

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF LONG TERM CARE RESIDENTS PROTECTION

Statutory Authority: 29 Delaware Code, Section 7903(10) (29 **Del.C.** §7903(10))
16 **DE Admin. Code** 3201; 3220; 3225; 3230; 3301 & 3315

FINAL

ORDER

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Long Term Care Residents Protection initiated proceedings to provide information of public interest with respect to adding provisions to require certain persons to receive dementia specific training. The Department's proceedings were initiated pursuant to **29 Delaware Code Section 101** and its authority as prescribed by **29 Delaware Code Section 7903(10)**.

The Department published its notice of public comment pursuant to **29 Delaware Code Section 10115** in the April 2011 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by April 30, 2011 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSED CHANGES

The proposal amends policies regarding Long Term Care Residents Protection to require certain persons to receive dementia specific training as required by the amendment to **29 Del.C. §7903** which added a paragraph (10) directing the DHSS Secretary to adopt regulations which require dementia specific training each year for persons who are certified, licensed, or registered by the State, and/or who are partially or fully funded by the State, to provide direct healthcare services to persons diagnosed as having Alzheimer's disease or other forms of dementia.

The proposed changes affect the following policy sections:

- 3201 Skilled and Intermediate Care Nursing Facilities;
- 3220 Training and Qualifications for Nursing Assistants and Certified Nursing Assistants;
- 3225 Assisted Living Facilities (Formerly Regulation No. 63);
- 3230 Rest (Residential) Home Regulations;
- 3301 Group Home Facilities for Persons with AIDS (Formerly Regulation No. 62);
- 3315 Rest (Family) Care Homes

Statutory Authority

29 **Del.C.** §7903(10), Powers, duties and functions of the Secretary

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE

The Governor's Advisory Council for Exceptional Citizens (GACEC) and the State Council for Persons with Disabilities (SCPD) offered the following observations and recommendations summarized below. The Division of Long Term Care Residents Protection (DLTCRP) has considered each comment and responds as follows.

The proposed regulations for nursing facilities (§5.6.1); assisted living facilities (§5.11); and group home for persons with AIDS (§7.11) omit any requirement that covered providers participate in training "each year."

Agency Response: Thank you for your suggestion. The words "each year" are added to the final regulations identified in the comment. The amended regulations are indicated by **[Bracketed Bold Text]**.

"Fourth, it is unclear why the regulation does not address training in the following contexts: 1) group home facilities for persons with mental illness (part 3305); and 2) group home facilities for persons with developmental disabilities (Part 3310). Both types of facilities could house individuals with dementia, including persons with TBI, i.e., dementia due to head trauma (DSM IV, §294.1). The Department may wish to consider whether amendments to these regulations should also be proposed."

Agency Response: Thank you for your suggestion. In interpreting HB 159, DHSS identified regulations where we are most likely to have persons providing "direct healthcare services to persons diagnosed as having Alzheimer's disease or other forms of dementia." (HB 159). We did not add the dementia training requirement to group home facilities for persons with mental illness and/or developmental disabilities because most often, no one in those group homes will have that diagnosis and staff in the group homes should already be trained to work with the people living in the homes. However, as

we learn from the implementation of this requirement, we will consider adding it to these additional regulations.

Carol Lovett offered the following observations and recommendations.

Thank you for all the your work incorporating HB 159 into the regulations I am particularly impressed by the recitation of the several domains for training and I am hopeful that administrators will realize that training will take more than 1 to 2 hours.

Agency Response: Thank you for your support.

I recall that at one time we discussed including Hospice Organizations under the scope of HB 159.

It is great that the aides will be trained but I understand from aides that if senior staff is not also trained it becomes difficult for them to use what they have learned. I think there are nurses, LPNs, social workers, clergy etc that work in hospice organizations. It has been the experience of family caregivers with who I have spoken that they also need to be trained. In fact many caregivers have provide dementia training them selves to these folks when they come into their homes.

In 3230 Rest and residential Homes is there staff other than Aides and does the dementia training apply to other staff. I am not familiar with this venue so I don't know.

Also with the Home Health Agencies and Skilled home Health Agencies are staff other than the Aides required to complete an orientation and continuing education which includes the dementia training.

I think both of these agencies employ LPNs and nurses and the skilled agencies have speech therapists, physical therapists, social workers etc. It was not clear when I read the regulation if all staff was included.

