

Guide to Licensed Assisted Living: Know Regulations and Find Violations

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The idea of assisted living is very appealing since it offers the promise of older adults receiving needed personal care in a home-like environment. There are some key questions to consider when searching for one.

What is licensed assisted living care in Michigan?

In the state of Michigan, Homes for the Aged and Adult Foster Care are licensed assisted living care homes. They fill a need for care between senior independent living and nursing homes.

Below are some basic characteristics of Assisted Living in the State of Michigan:

- The term '**Assisted Living**' is a marketing term; it has no regulatory meaning.
- Not all Assisted Living homes are licensed.
- Licensed Adult Foster Care homes offer personal care, meals, and supervision for 24 hrs. a day for five or more days a week for those 18 years+ in group homes.
- Licensed Homes for the Aged provides personal care, room and board to persons who are 55+ for 21 or more residents.
- These are not medical facilities. People who live there are called residents, not patients.
- Involuntary discharge is possible. Note: Michigan laws apply.
- Nursing services are limited. Outside hospice or nursing services are allowed.
- They each can have different polices, practices, prices, programs and philosophy.

What is different about memory care homes?

Individuals with Alzheimer's and other dementias may receive memory care in either an Adult Foster Care or Home for the Aged. They both must provide a certain set of services and accommodations to offer memory care. See "provisions", that is, what needs to be prepared beforehand to deal with needs at

<https://aspe.hhs.gov/sites/default/files/private/pdf/110506/15alcom-MI.pdf>

How do I look for an Assisted Living, with and without memory care?

Searching requires complex decisions that are emotional, social and financial. Following are two guides offering help:

https://assets.aarp.org/external_sites/caregiving/options/assisted_living.html The Alzheimer's Association at <https://www.alz.org/media/Documents/alzheimers-dementia-choosing-residential-care-ts.pdf> Combine the use of guides with personal visits and request a resident satisfaction survey, if available.

Where can I look for Homes for Aged regulations?

The Michigan Department of Licensing and Regulatory Affairs (LARA) sets licensing standards for Homes for the Aged and Adult Foster Care. For HFAs go to https://www.michigan.gov/lara/-/media/Project/Websites/lara/bchs/ocal/HFA_Technical_Assistance_Handbook_343632_7.pdf

LARA conducts inspections of care homes to see if they are abiding by required regulations. LARA's online database allows for searches of licensed homes and posts Special Inspection Reports of violations and complaints at <https://adultfostercare.apps.lara.state.mi.us/>.

How can the Information on violations be used?

LARA'S website will give you the past history and current status of a care home's record of established violations, but not all complaints. It provides some insight on the quality of the care and operations management.

If a home you are considering has a violation, it is recommended that you learn about the steps that were taken to address the matter. Open up a discussion to gain clarification.

Can you rest easy once you are a resident? These homes are dynamic places with many challenges and it's important to keep an eye on their performance. It's suggested that you regularly check inspection reports.

Once a resident of a care home, what can I do if there are problems?

Here are suggested **ACTION STEPS** if you encounter a problem.

- A. Review regulations.
- B. Discuss an improvement plan with the home's administrator or care supervisor. Monitor and adjust the new plan as needed.
- C. Ask for advocacy from the Michigan Long Term Care Ombudsman Program. Go to <https://mltcop.org/contact-us> to find one in your county.
- D. Call LARA's confidential Complaint Hotline at 866-856-0126 or file a complaint online.
- E. Call Adult Protective Services at 855-444-3911 to trigger an investigation by LARA within 24 hours, if abuse, neglect or financial exploitation occurs. Can be confidential.
- F. Call Michigan Attorney General, Elder Abuse Task Force Hotline at 800-24 Abuse.

Have there been any reports on licensed Assisted Living Residences?

The authors examined the records of a subset of Homes for the Aged from 2017 to mid-2020 across the State of Michigan. This involved reviewing LARA's special inspection reports, which identified regulation violations. The diversity of these homes was captured by looking at not-for-profit and for-profit, memory care homes and those ranging in size from 32 beds to those that were a part of large continuing care communities. The purpose was to capture the most **serious** and **frequent** regulation violations. Violations were sorted into six categories, referred to as Red Flags. "Serious" refers to violations that caused harm or placed a resident in jeopardy and "frequent" means that they occurred repeatedly as a problem in providing care.

Below are 6 Red Flags and Some Problem-Solving Strategies

With each of the six serious and frequent violations, both a paraphrased HFA regulation is stated and examples of violations are provided.

- 1. Service Plan Regulation:** A Service Plan is required at admission. It should be person-centered and lay out a resident's specific care and maintenance needs, care preferences, service requirements, and activities. Updates should occur annually or when significant care needs change, and at the resident's or authorized representative request. The home, in cooperation with the resident or their authorized representative, should jointly establish it.

