developer experienced problems regarding proper zoning and resistance from neighborhood residents. After many meetings with town officials, the developer was able to apply for a “special use permit” to allow this type of project to be constructed in an “agricultural” zone. The NIMBY issue was addressed through a series of town hall meetings, which allowed for open conversation among the developer, town officials, and neighborhood residents. The project was conceived in August of 2006; it was finally approved for construction in June of 2008; and its opening was scheduled for June, 2009.

When considering where best to construct a new ALR, there are many considerations that play a part in determining where the facility should be built. Once a developer/provider finds a community that may benefit from the ALR “housing and services” model, a suitable location must be identified. A first step is to talk with local officials and community leaders to determine how much, if any, resistance they may encounter regarding zoning, neighborhood residents,

and/or infrastructure issues. Through persistence and patience, developers can help communities make "caring for all segments of their resident populations" a part of their strategic comprehensive community planning.

- For specific examples of successfully operating Assisted Living Residences, contact the Empire State Association of Assisted Living: (518) 371-2573; [lnewcomb1@aol.com](mailto:lnewcomb1@aol.com).
- New York State Department of Health—for a list of all Adult Care Facilities, by county, in New York State (including Adult Homes, Enriched Housing Programs, Assisted Living Programs, and three levels of Assisted Living Residences): [http://www.health.ny.gov/facilities/adult\\_care/](http://www.health.ny.gov/facilities/adult_care/).

**Resource—written and web:**

- New York State Department of Health—for laws and regulations governing development and operation of Adult Homes and Enriched Housing Programs in New York State: [http://www.health.ny.gov/regulations/nycrr/title\\_18/](http://www.health.ny.gov/regulations/nycrr/title_18/); click on "Search Title 18"; then use the search tool to view the following parts under Title 18, as well as other parts of the regulations:
  - Title 18 NYCRR Social Services regulations:
    - Licensure: Part 485;
    - Regulatory oversight: Part 486;
    - Operations for Adult Homes: Part 487;
    - Operations for Enriched Housing programs: Part 488.
- New York State Department of Health:
  - For information pertaining to Assisted Living Residences in New York State: [http://www.health.state.ny.us/facilities/assisted\\_living/index.htm](http://www.health.state.ny.us/facilities/assisted_living/index.htm).
  - For regulations governing the operation of Assisted Living Residences in New York State: [http://www.health.ny.gov/facilities/assisted\\_living/adopted\\_regulations/](http://www.health.ny.gov/facilities/assisted_living/adopted_regulations/):
    - Assisted living residence/enhanced/special needs: Part 1001.
- For information about Adult Care Facilities and Assisted Living Residences—Empire State Association of Assisted Living: <http://www.esaal.org/pdf/NYConnectsGuide.pdf>.
- The National Center for Assisted Living—an entity of the American Health Care Association; provides national advocacy, education, networking, professional development, publications, resources, and quality initiatives for assisted living providers across the country: <http://www.ahcancal.org/ncal/Pages/default.aspx>.
- Consumer Consortium on Assisted Living—a national organization focused on the needs, rights, and protection of assisted living consumers and their caregivers;

extensive educational information about assisted living, choosing an assisted living facility, resources, etc.: <http://www.ccal.org/>.

- National Ombudsman Resource Center—for a list of each state's Long-Term Care State Ombudsman, each of whom oversees the network of local ombudsmen throughout their state who advocate on behalf of nursing home and assisted living residents and their families and who help residents and families resolve issues and problems related to living in the facilities: <http://www.ltombudsman.org/ombudsman>.  
List for New York State: <http://www.ltombudsman.org/ombudsman>; on map, click on New York State; then scroll down the page and see the list of ombudsman coordinators in New York.
- National Center for Assisted Living (2009), *Assisted Living State Regulatory Review*, including descriptive and contact information for each state's governing agency overseeing assisted living facilities: [http://www.ahcancal.org/ncal/resources/Documents/2009\\_reg\\_review.pdf](http://www.ahcancal.org/ncal/resources/Documents/2009_reg_review.pdf).
- Center for Excellence in Assisted Living—their mission is to act as an objective resource center to facilitate quality improvement in assisted living: <http://www.theceal.org/>.
- Assisted Living Federation of America—a national 500-member professional association of assisted living providers; advocates on behalf of members and provides educational events and conferences meant to increase operational excellence among provider members: <http://www.alfa.org/alfa/Default.asp>.
- B. Wright (October, 2004), "An Overview of Assisted Living: 2004," *Issue Brief*. Washington, DC: AARP, Public Policy Institute. [http://assets.aarp.org/rgcenter/il/ib72\\_al.pdf](http://assets.aarp.org/rgcenter/il/ib72_al.pdf).
- B. Wright (October, 2004), "Assisted Living in the United States—a research report," *Policy and Research for Professionals in Aging*. Washington, DC: AARP: [http://assets.aarp.org/rgcenter/post-import/fs62r\\_assisted.pdf](http://assets.aarp.org/rgcenter/post-import/fs62r_assisted.pdf).
- C. Hawes, M. Rose, and C. Phillips (Myers Research Institute) (December 14, 1999), *A National Study of Assisted Living for the Frail Elderly--Results of a National Survey of Facilities*. Washington, DC: U. S. Department of Health and Human Services. <http://aspe.hhs.gov/daltcp/reports/facres.htm>.
- C. Rudder, D. Smith, and G. Lieberman (November, 2001), *Assisted Living in New York State—A Summary of Findings*. Philadelphia, PA: Temple University's Fox School of Business and Management and the Health Care Management Program; and New York City: the Nursing Home Community Coalition of New York State, and the Coalition of Institutionalized Aged and Disabled. [http://www.ltccc.org/papers/assisted\\_living\\_project.htm](http://www.ltccc.org/papers/assisted_living_project.htm).
- *Creating Affordable Assisted Living: A Coming Home Case Study* (Garden Place: Affordability with Distinction—Providing Elders in Milwaukee, WI, with a New Alternative) (July, 2006). A collaborative development project among: Wisconsin Housing and Economic and Development Authority, Wisconsin

Department of Health and Family Services, NCB Capital Impact, and SunStarr Real Estate Group. Provides a description of all aspects of the development process for this project:

<http://www.wiaffordableassistedliving.org/demonstrations/GardenPlaceReport06.pdf>.

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