ADMINISTRATIVE RULE OF MONTANA

HEALTHCARE FACILITIES
37.106 Subchapter 28
ASSISTED LIVING FACILITIES

RULE

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37.106.2801 SCOPE

(1) The rules in this chapter pertain to facilities which provide personal care services. These rules constitute the basis for the licensure of assisted living facilities by the Department of Public Health and Human Services (DPPHS).

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2802 PURPOSE

(1) The purpose of these rules is to establish standards for assisted living facilities categorized as A, B, C, and D facilities. Assisted living facilities are a setting for frail, elderly, or physically disabled persons which provide support in activities of daily living (ADLs), health, and service coordination to maintain the residents' independence, individuality, privacy, and dignity.

(2) An assisted living facility offers a suitable living arrangement for persons with a range of capabilities, disabilities, frailties, and strengths. In general, however, assisted living is not appropriate for individuals who are incapable of responding to their environment, expressing volition, interacting, or demonstrating any independent activity. For example, individuals in a persistent vegetative state who require long term nursing care should not be placed or cared for in an assisted living facility.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2803 APPLICATION OF RULES

(1) Category A facilities must meet the requirements of ARM 37.106.2801 through 37.106.2866.

(2) Category B facilities must meet the requirements of ARM 37.106.2801 through 37.106.2885.

(3) Category C facilities must meet the requirements of ARM 37.106.2801 through 37.106.2885 and ARM 37.106.2891 through 37.106.2898.

(4) Category D facilities must meet the requirements of ARM 37.106.2801 through 37.106.2885 and ARM 37.106.2899 through 37.106.2899H.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2804 APPLICATION OF OTHER RULES

(1) To the extent that other licensure rules in ARM Title 37, chapter 106, subchapter 3 conflict with the terms of ARM Title 37, chapter 106, subchapter 28, the terms of subchapter 28 will apply to assisted living facilities.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2805 DEFINITIONS

The following definitions apply in this subchapter:

(1) "Activities of daily living (ADLs)" means tasks usually performed in the course of a normal day in a resident's life that include eating, walking, mobility, dressing, grooming, bathing, toileting, and transferring.

(2) "Administrator" means the person designated on the facility application or by written notice to the department as the person responsible for the daily operation of the facility and for the daily resident care provided in the facility.

(3) "Advance directive" means a written instruction, such as a living will, a do-not-resuscitate (DNR) order, or durable power of attorney (POA) for health care, recognized under state law relating to the provision of health care when the individual is incapacitated.

(4) "Ambulatory" means a person is capable of self-mobility, either with or without mechanical assistance. If mechanical assistance is necessary, the person is considered ambulatory only if they can, without help from another person, transfer, safely operate, and utilize the mechanical assistance, exit and enter the facility, and access all common living areas of the facility.

(5) "Assisted living facility" is defined at 50-5-101, MCA.

(6) "Change of ownership" means the transfer of ownership of a facility to any person or entity other than the person or entity to whom the facility's license was issued, including the transfer of ownership to an entity which is wholly owned by the person or entity to whom the facility's license was issued.

(7) "Department" means the Department of Public Health and Human Services (DPHHS).

(8) "Direct care staff" means a person or persons who directly assist residents with personal care services and medication. It does not include housekeeping, maintenance, dietary, laundry, administrative, or clerical staff at times when they are not providing any of the above-mentioned assistance. Volunteers can be used for direct care, but may not be considered part of the required staff.

(9) "Health care plan" means a written resident specific plan identifying what ongoing assistance with ADLs and health care services is provided on a daily or regular basis by a licensed health care professional to a category B, C, or D resident under the orders of the resident's practitioner. Health care plans are developed as a result of a resident assessment performed by a licensed health care professional who may consult with a multi-disciplinary team.

(10) "Health care service" means any service provided to a resident of an assisted living facility that is ordered by a practitioner and required to be provided or delegated by a licensed, registered, or certified health care professional. Any other service, whether or not ordered by a physician or

practitioner, that is not required to be provided by a licensed, registered, or certified health care professional is not to be considered a health care service.

(11) "Involuntary transfer or discharge" means the involuntary discharge of a resident from the licensed facility or the involuntary transfer of a resident to a bed outside of the licensed facility. The term does not include the transfer of a resident from one bed to another within the same licensed facility, or the temporary transfer or relocation of the resident outside the licensed facility for medical treatment.

(12) "License" means the document issued by the department that authorizes a person or entity to provide assisted living services.

(13) "Licensed health care professional" means a licensed physician, physician assistant-certified, advanced practice registered nurse, or registered nurse who is practicing within the scope of the license issued by the Department of Labor and Industry.

(14) "Mechanical assistance" means the use of any assistive device that aids in the mobility and transfer of the resident. Assistive devices include braces, walkers, canes, crutches, wheelchairs, and similar devices.

(15) "Medication administration" means an act in which a prescribed drug or biological is given to a resident by an individual who is authorized in accordance with state laws and regulations governing such acts.

(16) “Mental disorder” means a clinically significant disturbance in an individual’s cognition, emotional regulation, or behavior.

(a) For the purpose of this subchapter, the term includes dementia, Alzheimer’s disease, and traumatic brain injury.

(17) "Mental health professional" means:

(a) a certified professional person;

(b) a physician licensed under Title 37, chapter 3, MCA;

(c) a professional counselor licensed under Title 37, chapter 23, MCA;

(d) a psychologist licensed under Title 37, chapter 17, MCA;

(e) a social worker licensed under Title 37, chapter 22, MCA;

(f) a marriage and family therapist under Title 37, chapter 37, MCA;

(g) an advanced practice registered nurse, as provided for in 37-8-102, MCA, with a clinical specialty in psychiatric mental health and mental disorders nursing; or

(h) a physician assistant licensed under Title 37, chapter 20, MCA, with a clinical specialty in psychiatric mental health.

(18) "Nursing care" means the practice of nursing as governed by 37-8-102(7), MCA and by administrative rules adopted by the Board of Nursing, found at ARM Title 24, chapter 159.

(19) "Personal care" means the provision of services and care for residents who need some assistance in performing ADLs.

(20) "Practitioner" means an individual licensed by the Department of Labor and Industry who has assessment, admission, and prescription authority.

(21) "PRN medication" means an administration scheme, in which a medication is not routine, is taken as needed, and requires the licensed health care professional or individual resident's own cognitive assessment and judgement for need and effectiveness.

(22) "Resident" means anyone at least 18 years of age accepted for care in an assisted living facility.

(23) "Resident agreement" means a signed, dated, written document that lists all charges, services, refunds, and move out criteria and complies with ARM 37.106.2823.

(24) "Resident certification" means written certification by a licensed health care professional that the facility can adequately meet the particular needs of a resident. The licensed health care professional making the resident certification must have:

(a) visited the resident on site; and

(b) determined that the resident's health care status does not require services at another level of care.

(25) "Resident's legal representative" or "resident's representative" means the resident's guardian, or if no guardian has been appointed, then the resident's family member or other appropriate person acting on the resident's behalf.

(26) "Self-administration assistance" means providing necessary assistance to any resident in taking their medication, including:

(a) removing medication containers from secured storage;

(b) providing verbal suggestions, prompting, reminding, gesturing, or providing a written guide for self-administrating medications;

(c) handing a prefilled, labeled medication holder, labeled unit dose container, syringe or other labeled container from the pharmacy or a medication organizer as described in ARM 37.106.2847 to the resident;

(d) opening the lid of the above container for the resident;

(e) guiding the hand of the resident to self-administer the medication;

(f) holding and assisting the resident in drinking fluid to assist in the swallowing of oral medications; and

(g) assisting with removal of a medication from a container for residents with a physical disability which prevents independence in the act.

(27) "Service coordination" means that the facility either directly provides or assists the resident to procure services including, but not limited to:

(a) beauty or barber shop;

(b) financial assistance or management;

(c) housekeeping;

(d) laundry;

(e) recreation activities;

(f) shopping;

(g) spiritual services; and

(h) transportation.

(28) "Service plan" means a written plan for services developed by the facility with the resident or resident's legal representative which reflects the resident's capabilities, choices and, if applicable, measurable goals and risk issues. The plan is developed on admission and is reviewed and updated annually and if there is a significant change in the resident's condition. The development of the service plan does not require a licensed health care professional.

(29) "Severe cognitive impairment" means the loss of intellectual functions, such as thinking, remembering, and reasoning, of sufficient severity to interfere with a person's daily functioning. Such a person is incapable of recognizing danger, self-evacuating, summoning assistance, expressing need, and/or making basic care decisions.

(30) "Significant change" means a resident status or condition change that results in a change in service and care needs. This includes:

(a) admission to, or discharge from hospice services;

(b) a change in categorization; or

(c) an accident or health event that changes the functional or cognitive abilities of the resident.

(31) "Therapeutic diet" means a diet ordered by a physician or practitioner as part of treatment for a disease or clinical condition or to eliminate or decrease specific nutrients in the diet, (e.g., sodium) or to increase specific nutrients in the diet (e.g., potassium) or to provide food the resident is able to eat (e.g., mechanically altered diet).

(32) "Third party services" means care and services provided to a resident by individuals or entities who have no fiduciary interest in the facility.

(33) "Treatment" means a therapy, modality, product, device, or other intervention used to maintain well-being or to diagnose, assess, alleviate, or prevent a disability, injury, illness, disease, or other similar condition.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2003 MAR p. 17, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2809 LICENSE APPLICATION PROCESS

(1) Application for a license accompanied by the required fee shall be electronically submitted to the Department of Public Health and Human Services, Office of Inspector General, Licensure Bureau, and shall include complete information as to the:

(a) identity of each officer and director of the corporation, if organized as a corporation;

(b) identity of each general partner if organized as a partnership or limited liability partnership;

(c) name of the administrator and administrator's qualifications;

(d) name, address, and phone number of the management company if applicable;

(e) physical location address, mailing address, and phone number of the facility;

(f) maximum number of A beds, B beds, C beds, and D beds in the facility;

(g) policies and procedures as outlined in ARM 37.106.2815; and

(h) resident agreement, as outlined in ARM 37.106.2823, intended to be used.

(2) Every assisted living facility shall have distinct identification or name and shall notify the department in writing within 30 days prior to changing such identification or name.

(3) Each assisted living facility shall promptly report to the department any plans to relocate the facility at least 30 days prior to effecting such a move.