Violation Examples:

- Service Plan had vague terms such as “redirection”, “therapeutic communication” and “staff intervention” and did not address noncompliance with care or what methods staff should use to address noncompliance.
- Review of Service Plan revealed there was no information regarding resident's catheter or how staff should maintain it.

Problem-Solving Strategies: Upon admission, participate in developing a **Person-Centered** care plan to identify care needs, mobility issues, equipment use, cognitive limitations, preferences and infection control procedures (e.g. catheter care). Monitor the plan to make sure it reflects care changes, is updated and that staff on all shifts are informed.

- 2. Administration of Medication Regulation:** If the home's administrator or direct care staff supervises the resident taking medications, then these provisions must be followed: The home is required to document any instructions regarding a resident's prescription medication; adjust or modify a resident's prescription medication with instructions from a prescribing licensed health care professional who knows the resident's medical needs.

Violation Examples:

- Resident Medication Administration Record revealed the resident had a prescribed eye drop on order to be refilled. It became known that the medication was not on hand; however, it was documented as administered.
- Resident refuses medication. Review of the medication record revealed that refusals were documented, but the resident's doctor was not notified, a medication incident report was not completed and doctor's instructions were not on resident's flow sheet.

Problem-Solving Strategies: Contact the attending physician when a medication error occurs. Discuss a plan with care supervisor. Check Service Plan to see if it matches resident's needs. A Power of Attorney of Health or other authorized representative may request to review the Medication Administration Record to see if there are gaps in medication administration.

3. Protection Regulation: "Protection" means the continual responsibility of the home to take reasonable action to ensure the health, safety, and well-being of a resident as indicated in the resident's Service Plan, including protection from physical harm, humiliation, intimidation, and social, moral, financial, and personal exploitation while on the premises, while under the supervision of the home or an agent or employee of the home, or when the resident's Service Plan states that the resident needs continuous supervision.

Violation Examples:

- Dirty room: toilet seat dirty, trash cans filled, bedding soiled with feces, no towels, toilet overflowing at least once a month for over a year, clothes on floor, dirty carpet.
- Resident left facility without notice, staff unaware. Son was notified 4 hours later that his mother was in the hospital after falling on the street. False documentation occurred: staff verified checking on resident during the time she was gone.

Problem-Solving Strategies: Refer to **ACTION STEPS on PAGE 2.**

4. Safety Regulation: A supervisor of resident care must be on the premises to supervise care, assure residents are treated with kindness and respect, protect them from accidents and injuries, and be responsible for their safety in case of emergency.

Violation Examples:

- Resident fell and his wound was not treated for two days until it was noticed that he needed stitches.
- Resident suffered a fractured leg during improper transfer.

Problem-Solving Strategies: Discuss staff training to prevent falls. Service Plans should note problems with mobility and have a staffing plan to reduce fall risks. Ask about staff training for proper transfer, the use of equipment and if equipment instructions are available. If an accident or injury occurs that should go to LARA within a 48-hour period. This report triggers a special investigation. You may seek the report by making a Freedom of Information Act request at <https://www.michigan.gov/lara/foia-request>.

5. Involvement of Responsible Family Member Regulation: Whoever has legal responsibility for the resident should be informed of any changes in resident's health, behavioral problems, falls, changes in medications or moves to a different level of care. If discharge is necessary, provide a written notice stating the reasons and specifics 30 days prior. Discharge may be sooner under certain conditions. By contacting the Ombudsman, you may learn about other protections.

Violation Examples:

- Fall not reported to family and to Department of Licensing and Regulatory Affairs.

- Improper discharge. Authorized representative was not notified in writing that resident was discharged after determination was made that his needs no longer could be met in memory care.

Problem-Solving Strategies: Refer to **ACTION STEPS on PAGE 2.**

6. Staffing Levels Regulation: No specific staffing ratio is required, but homes must have an adequate and sufficient staffing at all times. Staff must be awake, fully dressed, and capable of providing for resident needs, and meet the needs of the residents based on their service plans. One supervisor per shift is required.

Violation Examples:

- For 29 residents, there were only 3 caregivers who were responsible for toileting, meals, laundry, housekeeping.
- A memory care resident was found by a visitor to be wandering the halls unattended in a different area of the home.

Problem-Solving Strategies: The care community is required by regulation to provide adequate care. Have a discussion with the home’s administrator or care supervisor to about improving care and safety. After monitoring the situation, if improvements are not made consider contacting an Ombudsman or making a complaint to LARA.

Although unfortunate, it may be necessary to consider a move to another assisted living or a nursing home.

The Authors

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