Agency Response: Thank you for your suggestion. In interpreting HB 159, DHSS identified regulations where we are most likely to have persons providing "direct healthcare services to persons diagnosed as having Alzheimer's disease or other forms of dementia." (HB 159). DHSS staff did not realize there was an intention to include Hospice under HB 159. In reviewing regulations where this requirement would fit, we did not include the training requirement in the Hospice regulations. However, as we learn from the implementation of this requirement, we will consider adding it to these additional regulations. Regarding the questions about what staff exist in different settings and which staff are required to receive the dementia training, the answer varies by provider and setting. Also, DHSS does not have the authority to regulate people in the professions you list. As such, the regulations use the exact language from **29 Del.C. §7903(10)** (HB 159) to make sure that any staff at the facilities or in the agencies who fall under the law's requirement are required to receive the training.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the April 2011 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Long Term Care Residents Protection regulations with respect to adding provisions to require certain persons to receive dementia specific training is adopted and shall be final effective August 1, 2011.

Rita M. Landgraf, Secretary, DHSS

Please Note: Only those sections of the regulations that are being amended are reproduced below. The complete regulation can be viewed in the Administrative Code.

3201 Skilled and Intermediate Care Nursing Facilities

(Break in Continuity of Sections)

5.0 Personnel/Administrative

- 5.1 The administrator(s) shall be responsible for complying with all applicable laws and regulations.
- 5.2 Each nursing facility shall have a full-time administrator. When an administrator will be temporarily absent for a period of two weeks or more, a management employee shall be designated to be in charge. The Division shall be notified in writing upon such designation.
- 5.3 The nursing facility shall designate a physician to serve as the medical director who shall be responsible for implementation of resident care policies and the coordination of medical care in the facility.
- 5.4 Nursing facilities shall provide professional nursing, nursing services direct care and other services as follows:
 - 5.4.1 Nursing facilities subject to 16 **Delaware Code**, §1161 to §1165 shall provide professional nursing, nursing services direct care and other services in accordance with statutory requirements.
 - 5.4.2 Nursing facilities not subject to 16 **Delaware Code**, §1161 to §1165 shall provide professional nursing, nursing services direct care and other services as follows:

- 5.4.2.1 The facility shall provide a sufficient number of nursing services direct care staff to provide a minimum of 2.25 hours of direct care and treatment per resident per day.
- 5.4.2.2 In addition to the requirement above, the nursing facility shall have a full-time director of nursing who is a registered nurse. The director of nursing shall have overall responsibility for the coordination, supervision and provision of nursing services.
- 5.4.2.3 At a minimum, a registered nurse or licensed practical nurse shall be on duty at all times during the first and second shifts.
- 5.4.2.4 At a minimum, in the absence of a nurse on the third shift, a registered nurse or licensed practical nurse shall be on call.
- 5.4.2.5 Facilities not subject to 16 **Delaware Code**, §1164 may increase the level of care and services for a current resident whose condition requires such an increase in the level of care and services as an alternative to discharge to another facility. Such increased care and services shall be provided by a qualified caregiver(s) whose scope of practice includes the provision of such care and services, and shall be available during any shift when the resident's needs require such care and services.
- 5.4.2.6 All other nursing services direct caregivers shall be certified nursing assistants.
- 5.4.2.7 The facility shall employ an activities director who shall ensure the provision of activities as described in these regulations.
- 5.5 The facility shall have written personnel policies and procedures. Personnel records shall be kept current and available for each employee, and include the following:
 - 5.5.1 Results of tuberculosis screening
 - 5.5.2 Documentation of annual influenza vaccination or refusal.
 - 5.5.3 Results of criminal background check
 - 5.5.4 Results of mandatory drug testing
 - 5.5.5 Result of Adult Abuse Registry check
 - 5.5.6 Titles and hours of in-service training
 - 5.5.7 If applicable, license number and expiration date
 - 5.5.8 If applicable, certification expiration date
- 5.6 Dementia Training
 - 5.6.1 Nursing facilities that provide direct healthcare services to persons diagnosed as having Alzheimer's disease or other forms of dementia shall provide dementia specific training [each year] to those healthcare providers who must participate in continuing education programs. This section shall not apply to persons certified to practice medicine under the Medical Practice Act, Chapter 17 of Title 24 of the Delaware Code.
 - 5.6.2 The mandatory training must include: communicating with persons diagnosed as having Alzheimer's disease or other forms of dementia; the psychological, social, and physical needs of those persons; and safety measures which need to be taken with those persons.