(4) In the event of an assisted living facility change of ownership, the new owners shall provide the department the following:

(a) a completed application with fee;

(b) a copy of the fire inspection conducted within the past year;

(c) policies and procedures as prescribed in ARM 37.106.2815 or if applicable, a written statement indicating that the same policies and procedures will be used as required;

(d) a copy of the resident agreement as outlined in ARM 37.106.2823 to be used; and

(e) documentation of compliance with ARM 37.106.2814.

(5) Under a change of ownership, the seller shall dispose of or return to the department the assisted living license under which the facility had been previously operated. This information may be sent to the Department of Public Health and Human Services, Office of Inspector General, Licensure Bureau, P.O. Box 202953, Helena, MT 59620-2953.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2810 LICENSE RESTRICTIONS

(1) A license is not subject to sale, assignment, or other transfer, voluntary or involuntary.

(2) A license is valid only for the premises for which the original license was issued.

(3) The license remains the property of the department and shall be disposed of or returned to the department upon closing or transfer of ownership.

(a) The address for returning the license is Department of Public Health and Human Services, Office of Inspector General, Licensure Bureau, P.O. Box 202953, Helena, MT 59620-2953.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2022 MAR p. 1857, Eff. 9/24/22; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2814 ADMINISTRATOR

(1) Each assisted living facility shall employ an administrator. The administrator is responsible for operation of the assisted living facility at all times and shall ensure 24-hour supervision of the residents.

(2) The administrator must meet the following minimum requirements:

(a) be currently licensed as a nursing home administrator in Montana or another state;

(b) has successfully completed all of the self-study modules of "A Management Reference for Executive Directors - Admin Level 1 Certificate Program," a component of the assisted living training system published by the Senior Living University (SLU) or an alternate, approved program; or

(c) be enrolled in and complete the self-study course referenced in (2)(b), within six months from hire.

(3) The administrator must show evidence of at least 16 contact hours of annual continuing education relevant to the individual's duties and responsibilities as administrator of the assisted living facility.

(a) A nursing home administrator license or the SLU certification may count as 16 hours of annual continuing education but only for the calendar year in which the license or certification was initially obtained.

(4) In the absence of the administrator, a staff member must be designated to oversee the operation of the facility. The administrator or designee shall be in charge, on call, and physically available on a daily basis as needed, and shall ensure there are sufficient, qualified staff so that the care, well-being, health, and safety needs of the residents are met at all times.

(a) If the administrator will be absent from the facility for more than 30 continuous days, the department shall be given written notice of the individual who has been appointed the designee. The appointed designee must meet all the requirements of (1) and (2).

(5) The administrator or designee may not be a resident of the facility.

(a) A designee must:

(i) be age 18 or older; and

(ii) have demonstrated competencies required to assure protection of the safety and physical, mental, and emotional health of residents.

(6) The administrator or designee shall:

(a) ensure that the current facility license or licenses are posted at a place in the facility that is accessible to the public at all times;

(b) oversee the day-to-day operation of the facility including:

(i) all personal care services for residents;

(ii) the employment, training, and supervision of staff and volunteers;

(iii) maintenance of buildings and grounds; and

(iv) record keeping; and

(c) protect the safety and physical, mental, and emotional health of residents.

(7) The facility shall notify the department within five days of an administrator's departure or a new administrator's employment.

(8) The administrator or designee shall initiate transfer of a resident through the resident and/or the resident's practitioner, appropriate agencies, or the resident's legal representative when the resident's condition is not within the scope of services of the assisted living facility.

(9) The administrator or designee shall accept and retain only those residents whose needs can be met by the facility and who meet the acceptance criteria found in 50-5-226, MCA.

(10) The administrator or designee must ensure that a resident who is ambulatory only with mechanical assistance is:

(a) able to safely and independently evacuate the facility without the aid of an elevator or similar mechanical lift;

(b) have the ability to independently move past a building code-approved occupancy barrier or smoke barrier into an adjacent wing or building section; or

(c) reach and enter an approved area of refuge.

(11) The administrator or designee shall ensure and document that orientation is provided to all employees at a level appropriate to the employee's job responsibilities.

(12) The administrator or designee shall review every accident or incident causing injury to a resident and document the appropriate corrective action taken to avoid a reoccurrence.

(13) The owner of an assisted living facility may serve as administrator, or in any staff capacity, if the owner meets the qualifications specified in these rules.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2815 WRITTEN POLICIES AND PROCEDURES

(1) A policies and procedures manual for the organization and operation of the assisted living facility shall be developed, implemented, kept current, reviewed every other year and as necessary to assure the continuity of care and day to day operations of the facility. Each review of the manual shall be documented, and the manual shall be available in the facility to staff, residents, residents' legal representatives, and representatives of the department at all times.

(2) The manual must include an organizational chart delineating the lines of authority, responsibility, and accountability for the administration and resident care services of the facility.

(3) New policies, as developed, must be submitted to the department for review.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2003 MAR p. 17, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2816 ASSISTED LIVING FACILITY STAFFING

(1) The administrator shall develop minimum qualifications for the hiring of direct care staff and support staff.

(2) The administrator shall develop policies and procedures for conducting criminal background checks, hiring, and assessing staff, which include practices that assist the employer in identifying employees who may pose risk or threat to the health, safety, or welfare of any resident and provide written documentation of findings and the outcome in the employee's file.

(a) A name-based or FBI fingerprint background check shall be conducted on all employees who have accepted employment at an assisted living facility.

(i) If an applicant has lived outside the state within the past five years, the assisted living facility must complete background checks in every state in which the applicant has resided within the past five years unless the name-based background check yields nationwide results, or the facility may conduct a FBI fingerprint background check.

(b) The administrator may allow an employee to work provisionally pending the background check results so long as there are no indications the employee poses a risk or threat to the health, safety, or welfare of the residents in the facility.

(c) An assisted living facility may not employ any person who meets the criteria of 50-5-225(4), MCA.

(3) New employees shall receive orientation and training in areas relevant to the employee's duties and responsibilities, including:

(a) an overview of the facility's policies and procedures manual in areas relevant to the employee's job responsibilities;

(b) a review of the employee's job description;

(c) services provided by the facility;

(d) the Montana Vulnerable Adult Prevention of Abuse Act found in Title 52, chapter 3, part 8, MCA;

(e) the Montana Long-Term Care Resident Bill of Rights Act found in Title 50, chapter 5, part 11, MCA;

(f) staff who are responsible for assisting with self-administration of medication will receive orientation and training on resident Medication Administration Records (MARs) and the five rights of medication administration; and

(g) all direct care staff will receive, at minimum, two hours of training in dementia care upon hire and annually thereafter.

(4) In addition to meeting the requirements of (3), direct care staff shall be trained to perform the services established in each resident service plan.

(a) Direct care staff will review each resident's current service plan or health care plan and document that they have reviewed the plan and can perform the services required.

(5) Direct care staff shall be trained in the use of the abdominal thrust maneuver and basic first aid. If the facility offers cardiopulmonary resuscitation (CPR), at least one person per shift shall hold a current CPR certificate.

(6) The following rules must be followed in staffing the assisted living facility:

(a) direct care staff shall have knowledge of the resident's needs and any events about which the employee should notify the administrator or the administrator's designated representative;

(b) the facility shall have a sufficient number of qualified staff on site 24 hours a day to meet the scheduled and unscheduled needs of each resident, to respond in emergency situations, and all related services, including:

(i) maintenance of order, safety, and cleanliness;

(ii) assistance with medication regimens;

(iii) preparation and service of meals;

(iv) housekeeping services and assistance with laundry; and

(v) assurance that each resident receives the supervision and care required by the service or health care plan to meet the resident's basic needs;

(c) an individual on each work shift shall have keys to all relevant resident care areas and access to all items needed to provide appropriate resident care;

(d) direct care staff may not perform any service for which they have not received appropriate documented training; and

(e) facility staff may not perform any health care service that has not been appropriately delegated under the Montana Nurse Practice Act or in the case of licensed health care professionals, that is beyond the scope of their license.

(7) Employees and volunteers may perform support services, such as cooking, housekeeping, laundering, general maintenance and office work after receiving an orientation to the appropriate sections of the facility's policy and procedure manual. Any person providing direct care, however, is subject to the orientation and training requirements for direct care staff.

(8) Volunteers may be utilized in the facility, but may not be included in the facility's staffing plan in lieu of facility employees. In addition, the use of volunteers is subject to the following:

(a) volunteers must be supervised and be familiar with resident rights and the facility's policies and procedures which apply to their duties as a volunteer; and

(b) volunteers shall not assist with medication administration, delegated nursing tasks, bathing, toileting, or transferring.

(9) Residents may participate voluntarily in performing household duties and other tasks suited to the individual resident's needs and abilities, but residents may not be used as substitutes for required staff or be required to perform household duties or other facility tasks.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2817 EMPLOYEE FILES

(1) The facility is responsible for maintaining a file on each employee and substitute personnel.

(2) The following documentation from employee files must be made available to the department at all reasonable times, but shall be made available to the department within 24 hours after the department requests to review the files:

(a) the employee's name;

(b) a copy of current credentials, certifications, or professional licenses as required to perform the job description;

(c) an initialed copy of the employee's job description;

(d) initialed documentation of employee orientation and ongoing training including documentation of abdominal thrust maneuver training, basic first aid, and CPR; and

(e) the result of the employee's criminal background check.

(3) The facility shall keep an employee file that meets the requirements set forth in (2) for the administrator of the facility, even when the administrator is the owner.

(4) The employer must have evidence of contact to verify that each certified nursing assistant has no adverse findings entered on the nurse aid registry maintained by the department in the certification bureau.

(a) A facility may not employ or continue employment of any person who has adverse findings on the nurse aide registry maintained by the department's certification bureau.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2821 RESIDENT APPLICATION AND NEEDS ASSESSMENT PROCEDURE

(1) All facilities must develop a written application procedure for admission to the facility which includes the prospective resident's name and address, sex, date of birth, marital status, and religious affiliation (if volunteered).

(2) The facility shall determine whether a potential resident meets the facility's admission requirements and that the resident is appropriate to the facility's license endorsement as either a category A, category B, category C, or category D facility, as specified in 50-5-226, MCA.

(3) Prior to admission, the facility shall conduct an initial resident needs assessment to determine the prospective resident's needs.

(4) The initial resident's needs assessment must include documentation of the following:

(a) cognitive patterns to include short-term memory, long term memory, memory recall, decision making, and change in cognitive status/awareness, or thinking disorders;

(b) sensory patterns to include hearing, ability to understand others, ability to make self understood, and ability to see in adequate light;

(c) activities of daily living (ADL) functional performance to include ability to transfer, locomotion, mobility devices, dressing, eating, use of toilet, bladder continence, bowel continence, continence appliance/programs, grooming, and bathing;

(d) mood and behavior patterns, sadness or anxiety displayed by resident, wandering, verbally abusive, physically abusive, and socially inappropriate/disruptive behavior;

(e) health problems/accidents;

(f) weight/nutritional status to include current weight and nutritional complaints;

(g) skin problems;

(h) current medication use including over-the-counter and/or prescription medications; and

(i) use of restraints, safety, or assistive devices.

