

# Licensing Assisted Living Facilities

**50-5-227. Licensing assisted living facilities.** (1) The department shall by rule adopt standards for licensing and operation of assisted living facilities to implement the provisions of **50-5-225** and **50-5-226**.

(2) The department may deny, suspend, or revoke the license of an assisted living facility if the department finds a demonstrated pattern of noncompliance with the employee background check requirements of **50-5-225**.

(3) The following licensing categories must be used by the department in adopting rules under subsection (1):

(a) category A facility serving residents requiring the level of care as provided for in **50-5-226(2)**;

(b) category B facility providing skilled nursing care or other skilled services to five or fewer residents who meet the requirements stated in **50-5-226(3)**;

(c) category C facility providing services to residents with cognitive impairments requiring the level of care stated in **50-5-226(4)**; or

(d) category D facility providing services to residents with mental disorders who may be a temporary harm to themselves or others and who require the level of care stated in **50-5-226(5)**.

## **50-5-226(4) Category C Assisted Living**

(4) An assisted living facility licensed as a category C facility under **50-5-227** may not admit or retain a category C resident unless each of the following conditions is met:

(a) The resident has a severe cognitive impairment that renders the resident incapable of expressing needs or of making basic care decisions.

(b) The resident may be at risk for leaving the facility without regard for personal safety.

(c) Except as provided in subsection (4)(b), the resident may not be a danger to self or others.

(d) The resident may not require physical or chemical restraint or confinement in locked quarters, but may consent to the use of safety devices pursuant to Title 50, chapter 5, part 12.

## **50-5-226(5) Category D Assisted Living**

(5) (a) An assisted living facility licensed as a category D facility under **50-5-227** may not admit or retain a category D resident unless each of the conditions in subsections (5)(b) and (5)(c) is met or a court has ordered diversion as provided in subsection (5)(d).

(b) The resident must be dependent on assistance for two or more activities of daily living and may require skilled nursing care or other services that may be provided or arranged for by either the facility or the resident or provided for in the facility agreement.

(c) The resident must be assessed by a practitioner or adjudged by a court as having been or potentially being a danger to self or others. The practitioner shall submit both a health care assessment, renewed on a monthly basis, and a written order for care that:

(i) provides information on behavioral patterns under which the category D resident may pose a threat to others and may need to be kept separate from other category D residents or residents in other categories of assisted care;

(ii) lists the conditions under which the category D resident can be reasonably, temporarily restrained, using protective restraints, medications, or confinement to avoid harm to the resident or others;

(iii) includes a reason why a category D assisted living facility is more appropriate than other options for care and provides an assessment of the resident's needs and plan for care; and

(iv) indicates the timeframe over which the resident's health care status has remained the same or changed.

(d) A court may order a diversion from an involuntary commitment to Montana state hospital or from the Montana mental health nursing care center as provided in **50-5-224** or **53-21-127**. A diversion ordered pursuant to **50-5-224** may be an involuntary commitment but must be treated as provided in **53-21-181**.