13 DE Reg. 1322 (04/01/10)

3220 Training and Qualifications for Nursing Assistants and Certified Nursing Assistants

(Break in Continuity of Sections)

2.0 General Training Requirements And Competency Test

- Each Nursing Assistant/Certified Nursing Assistant employed by any nursing facility either as contract/ agency or facility staff shall be required to meet the following:
- 2.1 An individual shall complete a nursing assistant training course approved by the Department on the recommendation of the CNA Training Curriculum Committee. The Committee shall consist of individuals with experience in the knowledge and skills required of CNAs.
- 2.2 Nursing Assistants are required to pass a competency test provided by the Department or by a contractor approved by the Department.
- 2.3 Nursing Assistants shall take the competency test within 30 days of completion of an approved program. Nursing assistants who fail to obtain a passing score may repeat the test two additional times. Nursing assistants who fail to obtain a passing score after testing three times must repeat the CNA training program before retaking the test. The certificate of completion of an approved program, a prerequisite to testing, must

be dated within 24 months of the available testing date. Nursing assistants who are trained in a facility and are counted for staffing purposes pursuant to 16 Del.C. §1162(f) must pass the test within 90 days of completion of the facility program to continue to be counted in staffing calculations.

- 2.4 In order to qualify for recertification, a CNA must, during each 24 month certification period: (1) complete 24 hours of approved continuing education, and (2) perform at least 64 hours of nursing related services for pay under the supervision of a licensed nurse or physician. A CNA who does not perform at least 64 hours of nursing related services in a certification period or fails to complete the required continuing education must pass the competency test again. Nursing assistants who fail to obtain a passing score after testing three times must repeat the CNA training program before additional testing will be permitted.
- 2.4.1 A CNA who provides direct healthcare services to persons diagnosed as having Alzheimer's disease or other forms of dementia shall annually receive dementia specific training that must include: communicating with persons diagnosed as having Alzheimer's disease or other forms of dementia; the psychological, social, and physical needs of those persons; and safety measures which need to be taken with those persons.
- 2.5 A Certified Nursing Assistant trained and certified outside the State of Delaware in a program that equals or exceeds the federal nurse aide training program requirements in the Code of Federal Regulations §483.152 cannot work in Delaware without a Delaware certificate. Delaware certification is required prior to being employed as a CNA. The Department will grant reciprocity if the following conditions are met:
- 2.5.1 The CNA must have a current certificate from the jurisdiction where he or she currently practices, except that candidates from the State of Maryland must hold a current Geriatric Nursing Assistant certificate.
- 2.5.2 The CNA must have 3 months of full-time experience as a CNA performing nursing related services for pay under the supervision of a licensed nurse or physician, or have completed a training and competency evaluation program with the number of hours at least equal to that required by the State of Delaware.
- 2.5.3 The CNA must be in good standing in the jurisdiction where he/she is currently certified.
- 2.5.4 The CNA submits \$30 to the Department to cover the costs associated with granting the reciprocity.
- 2.6 Nursing students who are currently enrolled in a nursing program and have satisfactorily completed a Fundamentals/Basic Nursing course with a 75 hour clinical component in a long term care setting will be deemed to meet the training requirements. These individuals will be approved to take the competency test upon submission of a letter from their school of nursing attesting to current enrollment status and satisfactory course completion as described.
- 2.7 Nursing students who have graduated from an RN or LPN program within 24 months prior to application for certification are deemed qualified to meet the Department's nurse aide training and competency evaluation program requirements and are eligible for certification upon submission of a sealed copy of their diploma. Individuals who have graduated from an RN or LPN program more than 24 months prior to application for certification are deemed qualified to meet the Department's nurse aide training program requirements and are eligible to take the competency test upon submission of a sealed copy of their diploma.
- 2.8 For the purpose of calculating minimum staffing levels, any individual who has completed all of the classroom training and half of the clinical training in a facility sponsored training program may be considered as a member of such facility's staff while undergoing the last 37.5 hours of clinical training at such facility.
- 2.9 A nursing assistant who is employed by, or who has received an offer of employment from, a federally certified nursing facility on the date on which the aide begins a nurse aide training and competency evaluation program may not be charged for any portion of the program including tuition, any tests taken and fees for textbooks or other required course materials.
- 2.10 If a Certified Nursing Assistant who is not employed, or does not have an offer to be employed as a nurse aide becomes employed by, or receives an offer of employment from, a federally certified nursing facility not later than 12 months after completing a nurse aide training and competency evaluation program, the federally certified nursing facility shall reimburse all documented personally incurred costs in completing the program. Facilities shall accept as documentation canceled checks, paid receipts, written verification from a training program or other written evidence which reasonably establishes the CNA's personally incurred costs. Such costs include tuition, tests taken and fees for textbooks or other required course materials. Such costs shall be reimbursed in equal quarterly payments with full reimbursement to coincide with the CNA's completion of one year of employment including the orientation period.
- 2.11 Any nursing facility which reimburses a Certified Nursing Assistant for documented personally incurred costs of a nurse aide training and competency evaluation program shall notify the Division of Long Term Care Residents Protection of such reimbursement. Notice of such reimbursement shall be entered in the CNA Registry database and information regarding such reimbursement shall be available to facilities upon request.