(5) The department shall collect a fee of $100 from a prospective resident, resident or facility appealing a rejection, or relocation decision made pursuant to ARM 37.106.2821, to cover the cost of the independent nurse resident needs assessment.

(6) The resident's needs assessment shall be reviewed and updated annually or at any time the resident's needs change significantly.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2822 RESIDENT SERVICE PLAN: CATEGORY A

(1) Based on the initial resident's needs assessment, an initial service plan shall be developed for all category A residents within 24 hours of admission. The initial service plan shall be reviewed or modified within 60 days of admission to assure the service plan accurately reflects the resident's needs and preferences.

(2) The service plan shall include a written description of:

(a) what the service is;

(b) who will provide the service;

(c) when the service is performed;

(d) where and how often the service is provided;

(e) changes in service and the reasons for those changes;

(f) if applicable, the desired outcome;

(g) an emergency contact with phone number; and

(h) the prospective resident's practitioner's name, address, and telephone number and whether there are any health care decision making instruments in effect if applicable.

(3) The resident service plan shall be reviewed and updated annually, or at any time the resident has a significant change.

(4) A copy of the resident service plan shall be given to the resident or resident's legal representative and be made part of the resident file.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2823 RESIDENT AGREEMENT

(1) An assisted living facility shall enter into a written resident agreement with each prospective resident prior to admission to the assisted living facility. The agreement shall be signed and dated by a facility representative and the prospective resident or the resident's legal representative. The facility shall provide the prospective resident or the resident's legal representative and the resident's practitioner, if applicable, a copy of the agreement and shall explain the agreement to them. The agreement shall include at least the following items:

(a) the criteria for requiring transfer or discharge of the resident to another facility providing a different level of care;

(b) a statement explaining the availability of skilled nursing or other professional services from a third party provider to a resident in the facility;

(c) the extent that specific assistance will be provided by the facility as specified in the resident service plan;

(d) a statement explaining the resident's responsibilities including house rules, the facility grievance policy, facility smoking policy, facility policy regarding pets, and the facility policy on medical and recreational marijuana use;

(e) a listing of specific charges to be incurred for the resident's care, frequency of payment, facility rules relating to nonpayment of services, and security deposits, if any are required;

(f) a statement of all charges, fines, penalties, or late fees that shall be assessed against the resident;

(g) a statement that the agreed upon facility rate shall not be changed unless 30 days' advance written notice is given to the resident and/or the resident's legal representative; and

(h) an explanation of the assisted living facility's policy for refunding payment in the event of the resident's absence, discharge, or transfer from the facility and the facility's policy for refunding security deposits.

(2) When there are changes in services, financial arrangements, or in requirements governing the resident's conduct and care, a new resident/provider agreement must be executed or the original agreement must be updated by addendum and signed and dated by the resident or the resident's legal representative and by the facility representative.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2824 INVOLUNTARY DISCHARGE CRITERIA

(1) Residents shall be given a written 30-day notice when they are requested to move out. The administrator or designee shall initiate transfer of a resident through the resident's physician or practitioner, appropriate agencies, and the resident's legal representative, as applicable, when:

(a) the resident's needs exceed the level of ADL services the facility provides;

(b) the resident exhibits behavior or actions that repeatedly and substantially interfere with the rights, health, safety, or well-being of other residents and the facility has tried prudent and reasonable interventions;

(i) documentation of the interventions attempted by the facility shall become part of the resident's record;

(c) the resident, due to severe cognitive decline, is not able to respond to verbal instructions, recognize danger, make basic care decisions, express needs, or summon assistance, except as permitted by ARM 37.106.2891 through 37.106.2898;

(d) the resident has a medical condition that is complex, unstable, or unpredictable and treatment cannot be appropriately developed in the assisted living environment;

(e) the resident has had a significant change in condition that requires medical or psychiatric treatment outside the facility and at the time the resident is to be discharged from that setting to move back into the assisted living facility, appropriate facility staff have re-evaluated the resident's needs and have determined the resident's needs exceed the facility's level of service. Temporary absence for medical treatment is not considered a move out;

(f) the resident has failed to pay charges after reasonable and appropriate notice; or

(g) the facility ceases to operate.

(2) The resident's 30-day written move out notice shall, at a minimum, include the following:

(a) the reason for transfer or discharge;

(b) the effective date of the transfer or discharge;

(c) optional discharge locations;

(d) a statement that the resident has the right to appeal the action to the department; and

(e) the name, address, and telephone number of the state long term care ombudsman.

(3) A written notice of discharge in less than 30 days may be issued for the following reasons:

(a) if a resident has a medical emergency;

(b) the resident exhibits behavior that poses an immediate danger to self or others; or

(c) if the resident has not resided in the facility for 30 days.

(4) A resident has a right to a fair hearing to contest an involuntary transfer or discharge.

(a) Involuntary transfer or discharge is defined in ARM 37.106.2805.

(b) A resident may exercise his or her right to appeal an involuntary transfer or discharge by submitting a written request for fair hearing to the Department of Public Health and Human Services, Office of Administrative Hearings, P.O. Box 202922, Helena, MT 59620-2922, within 30 days of notice of transfer or discharge.

(c) The parties to a hearing regarding a contested transfer or discharge are the facility and the resident contesting the transfer or discharge. The department is not a party to such a proceeding, and relief may not be granted to either party against the department in a hearing regarding a contested transfer or discharge.

(d) Hearings regarding a contested transfer or discharge shall be conducted in accordance with ARM Title 37, chapter 5, subchapter 3, and a resident shall be considered a claimant for purposes of these rules.

(e) The request for appeal of a transfer or discharge does not automatically stay the decision of the facility to transfer or discharge the resident. The hearing officer may, for good cause shown, grant a resident's request to stay the facility's decision pending a hearing.

(f) The hearing officer's decision following a hearing shall be the final decision for the purposes of judicial review under ARM 37.5.334.

(5) The facility must assist with discharge to ensure safe and appropriate placement of the resident.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2003 MAR p. 17, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2828 RESIDENT RIGHTS

(1) The facility shall comply with the Montana Long-Term Care Residents' Bill of Rights, found at 50-5-1101 , et seq., MCA. This includes the posting of the facility's statement of resident rights in a conspicuous place. Prior to or upon admission of a resident, the assisted living facility shall explain and provide the resident with a copy of the Montana Long-Term Care Residents' Bill of Rights.

(2) Residents have the right to execute living wills and other advance health care directives, and to have those advance directives honored by the facility in accordance with law.

(3) Prior to admission of a resident, the assisted living facility must inform a potential resident in writing of:

(a) their right (at the individual's option) to make decisions regarding medical care, including the right to accept or refuse medical treatment, and the right to formulate an advance directive; and

(b) explain and provide a copy of the facility's policies regarding advance directives, including a policy that the facility cannot implement an advance directive, either because of a conscientious objection (under 50-9-203 , MCA) , or, for some other reason as stated in facility policy (under 50-9-203 , MCA) .

(4) If the facility policy is not to implement an advanced directive the facility shall:

(a) take all reasonable steps to transfer the resident to a facility which has no prohibition against implementation of advance directives; or

(b) shall inform the resident in writing of any limitations placed upon implementation of the resident's advance directive by the facility.

(5) An assisted living facility may not require an execution of an advance directive as a condition for admission.

Authorizing statute(s): Sec. 50-5-103, 50-5-226 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226 and 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04.

37.106.2829 RESIDENT FILE

(1) At the time of admission, a separate file must be established for each category A, category B, category C, or category D resident. This file must be maintained on site in a safe and secure manner and must preserve the resident's confidentiality.

(2) The file shall include at least the following:

(a) a completed resident agreement, in accordance with ARM 37.106.2823;

(b) updates of resident/provider agreements, if any;

(c) the service plan for all category A residents;

(d) resident's weight on admission and at least annually thereafter for category A residents or more often as the resident, or the resident's licensed health care professional, determine a weight check is necessary;

(i) a weight loss of 5% or more must be reported to the practitioner and the notification documented;

(e) reports of significant events including:

(i) documentation of the notice to the resident's practitioner;

(ii) steps taken to safeguard the resident; and

(iii) facility contacts with family members or another responsible party;

(f) a record of communication between the facility and the resident or their representative if there has been a change in the resident's status or a need to discharge; and

(g) the date and circumstances of the resident's final transfer, discharge, or death, including notice to responsible parties and disposition of personal possessions.

(3) The resident file must be kept current. The file must be retained for a minimum of three years following the resident's discharge, transfer, or death.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2830 THIRD PARTY SERVICES

(1) A resident may purchase third party services provided by an individual or entity, licensed if applicable, to provide health care services under arrangements made directly with the resident or resident's legal representative under the provisions of 50-5-225 (2) (a) and (b) , MCA.

(2) The resident or resident's legal representative assumes all responsibility for arranging for the resident's care through appropriate third parties.

(3) Third party services shall not compromise the assisted living facility operation or create a danger to others in the facility.

Authorizing statute(s): Sec. 50-5-103, 50-5-226 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226 and 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04.

37.106.2831 RESIDENT ACTIVITIES

(1) A planned, diversified program of resident activities shall be offered daily for residents, including individual or group activities, on or off site, to meet the individual needs and well being of residents. Resident activities should promote and encourage self care and continuity of normal activities.

(2) The activities program shall be developed based on the activity needs and interest of residents as identified through the service plan.

(3) The facility shall provide directly, or by arrangement, local transportation for each resident to and from health care services provided outside the facility and to activities of social, religious or community events in which the resident chooses to participate according to facility policy.

(4) The activities program shall develop and post a monthly group activities calendar, which lists social, recreational, and other events available to residents. The facility shall maintain a record of past monthly activities, kept on file on the premises for at least three months.

Authorizing statute(s): Sec. 50-5-103, 50-5-226 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226 and 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02.

37.106.2835 RESIDENT UNITS

(1) A resident of an assisted living facility who uses a wheelchair or walker for mobility, or who is a category B, category C, or category D resident, must not be required to use a bedroom on a floor other than the first floor of the facility that is entirely above the level of the ground, unless the facility is designed and equipped in such a manner that the resident can move between floors or to an adjacent international conference of building code officials approved occupancy/fire barrier without assistance and the below grade resident occupancy is or has been approved by the local fire marshal.

