CHAPTER 50-32
ASSISTED LIVING FACILITIES

50-32-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Assisted living facility" means a building or structure containing a series of at least five living units operated as one entity to provide services for five or more individuals who are not related by blood, marriage, or guardianship to the owner or manager of the entity and which is kept, used, maintained, advertised, or held out to the public as a place that provides or coordinates individualized support services to accommodate the individual's needs and abilities to maintain as much independence as possible. An assisted living facility does not include a facility that is a congregate housing facility, licensed as a basic care facility, or licensed under chapter 23-16, chapter 23-17.7, chapter 25-16, or section 50-11-01.4.
2. "Department" means the department of health and human services.
3. "Entity" means an individual, institution, organization, limited liability company, or corporation, whether or not organized for profit.
4. "Individualized support services" means services provided to individuals who may require assistance with the activities of daily living of bathing, dressing, toileting, transferring, eating, medication management, and personal hygiene.
5. "Living unit" means a portion of an assisted living facility that contains a sleeping area, an entry door that can be locked, and a private bath with a toilet, bathtub or shower, and sink and which is occupied as the living quarters of an individual who has entered into a lease agreement with the assisted living facility.
6. "Related by blood or marriage to the owner or manager" means an individual who is a spouse or former spouse of the owner or manager or is a parent, stepparent, grandparent, stepgrandparent, child, stepchild, grandchild, stepgrandchild, brother, sister, half-brother, half-sister, stepbrother, or stepsister of the owner or manager or the owner's or manager's spouse or former spouse.

50-32-02. Licensing of assisted living facilities - Penalty.

1. An entity may not keep, operate, conduct, manage, or maintain an assisted living facility or use the term "assisted living" in its advertising unless it is licensed by the department.
2. An assisted living facility shall pay to the department an annual license fee of seventy-five dollars for each facility. License fees collected under this section must be deposited in the department's operating fund in the state treasury. An expenditure from the fund is subject to appropriation by the legislative assembly.
3. An assisted living facility shall apply annually to the department for a license. After the fifty-ninth day following the notification of noncompliance with annual licensing, the department may assess a fine of up to fifty dollars per day against an entity that provides assisted living services or uses the term assisted living in its marketing without a license approved by the department. Fines collected under this section must be deposited in the department's operating fund in the state treasury. An expenditure from the fund is subject to appropriation by the legislative assembly.
4. If there are one or more deficiencies or a pattern of deficiencies related to quality of care or compliance with licensing requirements, the department may issue a provisional license. A provisional license may not be valid for more than ninety days. A provisional license may be renewed once for no longer than an additional ninety days. If the deficiencies have not been corrected upon the expiration of a provisional license, the department may deny the assisted living facility's application or revoke its license.
5. Religious orders providing individualized support services to vowed members residing in the order's retirement housing are not subject to this chapter.
6. No more than two people may occupy one bedroom of each living unit of an assisted living facility.

50-32-02.1. Continuation of existing licenses.

1. An assisted living facility that possessed a valid license issued by the department before August 1, 2005, may not be subsequently denied a license by the department merely due to failure to meet the requirements of sections 23-09-01, 50-32-01, and 50-32-02 provided that the assisted living facility meets all other licensing requirements.
2. If there is a change in ownership of an assisted living facility that possessed a valid license issued before August 1, 2005, the department shall allow a continuance of the exception to the licensure requirements under subsection 1 for the new owner. The continuance provided under this subsection applies to the first change in ownership after July 31, 2005, and does not apply to any subsequent change in ownership.

50-32-03. Powers and duties of the department.

The department shall:

1. Take action and give directions necessary to implement this chapter.
2. Establish a method to receive complaints related to assisted living facilities and to forward the complaints to the appropriate agency for investigation.
3. Establish rules governing the licensing of assisted living facilities to regulate the application for, approval, denial, revocation, and requirements of a license.

50-32-04. Assisted living facility health services - Limitations on hospice services.

1. An entity may provide health services to individuals residing in an assisted living facility owned or operated by that entity. For purposes of this subsection, health services means services provided to an individual for the purpose of preventing disease and promoting, maintaining, or restoring health or minimizing the effects of illness or disability.
2. A tenant of an assisted living facility who is in need of hospice services and who exceeds tenancy criteria, as determined by the facility, may remain in the facility only if the tenant contracts with a third party, such as a hospice agency, or utilizes family support, or both, to meet those needs.

50-32-05. Assisted living facilities - Duties - Educational requirements.

1. Each assisted living facility must have clear, concise, and understandable tenancy criteria that is fully disclosed to all tenants, in writing, before the tenancy agreement is signed. Before a facility unit is rented, the facility or landlord shall evaluate the tenant's ability to meet the facility's tenancy criteria.
2. Each assisted living facility shall require the administrator of the facility to complete twelve hours of continuing education per year. The assisted living facility shall require all direct care staff to receive annual education or training in the areas of:
   a. Resident rights;
   b. Fire and accident prevention and training;
   c. Mental and physical health needs of tenants;
   d. Behavior problems and prevention; and
   e. Control of infection, including universal precautions.
3. Each assisted living facility shall maintain a record for each tenant. The tenant record must include:
   a. An initial evaluation to meet tenancy criteria;
   b. The tenancy agreement signed by the tenant or the tenant's legal representative;
   c. If applicable, a medication administration record that documents medication administration consistent with applicable state laws, rules, and practices; and
   d. An itemized list of services provided for the tenant.
4. Before hiring, the assisted living facility shall conduct a reference and previous employment check and a check of applicable registries of each applicant being considered for employment at the facility.

5. At least once every twenty-four months, each assisted living facility shall conduct a consumer satisfaction survey. The assisted living facility shall provide each tenant with a copy of the results of the survey.