3225 Assisted Living Facilities

(Break in Continuity of Sections)

5.0 General Requirements

- 5.1 All written information provided by the assisted living facility including the written application process shall be accurate, precise, easily understood and readable by a resident, and in compliance with all applicable laws. If an applicant is rejected the facility shall provide clear reasons for the rejection in writing upon request.
- 5.2 All records maintained by the assisted living facility shall at all times be open to inspection and copying by the authorized representatives of the Department, as well as other agencies as required by state and federal laws and regulations. Such records shall be made available in accordance with **16 Del.C. Ch. 11, Subchapter I.**, Licensing by the State.
- 5.3 The assisted living facility shall adopt internal written policies and procedures pursuant to these regulations. No policies shall be adopted by the assisted living facility which are in conflict with these regulations.
- 5.4 The assisted living facility shall establish and adhere to written policies and procedures regarding the rights and responsibilities of residents, and these policies and procedures shall be made available to authorized representatives of the Department, facility staff, and residents.
- 5.5 The assisted living facility shall develop and adhere to policies and procedures to prevent residents with diagnosed memory impairment from wandering away from safe areas. However, residents may be permitted to wander safely within the perimeter of a secured unit.
- 5.6 The assisted living facility shall arrange for emergency transportation and care.
- 5.7 Inspection summaries and compliance history information shall be posted by the facility in accordance with **16 Del.C. Ch. 11, Subchapter I.**, Licensing by the State.
- 5.8 An assisted living facility shall recognize the authority of a representative acting on the resident's behalf pursuant to Delaware law, as long as such representative does not exceed his/her authority. The facility shall request and keep on file any documents such as an advance directive, living will, do not resuscitate, and power(s) of attorney.
- 5.9 An assisted living facility shall not admit, provide services to, or permit the provision of services to individuals who, as established by the resident assessment:
 - 5.9.1 Require care by a nurse that is more than intermittent or for more than a limited period of time;
 - 5.9.2 Require skilled monitoring, testing, and aggressive adjustment of medications and treatments where there is the presence of, or reasonable potential of, an acute episode unless there is an RN to provide appropriate care;
 - 5.9.3 Require monitoring of a chronic medical condition that is not essentially stabilized through available medications and treatments;
 - 5.9.4 Are bedridden for more than 14 days;
 - 5.9.5 Have developed stage three or four skin ulcers;
 - 5.9.6 Require a ventilator;
 - 5.9.7 Require treatment for a disease or condition which requires more than contact isolation;
 - 5.9.8 Have an unstable tracheostomy or have a stable tracheostomy of less than 6 months' duration;
 - 5.9.9 Have an unstable peg tube;
 - 5.9.10 Require an IV or central line with an exception for a completely covered subcutaneously implanted venous port provided the assisted living facility meets the following standards:
 - 5.9.10.1 Facility records shall include the type, purpose and site of the port, the insertion date, and the last date medication was administered or the port flushed.
 - 5.9.10.2 The facility shall document the presence of the port on the Uniform Assessment Instrument, the service plan, interagency referrals and any facility reports,
 - 5.9.10.3 The facility shall not permit the provision of care to the port or surrounding area, the administration of medication or the flushing of the port or the surgical removal of the port within the facility by facility staff, physicians or third party providers;
 - 5.9.11 Wander such that the assisted living facility would be unable to provide adequate supervision and/or security arrangements;