(2) Each resident bedroom must satisfy the following requirements:

(a) in a previously licensed facility, no more than four residents may reside in a single bedroom;

(b) in new construction and facilities serving residents with severe cognitive impairment, occupancy must be limited to no more than two residents per room;

(c) exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules, each single bedroom must contain at least 100 square feet, and each multi-bedroom must contain at least 80 square feet per resident;

(d) each resident must have a wardrobe, locker, or closet with minimum clear dimensions of 1 foot 10 inches in depth by 1 foot 8 inches in width, with a clothes rod and shelf placed to permit a vertically clear hanging space of 5 feet for full length garments;

(e) a sufficient number of electrical outlets must be provided in each resident bedroom and bathroom to meet staff and resident needs without the use of extension cords;

(f) each resident bedroom must have operable exterior windows which meet the approval of the local fire or building code authority having jurisdiction;

(g) the resident's bedroom door may be fitted with a lock if approved in the resident service plan, as long as facility staff have access to a key at all times in case of an emergency. Deadbolt locks are prohibited on all resident bedrooms. Resident bedroom door locks must be operable, on the resident side of the door, with a single motion and may not require special knowledge for the resident to open;

(h) kitchens or kitchenettes in resident bedrooms are permitted if the resident's service plan permits unrestricted use and the cooking appliance can be removed or disconnected if the service plan indicates the resident is not capable of unrestricted use.

(3) A hallway, stairway, unfinished attic, garage, storage area or shed, or other similar area of an assisted living facility must not be used as a resident bedroom. Any other room must not be used as a resident bedroom if it:

(a) can only be reached by passing through a bedroom occupied by another resident;

(b) does not have an operable window to the outside; or

(c) is used for any other purpose.

(4) Any provision of this rule may be waived at the discretion of the department if conditions in existence prior to the adoption of this rule or construction factors would make compliance extremely difficult or impossible and if the department determines that the level of safety to residents and staff is not diminished.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2836 FURNISHINGS

(1) Each resident in an assisted living facility must be provided the following at a minimum by the facility:

(a) an individual towel rack;

(b) a handicap accessible mirror mounted or secured to allow for convenient use by both wheelchair bound residents and ambulatory persons;

(c) clean, flame-resistant, or non-combustible window treatments or equivalent, for every bedroom window. In a category D facility or unit, the use of blinds or curtains is not permissible. A flame-resistant or non-combustible window valence, not exceeding 14 inches in length, may be used;

(d) an electric call system comprised of a fixed manual, pendant cordless or two way interactive, UL or FM listed system which must connect resident rooms to the care staff center or staff pagers, and must only be silenced at the point of activation. A resident room that is designated as double occupancy must be equipped with a call system for both occupants. In category D facilities or units, resident bedroom call cords or strings in excess of 6 inches shall not be permitted; and

(e) for each multiple-bed room, either flame-resistant privacy curtains for each bed or movable flame-resistant screens to provide privacy upon the request of a resident.

(2) Following the discharge of a resident, all of the equipment and bedding used by that resident and owned by the facility must be cleaned and sanitized.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2837 COMMON USE AREAS

(1) The facility must provide:

(a) a dining room of sufficient size to accommodate all the residents comfortably with dining room furnishings that are well constructed and tables designed to accommodate the use of wheelchairs;

(b) at least one centrally located common area in which residents may socialize and participate in recreational activities. A common area may include, without limitation, a living room, dining room, enclosed porch or solarium. The common area must be large enough to accommodate those to be served without overcrowding; and

(c) enough total living or recreational and dining room area to allow at least 30 square feet per resident.

(2) All common areas must be furnished and equipped with comfortable furniture and reading lights in quantities sufficient to accommodate those to be served.

(3) Any provision of this rule may be waived at the discretion of the department if conditions in existence prior to the adoption of this rule or construction factors would make compliance extremely difficult or impossible and if the department determines that the level of safety to residents and staff is not diminished.

Authorizing statute(s): Sec. 50-5-103, 50-5-226 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226 and 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02.

37.106.2838 RESIDENT TOILETS AND BATHING

(1) The facility shall provide:

(a) at least one toilet for every four residents;

(b) one bathing facility for every 12 residents; and

(c) a toilet and sink in each toilet room.

(2) All resident rooms with toilets or shower/bathing facilities must have an operable window to the outside or must be exhausted to the outside by a mechanical ventilation system.

(3) Each resident room bathroom shall:

(a) be in a separate room with a toilet. A sink need not be in the bathroom but shall be in close proximity to the toilet. A shower or tub is not required if the facility utilizes a central bathing unit or units; and

(b) have at least one towel bar per resident, one toilet paper holder, one accessible mirror and storage for toiletry items.

(4) All doors to resident bathrooms shall open outward or slide into the wall and shall be unlockable from the outside.

(a) Dutch doors, bi-folding doors, sliding pocket doors and other bi-swing doors may be used if they do not impede the bathroom access width and are approved by the department. A shared bathroom with two means of access is also acceptable.

(b) Resident bathroom door locks must be operable, on the resident side of the door, with a single motion and may not require special knowledge for the resident to open.

(5) In rooms used by category C or other special needs residents, the bathroom does not have to be in a separate room and does not require a door.

(6) Each resident must have access to a toilet room without entering another resident's room or the kitchen, dining, or living areas.

(7) Each resident bathroom or bathing room shall have a fixed emergency call system accessible to an individual collapsed on the floor that reports to the staff location with an audible signal. The device must be silenced at that location only. Vibrating systems are acceptable.

(8) In category D facilities or units, bathroom call cords or strings in excess of 6 inches shall not be permitted.

(9) Any provision of this rule may be waived at the discretion of the department if conditions in existence prior to December 27, 2002, or construction factors would make compliance extremely difficult or impossible and if the department determines that the level of safety to residents and staff is not diminished.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2839 ENVIRONMENTAL CONTROL

(1) The assisted living facility shall provide a clean, comfortable, and well-maintained home that is safe for residents and employees at all times.

(2) A minimum of 10-foot candles of light must be available in all rooms, with the following exceptions:

(a) all reading lamps must have a capacity to provide a minimum of 30-foot candles of light;

(b) all toilet and bathing areas must be provided with a minimum of 30-foot candles of light;

(c) general lighting in food preparation areas must be a minimum of 30-foot candles of light; and

(d) hallways must be illuminated at all times by at least a minimum of 5-foot candles of light at the floor.

(3) Temperature in resident rooms, bathrooms, and common areas must be maintained at a minimum of 68°F and may not exceed 85°F.

(4) A resident's ability to smoke safely shall be evaluated and addressed in the resident's service or health care plan. If the facility permits resident smoking:

(a) the rights of non-smoking residents shall be given priority in settling smoking disputes between residents; and

(b) if there is a designated smoking area within the facility, it shall be designed to keep all contiguous, adjacent, or common areas smoke free.

(5) An assisted living facility may designate itself as non-smoking provided that adequate notice is given to all residents or all applicants in the facility residency agreement.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2843 PERSONAL CARE SERVICES

(1) Personal care assistance must be provided to each resident in accordance with their established agreement and needs. Assistance must include, but is not limited to assisting with:

(a) personal grooming such as bathing, hand washing, shaving, shampoo and hair care, nail filing or trimming and dressing;

(b) oral hygiene or denture care;

(c) toileting and toilet hygiene;

(d) eating;

(e) the use of crutches, braces, walkers, wheelchairs or prosthetic devices, including vision and hearing aids; and

(f) self-medication.

(2) Evidence that the facility is meeting each resident's needs for personal care services include the following outcomes for residents:

(a) physical well being of the resident means the resident:

(i) has clean and groomed hair, skin, teeth and nails;

(ii) is nourished and hydrated;

(iii) is free of pressure sores, skin breaks or tears, chaps and chaffing;

(iv) is appropriately dressed for the season in clean clothes;

(v) risk of accident, injury and infection has been minimized; and

(vi) receives prompt emergency care for illnesses, injuries and life threatening situations;

(b) behavioral and emotional well being of the resident includes:

(i) an opportunity to participate in age appropriate activities that are meaningful to the resident if desired;

(ii) a sense of security and safety;

(iii) a reasonable degree of contentment; and

(iv) a feeling of stable and predictable environment;

(c) unless medically required by a physician or other practitioner's written order, the resident is:

(i) free to go to bed at the time desired;

(ii) free to get up in the morning at the time desired;

(iii) free to have visitors;

(iv) granted privacy;

(v) assisted to maintain a level of self care and independence;

(vi) assisted as needed to have good oral hygiene;

(vii) made as comfortable as possible by the facility;

(viii) free to make choices and assumes the risk of those choices;

(ix) fully informed of the services that are provided by the facility;

(x) free of abuse, neglect and exploitation;

(xi) treated with dignity; and

(xii) given the opportunity to participate in activities, if desired.

(3) In the event of accident or injury to a resident requiring emergency medical, dental or nursing care or, in the event of death, the assisted living facility shall:

(a) immediately make arrangements for emergency care or transfer to an appropriate place for treatment;

(b) immediately notify the resident's practitioner and the resident's legal representative.

(4) A resident shall receive skin care that meets the following standards:

(a) the facility shall practice preventive measures to identify those at risk and maintain a resident's skin integrity. Risk factors include:

(i) skin redness lasting more than 30 minutes after pressure is relieved from a bony prominence, such as hips, heels, elbows or coccyx; and

(ii) malnutrition/dehydration, whether secondary to poor appetite or another disease process; and

(b) an area of broken or damaged skin must be reported within 24 hours to the resident's practitioner. Treatment must be provided as ordered by the resident's practitioner.

(5) A person with a stage 3 or 4 pressure ulcer may not be admitted or permitted to remain in a category A facility.

(6) The facility shall ensure records of observations, treatments and progress notes are entered in the resident's record and that services are in accordance with the resident health care plan.

(7) Direct care staff shall receive training related to maintenance of skin integrity and the prevention of pressure sores by:

(a) keeping residents clean and dry;

(b) providing residents with clean and dry bed linens;

(c) keeping residents well hydrated;

(d) maintaining or restoring healthy nutrition; and

(e) keeping the residents physically active and avoiding the overuse of wheelchairs, sitting no longer than one hour or remaining in one position for longer than two hours at one time, and other sources of skin breakdown in ADLs.

Authorizing statute(s): Sec. 50-5-103, 50-5-226 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226 and 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04.