- 5.9.12 Exhibit behaviors that present a threat to the health or safety of themselves or others, such that the assisted living facility would be unable to eliminate the threat either through immediate discharge or use of immediate appropriate treatment modalities with measurable documented progress within 45 days; and
- 5.9.13 Are socially inappropriate as determined by the assisted living facility such that the facility would be unable to manage the behavior after documented, reasonable efforts such as clinical assessments and counseling for a period of no more than 60 days.
- 5.10 The provisions of section 5.9 above do not apply to residents under the care of a Hospice program licensed by the Department as long as the Hospice program provides written assurance that, in conjunction with care provided by the assisted living facility, all of the resident's needs will be met without placing other residents at risk.
- 5.11 The Assisted Living facility shall cooperate fully with the state protection and advocacy agency, as defined in 16 Del.C. §1102(7), in fulfilling functions authorized by Title 16, Chapter 11.
- 5.12 An assisted living facility that provides direct healthcare services to persons diagnosed as having Alzheimer's disease or other forms of dementia shall provide dementia specific training [each year] to those healthcare providers who must participate in continuing education programs. The mandatory training must include: communicating with persons diagnosed as having Alzheimer's disease or other forms of dementia; the psychological, social, and physical needs of those persons; and safety measures which need to be taken with those persons. This paragraph shall not apply to persons certified to practice medicine under the Medical Practice Act, Chapter 17 of Title 24 of the Delaware Code.

8 DE Reg. 85 (7/1/04)

13 DE Reg. 1328 (04/01/10)

3230 Rest (Residential) Home Regulations

(Break in Continuity of Sections)

7.0 Personnel/Administrative

- 7.1 Administrator:
- 7.1.1 All administrators must be licensed by the Board of Examiners of Nursing Home Administrators. The administrator must be a full-time employee in facilities of 25 beds or more. Facilities with less than 25 beds but more than 8 must have an administrator on duty at least 4 hours per day, 5 days per week. Supervision by a licensed Nursing Home Administrator is not required for facilities with 4 to 8 beds inclusive. When a facility provides two or more categories of care, the criteria for the highest level of care would determine the administrator requirements for the entire facility.
- 7.1.2 The administrator enforces the rules and regulations relating to the level of health care and safety of residents, and to the protection of their personal and property rights.
- 7.1.3 The administrator plans, organizes and directs the overall responsibilities of the facility.
- 7.1.4 The administrator of resident care facilities shall be physically and mentally capable of performing his duties and responsibilities, and not guilty of a felony or misdemeanor which might affect the operation of the facility.
- 7.1.5 In the absence of the administrator, an employee shall be authorized in writing, to act on the administrator's behalf.
- 7.2 A staff of persons sufficient in number and adequately trained to meet the requirements of the residents shall be employed, to maintain at least 1.75 hours direct care per twenty-four (24) hour period, per resident.
- 7.3 The institution shall have written personnel policies and procedures that support sound residential care. An application for employment and personnel records shall be maintained for all employees.
- 7.4 Each person, including volunteers, who is involved in the care of residents shall have a screening test for tuberculosis as a prerequisite to employment. Either a negative intra-dermal skin test or a chest x-ray showing no evidence of active tuberculosis shall satisfy this requirement. A report of this test shall be on file at the facility of employment.
- 7.5 No person having a communicable disease shall be permitted to give care or service. All reportable communicable diseases shall be reported to the County Health Officer.
- 7.6 Separate bathroom facilities shall be provided for the staff.
- 7.7 Adequate facilities shall be provided for the orderly storage of employee's clothing and personal belongings.
- 7.8 Nurse Aide/Nurse Assistant Requirements

Each nurse aide/nurse assistant employed by any nursing home either as contract/agency or facility staff as of October 1, 1990, shall be required to meet the following:

7.8.1 Training/Testing

7.8.1.1 Nurse aide/nurse assistant shall complete a nurse aide training course approved by Delaware State Board of Nursing and by the Division of Public Health.

7.8.1.2 Nurse aide/nurse assistant is required to pass competency evaluation test approved by State of Delaware.

7.8.1.3 Employees of Delaware nursing homes shall be duly certified within 4 months of employment.

7.8.1.4 Contract aides must be certified prior to placement in any nursing home.

7.8.2 A nurse aide/nurse assistant who has not performed nursing related services for pay for a continuous 24 month period after completion of a training and testing program, must complete and pass a new training and competency evaluation (testing) program.