37.106.2846 MEDICATIONS: STORAGE AND DISPOSAL

(1) With the exception of resident medication organizers as discussed in ARM 37.106.2848, all medication must be stored in the container dispensed by the pharmacy or in the container in which it was purchased in the case of over-the-counter medication, with the label intact and clearly legible.

(2) Medications that require refrigeration must be segregated from food items and stored within the temperature range specified by the manufacturer.

(3) All medications administered by the facility shall be stored in locked containers in a secured environment such as a medication room or medication cart. Residents who are responsible for their own medication administration must be provided with a secure storage place within their room for their medications. If the resident is in a private room, locking the door when the resident leaves will suffice.

(4) Over-the-counter medications or home remedies requested by the resident shall be reviewed by the resident's practitioner or pharmacist as part of the development of a resident's service plan. Residents may keep over-the-counter medications in their room with a written order by the residents' practitioners.

(5) The facility shall develop and implement a policy for lawful disposal of unused, outdated, discontinued or recalled resident medications. The facility shall return a resident's medication to the resident or resident's legal representative upon discharge.

Authorizing statute(s): Sec. 50-5-103, 50-5-226 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226 and 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04.

37.106.2847 MEDICATIONS: PRACTITIONER ORDERS

(1) Medication and treatment orders shall be carried out as prescribed. The resident has the right to consent to or refuse medications and treatments. The practitioner shall be notified if a resident refuses consent to an order. Subsequent refusals to consent to an order shall be reported as required by the practitioner.

(2) A prescription medication for which the dose or schedule has been changed by the practitioner must be noted in the resident's medication administration record.

(3) Current practitioners' orders shall be documented and kept in all resident files.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2848 MEDICATIONS: ADMINISTRATION AND PREPARATION

(1) All category A facility residents must self-administer their medication. Those category B facility residents that are capable of, and who wish to self-administer medications, shall be encouraged by facility staff to do so.

(2) Any direct care staff member who is capable of reading medication labels may be made responsible for providing necessary assistance to any resident in taking their medication, as defined in ARM 37.106.2805.

(3) Resident medication organizers may be prepared up to four weeks in advance and injectable medications as specified in (4) (c) by the following individuals:

(a) a resident or a resident's legal representative;

(b) a resident's family care giver, who is a person related to the resident by blood or marriage or who has full guardianship; or

(c) as otherwise provided by law.

(4) The individual referred to in (3) must adhere to the following protocol:

(a) verify that all medications to be set up carry a practitioner's current order;

(b) set up medications only from prescriptions in labeled containers dispensed by a registered pharmacist or from over-the-counter drug containers with intact, clearly readable labels; and

(c) set up injectable insulin up to seven days in advance by drawing insulin into syringes identified for content, date and resident. Other injectable medications must be set up according to the recommendations provided by the pharmacy.

(5) The facility may require residents to use a facility approved medication dispensing system or to establish medication set up criteria, but shall not require residents to purchase prescriptions from a specific pharmacy.

(6) No resident or staff member may be permitted to use another resident's medication.

Authorizing statute(s): Sec. 50-5-103, 50-5-226 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226 and 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02.

37.106.2849 MEDICATIONS: RECORDS AND DOCUMENTATION

(1) An accurate medication record for each resident shall be kept of all medications, including over-the-counter medications, for those residents whose self-administration of medication requires monitoring and/or assistance by the facility staff.

(2) The record shall include:

(a) name of medication, reason for use, dosage, route, and date and time given;

(b) name of the prescribing practitioner and their telephone number;

(c) any adverse reaction, unexpected effects of medication, or medication error, which must also be reported to the resident's practitioner;

(d) allergies and sensitivities, if any;

(e) resident specific parameters and instructions for PRN medications;

(i) documentation of when and why a PRN was administered or self-administered and follow up documentation as to the effectiveness of the PRN;

(f) documentation of treatments with resident specific parameters;

(g) documentation of doses missed or refused by resident and why;

(h) initials of the person monitoring and/or assisting with self-administration of medication; and

(i) review date and name of reviewer.

(3) When using paper Medication Administration Records (MARs), the facility shall maintain legible signatures of staff who monitor and/or assist with the self-administration of medication, either on the medication administration record or on a separate signature page. Electronic MARs must include the names associated with the initials of those staff documenting administration of medications.

(4) A medication record need not be kept for those residents for whom written authorization has been given by their practitioner to keep their medication in their rooms and to be fully responsible for taking the medication in the correct dosage and at the proper time. The authorization must be renewed on an annual basis.

(5) The facility shall maintain a record of all destroyed or returned medications in the resident's record or closed resident file in the case of resident transfer or discharge.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2853 OXYGEN USE

(1) A resident who requires the use of oxygen:

(a) shall be permitted to self-administer the oxygen if the resident is capable of:

(i) determining their need for oxygen; and

(ii) administering the oxygen to themselves or with assistance.

(2) The direct care staff employed by the facility shall monitor the ability of the resident to operate the equipment in accordance with the orders of the practitioner.

(3) The facility shall ensure that all direct care staff who may be required to assist resident's with administration of oxygen have demonstrated the ability to properly operate the equipment.

(4) The following rules must be followed when oxygen is in use:

(a) oxygen tanks must be secured and properly stored at all times;

(b) no smoking or open flames may be allowed in rooms in which oxygen is used or stored, and such rooms must be posted with a conspicuous "No Smoking, Oxygen in Use" sign;

(c) a backup portable unit for the administration of oxygen shall be present in the facility at all times when a resident who requires oxygen is present in the facility, this includes when oxygen concentrators are used;

(d) the equipment used to administer oxygen must be in good working condition; and

(e) the equipment used to administer oxygen is removed from the facility when it is no longer needed by the resident.

Authorizing statute(s): Sec. 50-5-103, 50-5-226 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226 and 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02.

37.106.2854 USE OF RESTRAINTS, SAFETY DEVICES, ASSISTIVE DEVICES, POSTURAL SUPPORTS, AND SECLUSION ROOMS

(1) The facility shall comply with the rules governing the use, in long term care facilities, of restraints, safety devices, assistive devices, postural supports, and seclusion rooms. The provisions of ARM 37.106.2901, 37.106.2902, 37.106.2904, 37.106.2905, and 37.106.2908 shall apply.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2855 INFECTION CONTROL

(1) The assisted living facility must establish and maintain infection control policies and procedures sufficient to provide a safe, sanitary, and comfortable environment to help prevent the development and transmission of communicable diseases and infections. Such policies and procedures must include, at a minimum, the following requirements:

(a) a system for preventing, identifying, investigating, and controlling infections and communicable diseases for all residents, staff, volunteers, and visitors;

(b) standard and transmission-based precautions to be followed to prevent spread of infections;

(c) when and how isolation should be used for a resident, including:

(i) the type and duration of the isolation, depending upon the infectious agent or organism involved; and

(ii) a requirement that the isolation should be the least restrictive possible for the resident under the circumstances;

(d) any other circumstances under which the facility must prohibit employees with a communicable disease or infected skin lesions from direct contact with residents or their food, if direct contact will transmit disease;

(e) if, after admission to the facility, a resident is suspected of having a communicable disease that would endanger the health and welfare of other residents, the administrator or designee must contact the resident's practitioner and assure that appropriate safety measures are taken on behalf of that resident and the other residents; and

(f) all staff shall use proper hand washing technique after providing direct care to a resident.

(2) The facility, where applicable, shall comply with applicable statutes and rules regarding the handling and disposal of hazardous waste.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2859 PETS

(1) Unless the facility disallows it, residents in an assisted living facility may keep household pets, as permitted by local ordinance, subject to the following provisions:

(a) pets must be clean and disease-free;

(b) the immediate environment of pets must be kept clean;

(c) birds must be kept in appropriate enclosures, unless the bird is a companion breed maintained and supervised by the owner; and

(d) pets that are kept at the facility shall have documentation of current vaccinations, including rabies, as appropriate.

(2) The administrator or designee shall determine which pets may be brought into the facility. Upon approval, family members may bring pets to visit, if the pets are clean, disease-free and vaccinated as appropriate.

(3) Facilities that allow birds shall have procedures that protect residents, staff and visitors from psittacosis, ensure minimum handling of droppings and require droppings to be placed in a plastic bag for disposal.

(4) Prior to admission of companion birds, documentation of the import, out-of-state veterinarian health certificate and import permit number provided by the pet store or breeder will be provided and maintained in the owners records. If the health certificate and import permit number is not available, or if the bird was bred in-state, a certificate from a veterinarian stating that the bird is disease free is required prior to residency. If the veterinarian certificate cannot be obtained by the move-in date the resident may keep the bird enclosed in a private single occupancy room, using good hand washing after handling the bird and bird droppings until the veterinarian examination is obtained.

(5) Pets may not be permitted in food preparation, storage or dining areas during meal preparation time or during meal service or in any area where their presence would create a significant health or safety risk to others.

Authorizing statute(s): Sec. 50-5-103, 50-5-226 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226 and 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04.

37.106.2860 FOOD SERVICE

(1) The facility must establish and maintain standards relative to food sources, refrigeration, refuse handling, pest control, storage, preparation, procuring, serving and handling food, and dish washing procedures that are sufficient to prevent food spoilage and the transmission of infectious disease. These standards must include the following:

(a) food must be obtained from sources that comply with all laws relating to food and food labeling;

(b) the use of home-canned foods is prohibited;

(c) food subject to spoilage removed from its original container, must be kept sealed, labeled, and dated.

(2) Foods must be served in amounts and a variety sufficient to meet the nutritional needs of each resident. The facility must provide therapeutic diets when prescribed by the resident's practitioner. At least three meals must be offered daily and at regular times, with not more than a 14-hour span between an evening meal and breakfast unless a nutritious snack is available in the evening, then up to 16 hours may elapse between a substantial evening meal and breakfast.

(3) Records of menus as served must be filed on the premises for three months after the date of service for review by the department.

(4) The facility shall take into consideration the preferences of the residents and the need for variety when planning the menu. Either the current day or the current week's menu shall be posted for resident viewing.

(5) The facility shall employ food service personnel suitable to meet the needs of the residents.

(a) Foods must be cut, chopped, and ground to meet individual needs or as ordered by the resident's physician or practitioner.

(b) If the cook or other kitchen staff must assist a resident with direct care outside the food service area, they must properly wash their hands before returning to food service.

(c) All food and drink are to be stored at a minimum of 4 inches off the floor.

(d) A facility, whose kitchen and dining services are inspected by the local county health department, must provide the department a copy of their most recent inspection at the time of survey.

(6) If the facility admits residents requiring therapeutic or special diets, the facility shall have an approved dietary manual for reference when preparing a meal. Dietitian consultation shall be provided as necessary and documented for residents requiring therapeutic diets.