7.8.3 A nurse aide/nurse assistant who has not been employed in a health care setting for three years will be required to meet the requirements in section 7.8.1 above.

7.8.4 A nurse aide/nurse assistant trained and certified outside the State of Delaware may be deemed qualified to meet the Board of Health requirements based on a case by case review and approval.

7.8.5 Employees hired as nurse aide/nurse assistant who are currently enrolled in a nursing program and have satisfactorily completed the fundamentals of nursing course with a clinical component will be deemed to meet the training and testing requirements. These individuals will be approved with submittal of a letter from their school of nursing attesting to current enrollment status and satisfactory course completion as described.

7.8.6 A nurse aide/nurse assistant who provides direct healthcare services to persons diagnosed as having Alzheimer's disease or other forms of dementia shall annually receive dementia specific training that must include: communicating with persons diagnosed as having Alzheimer's disease or other forms of dementia; the psychological, social, and physical needs of those persons; and safety measures which need to be taken with those persons.

3301 Group Home Facilities for Persons with AIDS

(Break in Continuity of Sections)

7.0 Personnel/Administrative

7.1 There must be a licensee of the facility. The licensee must:

7.1.1 Exercise general policy, budget, and operating direction over the facility;

7.1.2 Appoint the administrator of the facility who shall have:

7.1.2.1 An associates degree or higher from an accredited college or university plus three (3) years experience in a health or human services field; or

7.1.2.2 A bachelor's degree or higher in a health, business, or related field and a minimum of one year's work experience in a health or human service field.

7.1.2.3 Insure all operations of the group home facility are conducted in accordance with these regulations and applicable Federal, state and local laws and requirements.

7.2 The licensee and the administrator shall be responsible for complying with the regulations herein contained. In the absence of the administrator, a qualified substitute shall be authorized, in writing, to be in charge.

7.3 The administrator must be on duty and on site in the home a minimum of four (4) hours a day, five (5) days a week.

7.4 In addition to the staff engaged in the direct care and treatment of residents, there must be sufficient personnel to provide basic services such as: food service, laundry, housekeeping and plant maintenance. Nursing service personnel shall not be engaged in food service, laundry, housekeeping and plant maintenance.

7.5 All personnel shall submit to and pass a criminal background check and drug testing in accordance with **16 Del.C. Ch. 11, Subchapter IV.**, Criminal Background Checks and Mandatory Drug Testing.

7.6 No employee shall be less than 18 years of age and no person shall be employed who has been convicted of a disqualifying crime as set forth in the Criminal Background Check regulations of the Division of Long Term Care Residents Protection.

7.7 The facility shall have written personnel policies and procedures that adequately support sound resident care. Personnel records of each employee shall be kept current and available upon request by the Division

representatives and shall contain sufficient information to support placement in the positions to which assigned.

7.8 Minimum requirements for employee physical examinations include:

- 7.8.1 The facility shall have on file results of tuberculin tests performed annually for all employees, including volunteers who are involved in the care of residents. The tuberculin test to be used is the Mantoux test containing 5 TU-PPD stabilized with Tween, injected intradermally, using a needle and syringe, usually on the volar surface of the forearm. Persons found to have a significant reaction (defined as 10 mm of induration or greater) to tests shall be reported to the Division of Public Health and managed according to recommended medical practice. A tuberculin test as specified, done within the twelve months prior to employment or a chest x-ray showing no evidence of active tuberculosis shall satisfy this requirement for asymptomatic individuals. A report of this skin test shall be kept on file.
- 7.8.2 Employees who do not have a significant reaction to the initial tuberculin test (those individuals who have less than 10 mm induration) should be retested within 7 - 21 days to identify those who demonstrate delayed reactions. Tests done within one year of a previous test need not be repeated in 7 -21 days.
- 7.8.3 No person, including volunteers, found to have active tuberculosis in an infectious stage shall be permitted to give care and service to residents.

7.9 Each applicant of a group home must have a medical evaluation for tuberculosis before being admitted to a group home. Any resident found to have active tuberculosis in an infectious stage may not be admitted or continue to reside in a group home.