(7) A minimum of a one-week supply of non-perishable foods and a two-day supply of perishable foods must be available on the premises.

(8) Potentially hazardous food, such as meat and milk products, must be stored at 41°F or below. Hot food must be kept a 140°F or above during preparation and serving.

(9) Freezers must be kept at a temperature of 0°F or below and refrigerators must be kept at a temperature of 41°F or below. Thermometers must be placed in the warmest area of the refrigerator and freezer to assure proper temperature. Temperatures shall be monitored and recorded at least once a month in a log maintained at the facility for one year.

(10) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practice during all working periods in food service.

(11) A food service employee, while infected with a disease in a communicable form that can be transmitted by foods may not work in the food service area.

(12) Tobacco products may not be used in the food preparation and kitchen areas.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2861 LAUNDRY

(1) Laundry service must be provided by the facility, either on the premises or off the facility site.

(2) If an assisted living facility processes its laundry on the premises it must:

(a) equip the laundry room with a mechanical washer and a dryer vented to the outside, hand washing facilities, a fresh air supply and a hot water supply system which supplies the washer with water of at least 110°F during each use;

(b) have ventilation in the sorting, holding and processing area that shall be adequate to prevent heat and odor build-up;

(c) dry all bed linen, towels and washcloths in a dryer; and

(d) ensure that facility staff handling laundry wash their hands both after working with soiled laundry and before they handle clean laundry.

(3) Resident's personal clothing must be laundered by the facility unless the resident or the resident's family accepts this responsibility. If the facility launders the resident's personal clothing, the facility is responsible for returning the clothing. Residents capable of laundering their own personal clothing and wishing to do so shall be provided the facilities and necessary assistance by the facility.

(4) The facility shall provide a supply of clean linen in good condition at all times that is sufficient to change beds often enough to keep them clean, dry and free from odors. Facility provided linens must be changed at least once a week and more often if the linens become dirty. In addition, the facility must ensure that each resident is supplied with clean towels and washcloths that are changed at least twice a week, a moisture-proof mattress cover and mattress pad, and enough blankets to maintain warmth and comfort while sleeping.

(5) Residents may use their own linen in the facility if they choose.

Authorizing statute(s): Sec. 50-5-103, 50-5-226 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226 and 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04.

37.106.2862 HOUSEKEEPING

(1) The following housekeeping rules must be followed:

(a) Supplies and equipment must be properly stored and must be on hand in a quantity sufficient to permit frequent cleaning of floors, walls, woodwork, windows and screens;

(b) Housekeeping personnel must be trained in proper procedures for preparing cleaning solutions, cleaning rooms and equipment and handling clean and soiled linen, trash and trays;

(c) Cleaners used in cleaning bathtubs, showers, lavatories, urinals, toilet bowls, toilet seats and floors must contain fungicides or germicides with current EPA registration for that purpose; and

(d) Garbage and trash must be stored for final disposal in areas separate from those used for preparation and storage of food and must be removed from the facility daily. Garbage containers must be kept clean.

(i) Containers used to store garbage in the kitchen and laundry room of the facility must be covered with a lid unless the containers are kept in an enclosed cupboard that is clean and prevents infestation by vermin. These containers shall be emptied daily and kept clean.

Authorizing statute(s): Sec. 50-5-103, 50-5-226 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226 and 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02.

37.106.2865 PHYSICAL PLANT

(1) An assisted living facility must be constructed and maintained so as to prevent as much as possible the entrance and harborage of rats, mice, insects, flies and other vermin.

(2) The facility and facility grounds shall be kept orderly and free of litter and refuse and secure from hazards.

(3) When required by the building code authority having jurisdiction, at least one primary grade level entrance to the facility shall be arranged to be fully accessible to disabled persons.

(4) All exterior pathways or accesses to the facility's common use areas and entrance and exit ways shall be of hard, smooth material, accessible and be maintained in good repair.

(5) All interior or exterior stairways used by residents shall have sturdy handrails on one side installed in accordance with the uniform building code with strength and anchorage sufficient to sustain a concentrated 250-pound load to provide residents safety with ambulation.

(6) All interior and exterior materials and surfaces (e.g., floors, walls, roofs, ceilings, windows and furniture) and all equipment necessary for the health, safety and comfort of the resident shall be kept clean and in good repair.

(7) Carpeting and other floor materials shall be constructed and installed to minimize resistance for passage of wheelchairs and other ambulation aids. Thresholds and floor junctures shall also be designed and installed for passage of wheelchairs and to prevent a tripping hazard.

(8) The facility shall install grab bars at each toilet, shower, sitz bath and tub with a minimum of one and one half inches clearance between the bar and the wall and strength and anchorage sufficient to sustain a concentrated 250-pound load. If a toilet grab bar assist is used over a toilet, it must be safely stabilized and secured in order to prevent mishap.

(9) Any structure such as a screen, half wall or planter which a resident could use for support while ambulating shall be securely anchored.

(10) The bottoms of tubs and showers must have surfaces that inhibit falling and slipping.

(11) Hand cleansing soap or detergent and single use individual towels must be available at each sink in the commonly shared areas of the facility. A waste receptacle must be located near each sink. Cloth towels and bar soap for common use are not permitted.

(12) Hot water temperature supplied to hand washing, bathing and showering areas may not exceed 120°F.

(13) The facility shall provide locked storage for all poisons, chemicals, rodenticides, herbicides, insecticides and other toxic material. Hazardous material safety sheets and labeling shall be kept available for staff for all such products used and stored in the facility.

(14) Flammable and combustible liquids shall be safely and properly stored in original or approved, properly labeled containers in areas inaccessible to residents in accordance with the uniform fire code in amounts acceptable to the fire code authority having jurisdiction.

(15) Containers used to store garbage in resident bedrooms and bathrooms are not required to be covered unless they are used for food, bodily waste or medical waste. Resident containers shall be emptied as needed, but at least weekly.

(16) If the facility utilizes a non-municipal water source, the water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or E. coli bacteria and corrective action is taken to assure the water is safe to drink. Documentation of testing is retained on the premises for 24 months from the date of the test.

(17) If a non-municipal sewage system is used, the sewage system must be in working order and maintained according to all applicable state laws and rules.

Authorizing statute(s): Sec. 50-5-103, 50-5-226 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226 and 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04.

37.106.2866 CONSTRUCTION, BUILDING, AND FIRE CODES

(1) Any construction of or alteration, addition, modification, or renovation to an assisted living facility must meet the requirements of the building code and fire marshal agencies having jurisdiction and be approved by the officer having jurisdiction to determine if the building and fire codes are met by the facility.

(2) When a change in use, ownership, or building code occupancy classification occurs, licensure approval shall be contingent on meeting the building code and fire marshal agencies' standards in effect at the time of such a change. Changes in use include adding a category B, C, or D license endorsement to a previously licensed category A facility.

(3) Changes in the facility location, use or number of facility beds cannot be made without written notice to, and written approval received from, the department.

(4) Exit doors must be operable on the resident side of the door with a single motion and may not require special knowledge for the resident to open, except as approved by the fire marshal and building codes agencies having jurisdiction or in a secured unit or building that services category C or category D residents. Deadbolt locks are prohibited on all doors.

(5) Stairways, halls, doorways, passageways, and exits from rooms and from the building, shall be kept unobstructed at all times.

(6) All operable windows and outer doors that may be left open shall be fitted with insect screens.

(7) An assisted living care facility must have an annual fire inspection conducted by the appropriate local fire authority or the state fire marshal's office and maintain a record of such inspection for at least three years following the date of the inspection.

(8) An employee and resident fire drill must be conducted at least two times annually, no closer than four months apart, and include residents, employees and support staff on duty and other individuals in the facility. A resident fire drill includes making a general announcement throughout the facility that a resident fire drill is being conducted or sounding a fire alarm.

(9) Records of employee and resident fire drills must be maintained on the premises for 24 months from the date of the drill and include the date and time of the drill, names of the employees participating in the drill, and identification of residents needing assistance for evacuation.

(10) A 2A10BC portable fire extinguisher shall be available on each floor of a facility licensed for 20 or more residents. Facilities licensed for less than 20 residents shall comply with the requirements of the fire authority having jurisdiction with respect to the number and location of portable fire extinguishers.

(11) Portable fire extinguishers must be inspected, recharged, and tagged at least once a year by a person certified by the state to perform such services.

(12) Smoke detectors installed and maintained pursuant to the manufacturer's directions shall be installed in all resident rooms, bedroom hallways, living room, dining room, and other open common spaces or as required by the fire authority having jurisdiction. An annual maintenance log of battery changes and other maintenance services performed shall be kept in the facility and made available to the department upon request.

(13) If there is an inside designated smoking area, it shall be separate from other common areas, and provided with adequate mechanical exhaust vented to the outside.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2872 REQUIREMENTS FOR CATEGORY B FACILITIES ONLY

(1) An assisted living category B endorsement to the license shall be made by the licensing bureau of the department only after:

(a) initial department approval of the facility's category B policy and procedures;

(b) evidence of the administrator's and facility staff qualifications; and

(c) written approval from the building and fire code authorities having jurisdiction.

(2) An assisted living category B facility shall employ or contract with a registered nurse to provide or supervise nursing service to include:

(a) general health monitoring on each category B resident;

(b) performing a nursing assessment on category B residents when and as required;

(c) assistance with the development of the resident health care plan and, as appropriate, the development of the resident service plan; and

(d) routine nursing tasks, including those that may be delegated to licensed practical nurses (LPN) and unlicensed assistive personnel in accordance with the Montana Nurse Practice Act.

Authorizing statute(s): Sec. 50-5-103, 50-5-226 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226 and 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04.

37.106.2873 ADMINISTRATOR QUALIFICATIONS: CATEGORY B

(1) An assisted living category B facility must be administered by a person who, in addition to the requirements found in ARM 37.106.2814, has one or more years experience working in the field of geriatrics or caring for disabled residents in a licensed facility.

(2) Providers in existence on the date of the final adoption of this rule will be granted one year to meet the category B administrator requirements found in (1) .

Authorizing statute(s): Sec. 50-5-103, 50-5-226 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226 and 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04.

37.106.2874 DIRECT CARE STAFF QUALIFICATIONS: CATEGORY B

(1) In addition to the requirements found in ARM 37.106.2816, each nonprofessional staff providing direct care in an assisted living category B facility shall show documentation of in-house training related to the care and services they are to provide under direct supervision of a registered nurse or supervising nursing service providing category B care, including those tasks that may be delegated to licensed practical nurses (LPN) and unlicensed assistive personnel in accordance with the Montana Nurse Practice Act.

(2) Staff members whose job responsibilities will include supervising or preparing special or modified diets, as ordered by the resident's practitioner, shall receive training prior to performing this responsibility.

(3) Prior to providing direct care, direct care staff must:

(a) work under direct supervision for any direct care task not yet trained or properly oriented; and

(b) not take the place of the required certified person.

Authorizing statute(s): Sec. 50-5-103, 50-5-226 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226 and 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2004 MAR p. 1146, Eff. 5/7/04.

37.106.2875 RESIDENT HEALTH CARE PLAN: CATEGORY B

(1) Within 21 days of admission to a category B status, the administrator or designee shall assure that a written resident health care assessment and resident certification is performed on each category B resident.

(2) Each initial health care assessment by the licensed health care professional shall include, at a minimum, evaluation of the following:

(a) cognitive status;

(b) communication/hearing patterns;

(c) vision patterns;

(d) physical functioning and structural problems;

(e) continence;

(f) psychosocial well being;

(g) mood and behavior patterns;

(h) activity pursuit patterns;

(i) disease diagnosis;

(j) health conditions;

(k) oral nutritional status;

(l) oral dental status;

(m) skin condition;

(n) medication use; and

(o) special treatment and procedures.

(3) A written resident health care plan shall be developed. The resident health care plan shall include, but not be limited to the following:

(a) a statement which informs the resident and the resident's practitioner, if applicable, of the requirements of 50-5-226 (3) and (4) , MCA;

(b) orders for treatment or services, medications, and diet, if needed;

(c) the resident's needs and preferences for themselves;

(d) the specific goals of treatment or services, if appropriate;

(e) the time intervals at which the resident's response to treatment will be reviewed; and

(f) the measures to be used to assess the effects of treatment;

(g) if the resident requires care or supervision by a licensed health care professional, the health care plan shall include the tasks for which the professional is responsible.

(4) The category B resident's health care plan shall be reviewed quarterly, and if necessary revised upon change of condition.

(5) The health care plan shall be readily available to and followed by those staff and licensed health care professionals providing the services and health care.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2879 INCONTINENCE CARE: CATEGORY B

(1) In order to maintain normal bladder and bowel functions, the facility shall provide individualized attention to each resident that meets the following minimum standards:

(a) the facility shall provide a resident who is incontinent of bowel or bladder adequate personal care services to maintain the person's skin integrity, hygiene and dignity and to prevent urinary tract infections.

(2) Evidence that the facility is meeting each resident's needs for maintaining normal bowel and bladder functions include the following outcomes for residents at risk for incontinence:

(a) the resident is checked during those periods when they are known to be incontinent, including the night;

(b) the resident is kept clean and dry;

(c) clean and dry bed linens are provided as needed; and

(d) if the resident can benefit from scheduled toileting, they are assisted or reminded to go to the bathroom at regular intervals.

(3) Indwelling catheters are permissible, if the catheter care is taught and supervised by a licensed health care professional under a practitioner's order. Observations and care must be documented.

(4) Facility staff shall not:

(a) withhold fluids from a resident to control incontinence; or

(b) have a resident catheterized to control incontinence for the convenience of staff.

Authorizing statute(s): Sec. 50-5-103, 50-5-226 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226 and 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02.

37.106.2880 PREVENTION AND CARE OF PRESSURE SORES: CATEGORY B

(1) A resident shall receive skin care that meets the following standards:

(a) the facility shall practice preventive measures to identify those at risk and maintain a resident's skin integrity; and

(b) an area of broken or damaged skin must be reported within 24 hours to the resident's practitioner. Treatment must be as ordered by the resident's practitioner.

(2) A person with an open wound or having a pressure or stasis ulcer requiring treatment by a health care professional may not be admitted or permitted to remain in the facility unless:

(a) the wound is in the process of healing, as determined by a licensed health care professional, and is either:

(i) under the care of a licensed health care professional; or

(ii) can be cared for by the resident without assistance.

(3) The facility shall ensure records of observations, treatments and progress notes are entered in the resident record and that services are in accordance with the resident health care plan.

(4) No over the counter products such as creams, lotions, ointments, soaps, iodine or alcohol shall be put on an open pressure or stasis wound unless ordered by the resident's practitioner after an appropriate evaluation of the wound.

(5) Evidence the facility is meeting those resident's identified as a greater risk for skin care needs include the following outcomes for residents:

(a) the facility has identified those residents who are at greater risk of developing a pressure or stasis ulcer. Primary risk factors include but are not limited to:

(i) continuous urinary incontinence or chronic voiding dysfunction;

(ii) severe peripheral vascular disease (poor circulation to the legs) ;

(iii) diabetes;

(iv) chronic bowel incontinence;

(v) sepsis;

(vi) terminal cancer;

(vii) decreased mobility or confined to bed or chair;

(viii) edema or swelling of the legs;

(ix) chronic or end stage renal, liver or heart disease;

(x) CVA (stroke) ;

(xi) recent surgery or hospitalization;

(xii) any resident with skin redness lasting more than 30 minutes after pressure is relieved from a bony prominence, such as hips, heels, elbows or coccyx, is at extremely high risk in that area; and

(xiii) malnutrition/dehydration whether secondary to poor appetite or another disease process.

(b) direct care staff have received training related to maintenance of skin integrity and the prevention and care of pressure sores from a licensed health care professional who is trained to care for that condition;

(c) the resident's practitioner has diagnosed the condition and ordered treatment;

(d) the resident is kept clean and dry;

(e) the resident is provided clean and dry bed linens;

(f) the resident is kept hydrated;

(g) the resident is turned and repositioned;

(h) the wound is getting smaller;

(i) there is no evidence of infection;

(j) wound bed is moist, not dried out or scabbed over;

(k) the resident has less restriction of movement; and

(l) the resident's pain level has diminished.

Authorizing statute(s): Sec. 50-5-103, 50-5-226 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226 and 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02.

37.106.2885 ADMINISTRATION OF MEDICATIONS: CATEGORY B

(1) Written, signed practitioner orders shall be documented in all category B resident facility records by a legally authorized person for all medications and treatments which the facility is responsible to administer. Medication or treatment changes shall not be made without a practitioner's order. Order changes obtained by phone must be confirmed by written, signed orders within 21 days.

(2) All medications administered to a category B resident shall be administered by a licensed health care professional or by an individual delegated the task under the Nurse Practice Act and ARM Title 24, chapter 159. Those category B residents, who are capable of medication self-administration shall be given the opportunity and encouraged to do so.

(3) Residents with a standing PRN medication order, who cannot determine their own need for the medication by making a request to self-administer the medication or in the case of the cognitively impaired cannot respond to caretaker's suggestions for over-the-counter PRN pain medications shall:

(a) have the medication administered by a licensed health care professional after an assessment and the determination of need has been made; and

(b) be classified as a category B resident because a nursing decision to determine the resident's need for the medication was required.

(4) Medication and treatment orders shall be carried out as prescribed. The resident or the person legally authorized to make health care decisions for the resident has the right to consent to, or refuse medications and treatments. The practitioner shall be notified if a resident refuses consent to an order. Subsequent refusals to consent to an order shall be reported as required by the practitioner.

(5) Only the following individuals may administer medications to residents:

(a) a licensed physician, physician's assistant, certified nurse practitioner, advanced practice registered nurse, or a registered nurse;

(b) licensed practical nurse working under supervision;

(c) an unlicensed individual who is either employed by the facility or is working under third party contract with a resident or resident's legal representative and has been delegated the task under ARM Title 24, chapter 159; and

(d) a person related to the resident by blood or marriage or who has full guardianship.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2002 MAR p. 3638, Eff. 12/27/02; AMD, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2891 ADMINISTRATOR QUALIFICATIONS: CATEGORY C

(1) An assisted living category C facility must be administered by a person who meets the conditions of ARM 37.106.2814 and has:

(a) three or more years experience in working in the field of geriatrics or caring for disabled residents in a licensed facility; or

(b) a documented combination of education and training that is equivalent to the experience required in (1) , as determined by the department.

(2) At least eight of the 16 hours of annual continuing education the administrator must complete under ARM 37.106.2814(3) shall pertain to caring for persons with severe cognitive impairments.

Authorizing statute(s): Sec. 50-5-103, 50-5-223 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226, 50-5-227 and 50-5-228, MCA

History: NEW, 2004 MAR p. 1146, Eff. 5/7/04.

37.106.2892 DIRECT CARE STAFF: CATEGORY C

(1) In addition to meeting all other requirements for direct care staff stated in this subchapter, assisted living category C facility direct care staff must receive additional documented training in:

(a) the facility or unit's philosophy and approaches to providing care and supervision for persons with severe cognitive impairment;

(b) the skills necessary to care for, intervene and direct residents who are unable to perform activities of daily living;

(c) techniques for minimizing challenging behavior including:

(i) wandering;

(ii) hallucinations, illusions and delusions; and

(iii) impairment of senses;

(d) therapeutic programming to support the highest possible level of resident function including:

(i) large motor activity;

(ii) small motor activity;

(iii) appropriate level cognitive tasks; and

(iv) social/emotional stimulation;

(e) promoting residents' dignity, independence, individuality, privacy and choice;

(f) identifying and alleviating safety risks to residents;

(g) identifying common side effects and untoward reactions to medications; and

(h) techniques for dealing with bowel and bladder aberrant behaviors.

(2) Staff must remain awake, fully dressed and be available in the facility or on the unit at all times to provide supervision and care to the resident as well as to assist the residents in evacuation of the facility if a disaster occurs.

Authorizing statute(s): Sec. 50-5-103, 50-5-223 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226, 50-5-227 and 50-5-228, MCA

History: NEW, 2004 MAR p. 1146, Eff. 5/7/04.

37.106.2895 HEALTH CARE PLAN: CATEGORY C

(1) Within 21 days of admission of a resident to an assisted living category C facility, a resident certification must be conducted, and a written health care plan shall be developed which meets the requirements of ARM 37.106.2875, and which also includes detailed assessment, therapeutic management and intervention techniques for the following behaviors and resident needs:

(a) memory;

(b) judgement;

(c) ability to care for oneself;

(d) ability to solve problems;

(e) mood and character changes;

(f) behavioral patterns;

(g) wandering; and

(h) dietary needs.

Authorizing statute(s): Sec. 50-5-103, 50-5-223 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226, 50-5-227 and 50-5-228, MCA

History: NEW, 2004 MAR p. 1146, Eff. 5/7/04.