7.10 The licensee shall approve written policies and procedures pertaining to the services the group home provides. Such policies and procedures should reflect the philosophy and objectives of the home to provide on a continuing basis good medical, nursing and psychosocial care for all persons admitted to the home who require such care. Such policies and procedures shall reflect the requirements of Section 62.7 and include:

- 7.10.1 Admission, transfer and discharge policies
- 7.10.2 Categories of residents accepted or not accepted
- 7.10.3 Physician services
- 7.10.4 Nursing services
- 7.10.5 Food and nutrition services including kitchen sanitation, food handling and storage
- 7.10.6 Rehabilitative services
- 7.10.7 Pharmaceutical services
- 7.10.8 Diagnostic services
- 7.10.9 Housekeeping services
- 7.10.10 A written policy and procedure denoting care of residents
 - 7.10.10.1 In an emergency
 - 7.10.10.2 During a communicable disease episode
 - 7.10.10.3 In case of critical illness or mental disturbance
- 7.10.11 Dental services
- 7.10.12 Social services
- 7.10.13 Resident activities, recreational, social, religious
- 7.10.14 Clinical records
- 7.10.15 Fire and safety policies
- 7.10.16 Advance directives to include:
 - 7.10.16.1 On admission, inform residents in writing of their right 1) to accept or refuse treatment, 2) to give written instructions concerning their care and 3) to appoint an agent or proxy to make health care decisions.
 - 7.10.16.2 Documenting in medical records whether or not residents have executed advance directives.
 - 7.10.16.3 Ensuring compliance with requirements of state law on advance directives.
 - 7.10.16.4 Providing education for staff on issues concerning advance directives.
- 7.10.17 Infection control.

7.11 A group home that provides direct healthcare services to persons diagnosed as having Alzheimer's disease or other forms of dementia shall provide dementia specific training [each year] to those healthcare providers who must participate in continuing education programs. The mandatory training must include: communicating with persons diagnosed as having Alzheimer's disease or other forms of dementia; the psychological, social, and physical needs of those persons; and safety measures which need to be taken with those persons. This

paragraph shall not apply to persons certified to practice medicine under the Medical Practice Act, Chapter 17 of Title 24 of the Delaware Code.

5 DE Reg. 1079 (11/1/01)

3315 Rest (Family) Care Homes

(Break in Continuity of Sections)

4.0 General Requirements

- 4.1 Each resident shall be given a physical/medical examination within ninety (90) days prior to placement and at least every three (3) years thereafter and/or more frequently as required by the Affiliated Social Agency/Program or the Division of Public Health.
- 4.2 A statement of level of care of the resident will be issued prior to placement and at least yearly thereafter. Determination of level of care will be done by a nursing representative of the Division of Public Health.
- 4.3 All required records maintained by the home shall be open to inspection by authorized representatives of the Division of Public Health and/or affiliated agency.
- 4.4 The term "Rest (Family Care) Home" shall not be used as a part of the name of any institution in this State unless it has been so classified by the Division of Public Health.
- 4.5 A home classified under these regulations shall not admit any person under the age of eighteen (18) as a resident unless approved by the State Board of Health.
- 4.6 The care provider family members shall not utilize the same sleeping quarters as the residents.
- 4.7 No rules shall be adopted by the licensure or care provider and/or Affiliated social Agency/Program of any home which are -in conflict with these regulations.
- 4.8 The Division of Public Health shall be notified in writing of any changes in ownership or care provider.
- 4.9 Each licensed home shall have a care provider and/or separate designee who will be responsible for the supervision of that home.
- 4.10 All Rest (Family Care) Homes will be under the supervision of a full-time care provider. The care provider will not leave the premises for a sustained period of time (greater than 12 hours) without delegating necessary duties to a responsible adult whose name is known on file. The Office of Health Facilities Licensing and Certification, Division of Public Health, is to be notified in case of extended absence (over one (1) week).
- 4.11 Each licensed home shall cooperate fully with the state protection and advocacy agency, as defined in 16 **Del.C.** §1102(7), in fulfilling functions authorized by Title 16, Chapter 11.
- 4.12 A care provider that provides direct healthcare services to persons diagnosed as having Alzheimer's disease or other forms of dementia shall receive annual dementia specific training that includes: communicating with persons diagnosed as having Alzheimer's disease or other forms of dementia; the psychological, social, and physical needs of those persons; and safety measures which need to be taken with those persons.

15 DE Reg. 192 (08/01/11) (Final)