37.106.2896 DISCLOSURES TO RESIDENTS: CATEGORY C

(1) Each assisted living category C facility or unit must, prior to admission, inform the resident's legal representative in writing of the following:

(a) the overall philosophy and mission of the facility regarding meeting the needs of residents afflicted with severe cognitive impairment and the form of care or treatment offered;

(b) the process and criteria for move-in, transfer, and discharge;

(c) the process used for resident assessment;

(d) the process used to establish and implement a health care plan, including how the health care plan will be updated in response to changes in the resident's condition;

(e) staff training and continuing education practices;

(f) the physical environment and design features appropriate to support the functioning of cognitively impaired residents;

(g) the frequency and type of resident activities;

(h) the level of involvement expected of families and the availability of support programs; and

(i) any additional costs of care or fees.

(2) The facility must provide a resident or a resident's legal representative with written documentation of the information specified in (1). A copy of this exchange must be kept as part of the resident file.

Authorizing statute(s): 50-5-103, 50-5-223, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, 50-5-228, MCA

History: NEW, 2004 MAR p. 1146, Eff. 5/7/04; AMD, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2898 REQUIREMENTS FOR SECURED UNITS: CATEGORY C

(1) In addition to meeting all other requirements for assisted living facilities stated in this subchapter, if a secured distinct part or locked unit within a category C assisted living facility is designated for the exclusive use of residents with severe cognitive impairment, the facility must:

(a) staff the unit with direct care staff at all times there are residents in the unit;

(b) provide a separate dining area, at a ratio of 30 square feet per resident on the unit; and

(c) provide a common day or activities area, at a ratio of 30 square feet per resident on the unit. The dining area listed in (1) (b) or day rooms, sun porches and common areas accessible to all residents, may serve this purpose.

Authorizing statute(s): Sec. 50-5-103, 50-5-223 and 50-5-227, MCA

Implementing statute(s): Sec. 50-5-225, 50-5-226, 50-5-227 and 50-5-228, MCA

History: NEW, 2004 MAR p. 1146, Eff. 5/7/04.

37.106.2899 CATEGORY D: CONSTRUCTION

(1) All category D services must be provided in a secured care unit and meet all requirements in ARM 37.106.316.

(2) A category D facility or unit must not use automatic door closures unless required. If required, such closures must be mounted on the public side of the door.

(3) All hardware and lights used in a category D facility or unit must be tamper-proof.

(4) All resident room doors must include a sight window.

(5) No more than one client must reside in a resident room.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2022 MAR p. 1857, Eff. 9/24/22; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2899A CATEGORY D: ADMINISTRATOR QUALIFICATIONS

(1) In addition to requirements in ARM 37.106.2873, an administrator for a category D facility must have at least three years of experience in the field of mental health and mental disorders.

(2) Of the 16 hours of annual continued education training required in ARM 37.106.2814, eight hours must be in the field of mental health and mental disorders.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2022 MAR p. 1857, Eff. 9/24/22; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2899B CATEGORY D: DISCLOSURE TO CATEGORY D RESIDENTS

(1) Each assisted living category D facility or unit must, prior to admission, inform the resident or resident's legal representative in writing of the following:

(a) the overall philosophy and mission of the facility regarding meeting the needs of residents with mental illness and the form of care or treatment offered;

(b) the process and criteria for admission and discharge;

(c) the process used for resident assessments;

(d) the process used to establish and implement a health care plan, including how the health care plan will be updated in response to changes in the resident's condition;

(e) staff training and continuing education practices;

(f) the physical environment and design features appropriate to support the functioning of mentally disabled residents;

(g) the frequency and type of resident activities; and

(h) any additional costs of care or fees.

(2) The facility must obtain from the resident or resident's legal representative a written acknowledgment that the information specified was provided. A copy of this written acknowledgment must be kept as part of the permanent resident file.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2022 MAR p. 1857, Eff. 9/24/22; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2899C CATEGORY D: STAFF

(1) All category D facilities must have direct care staff in sufficient number to meet the needs of the residents.

(2) In addition to requirements in ARM 37.106.2816, all staff must:

(a) be at least 18 years old;

(b) complete an FBI fingerprint background check upon hiring;

(c) complete four hours of annual training related to mental health and mental disorders; and

(d) complete training on de-escalation techniques and methods of managing resident behaviors.

(3) All staff must remain awake, fully dressed, and available on the unit at all times when they are on duty.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2022 MAR p. 1857, Eff. 9/24/22; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2899D CATEGORY D: RESIDENT ASSESSMENTS

(1) All category D facilities must obtain or conduct three types of resident assessments for each resident:

(a) Prior to move in, the facility shall obtain the court determination documentation required in 53-21-199, MCA, as applicable, as well as a full medical history and physical and mental health and mental disorders assessment.

(b) A resident needs assessment must be completed within seven days prior to admission to facility. The assessment must be reviewed/updated quarterly, and upon significant change in status.

(c) The administrator, or designee, will request and retain copies of the healthcare assessment and written order for care completed monthly by the practitioner as defined in 50-5-226(5), MCA.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2022 MAR p. 1857, Eff. 9/24/22; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2899E CATEGORY D: HEALTH CARE PLAN

(1) In addition to requirements in ARM 37.106.2875, the health care plan for category D residents must include de-escalation techniques individualized to the resident.

(2) The health care plan must be reviewed and updated quarterly and upon significant change in status.

(3) Each direct care staff must document that they have reviewed and are capable of implementing each resident's health care plan.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2022 MAR p. 1857, Eff. 9/24/22; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2899F CATEGORY D: MEDICATION USE AND PHYSICIAN ORDERS

(1) All category D residents must be assessed on their ability and be encouraged to self-administer their own medication. If a resident is unable or unwilling to self-administer his or her medication, a licensed nurse shall administer all medication and the resident must be classified as a category B resident.

(2) When a resident refuses a medication, the resident's practitioner shall be notified within 24 hours and notification documented.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2899G CATEGORY D: DISCHARGE

(1) A comprehensive discharge plan directly linked to the behaviors and symptoms that resulted in admission and estimated length of stay must be developed upon admission.

(2) A resident's diversion order is discontinued when:

(a) the resident and facility choose to allow continued residency; a resident needs assessment must be completed to determine category and placement within the facility;

(b) the resident chooses not to remain in the facility; the facility shall issue a 30-day notice and conduct discharge planning. Discharge planning must include involvement from community resources.

(3) A resident may be involuntarily discharged in less than 30 days if the resident:

(a) has a medical emergency;

(b) is suffering from an acute psychotic episode; or

(c) commits a crime that causes serious bodily injury, death, or property damage.

(4) All discharges must be discussed with the resident or resident's legal representative and the resident's practitioner to ensure collaboration on a safe and appropriate discharge location.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2022 MAR p. 1857, Eff. 9/24/22.

37.106.2899H CATEGORY D: SECLUSION ROOM REQUIREMENTS

(1) A category D facility or unit providing D1 level of care must have at least one room designated to be used for seclusion for every 24 beds.

(2) The location of these rooms must facilitate staff observation and monitoring of residents in these rooms.

(3) Seclusion rooms may only be used by one resident at a time.

(4) Seclusion rooms must:

(a) be a minimum of 60 square feet, and a minimum of 80 square feet if restraint beds are used;

(b) be a minimum length of 7 feet and maximum wall length of 11 feet;

(c) be a minimum height of 9 feet;

(d) be accessed by an anteroom or vestibule that provides direct access to a toilet room;

(e) have door openings to the anteroom and toilet room with a minimum clear width of 3 feet 8 inches;

(f) be constructed to prevent hiding, escape, injury, or suicide;

(g) have walls designed to withstand direct and forceful impact and have materials that meet Class A or Class B finishes as defined by the 2012 National Fire Protection Association (NFPA) 101;

(h) have monolithic ceilings;

(i) not contain outside corners or edges;

(j) have doors that swing out, have a clear opening of 3 feet 8 inches, and permit staff observation through a vision panel, while maintaining provisions for privacy;

(k) have tamper resistant fixtures, such as light fixtures, vent covers, and cameras;

(l) have electrical switches and outlets that are restricted within the seclusion room; and

(m) have door lever handles that point downward when in the latched or unlatched position, except for specifically designed anti-ligature hardware.

(5) A licensed nurse must provide residents with constant one-on-one supervision when in the seclusion room.

Authorizing statute(s): 50-5-103, 50-5-226, 50-5-227, MCA

Implementing statute(s): 50-5-225, 50-5-226, 50-5-227, MCA

History: NEW, 2022 MAR p. 1857, Eff. 9/24/22; AMD, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.

37.106.2899I CATEGORY D1: LEVEL OF CARE AND SERVICES TO RESIDENTS

(1) A facility that chooses to admit or retain category D residents who have practitioner orders for restraint or seclusion or who are involuntarily admitted must apply as a category D1 assisted living facility.

(2) In addition to the requirements set forth in ARM 37.106.2899, a category D1 facility must:

(a) either be a stand-alone secured facility or a separate, secured unit attached to a category A, B, and/or C facility;

(i) a category D1 unit attached to a category A, B, and/or C facility must have a separate entrance/exit and impenetrable doors used to separate the category D1 unit from the other units;

(b) devise a policy on how it plans to maintain security of the facility or unit; and

(c) have at least one seclusion room for every 24 residents. The room must meet the requirements set forth in ARM 37.106.2899H.

(3) In addition to the requirements set forth in ARM 37.106.2899B, each category D1 facility or unit must, prior to admission, inform the resident or resident's legal representative of the circumstances and protocols for restraint and seclusions.

(4) In addition to the requirements set forth in ARM 37.106.2899C, a category D1 facility must have:

(a) a registered nurse (RN) on duty or on call and available physically to the facility within one hour;

(b) a licensed mental health professional who must be site-based;

(c) direct care staff who are certified nursing assistants; and

(d) completed training requirements in ARM 37.106.2908.

(5) In addition to the requirements set forth in ARM 37.106.2899E, a health care plan for a category D1 resident must include:

(a) circumstances when the resident may need to be isolated from other residents;

(b) behaviors and/or situations in which a staff member may need to obtain orders for restraints and/or seclusion; and

(c) the requirements listed in ARM 37.106.2905.

Authorizing statute(s): 50-5-101, 50-5-201, 50-5-203, 50-5-204, 50-5-207, 50-5-226, 50-6-401, 50-5-226, MCA

Implementing statute(s): 50-5-101, 50-5-201, 50-5-203, 50-5-204, 50-5-207, 50-5-226, 50-6-401, 50-5-226, MCA

History: NEW, 2026 MAR, Notice No. 2026-323, Eff. 9/26/26.