

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES**  
**DIVISION OF LONG TERM CARE RESIDENTS PROTECTION**  
Statutory Authority: 29 Delaware Code, Section 7971 (29 Del.C. §7971)  
16 DE Admin. Code 3230

**FINAL**

**ORDER**

**3230 Rest (Residential) Home Regulations**

**NATURE OF THE PROCEEDINGS**

Delaware Health and Social Services ("Department"), Division of Long Term Care Residents Protection, initiated proceedings to amend the regulations regarding the Rest (Residential) Homes. The Department's proceedings to amend its regulations were initiated pursuant to 29 Del.C. §10114, with authority prescribed by 29 Del.C. §7971.

The Department published its notice of proposed regulatory change pursuant to 29 Delaware Code Section 10115 in the October 2012 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by October 31, 2012 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

**SUMMARY OF PROPOSED CHANGE**

The proposal amends existing Regulation 3230 – Rest (Residential) Homes. DLTCRP identified the need to update these regulations as they had not been revised or amended since 1990.

**Statutory Authority**

29 Del.C. §7971, "Department of Health and Social Services, Division of Long Term Care Residents Protection.

**Summary of Changes**

The State Council for Persons With Disabilities offered the comments and recommendations summarized below. DLTCRP has considered each comment and respond as follows:

Ten comments addressed punctuation or grammatical errors. All ten were amended.

The Division's responses to the remaining comments are as follows:

The remaining comments:

1. In §2.0, definition of "Continuous", insert a comma after "cessation".  
Response: Corrected.
2. In §2.0, definition of "Department", capitalize "Department of Health and Social Services".  
Response: Corrected.
3. In §2.0, definition of "Homelike", do not capitalize "having".  
Response: Corrected.
4. In §2.0, definition of "Personal Care Services", SCPD assumes the Division does not intend to authorize "hosing down" the residents. Substitute "those services" for "hose services".  
Response: Adopted.
5. In §2.0, definition of "Rehabilitation", the reference to "at his highest" is grammatically incorrect.  
Response: Corrected.
6. SCPD noted that the definition of "Resident" limited residency in these facilities to those 18 years of age or older.  
*Response: Rest Residential homes are intended for mature persons generally capable of making their own decisions and handling their own ADLs. This would not be the case with minor residents.*
7. In §§4.2 and 4.3 there is a lack of punctuation (semi-colons. Compare §§3.5 and 8.1.8.  
Response: Corrected
8. There is an extraneous period after the word "ventilation" at §5.3.2.1.  
Response: Removed.
9. SCPD questioned the application of the local building codes as to ramp specification and recommended adoption of the ADA standards.  
*Response: 5.3.2.4 has been amended to say: Existing facilities accommodating residents who regularly require wheelchairs shall comply with the Americans With Disabilities Act standards.*
10. The period is missing at the end of §5.7.3.  
Response: Corrected

11. SCPD suggests the inclusion of ADA standards for door handles.

*Response: 5.7.6 All doors for areas used by residents shall be capable of being opened from either side and shall comply with the Americans With Disabilities Act standards.*

12. SCPD pointed out that while these facilities are described as "homelike" in the regulations the term "institution" remained at §5.12.1.

*Response: The word "institution" was replaced by the word "homelike."*

13. SCPD suggested inserting a temperature standard at §5.12.9.

*Response: The suggestion was adopted.*

14. SCPD suggests the inclusion of language to require that dishwashers be capable of sanitizing dishes.

*Response: Section 5.11 requires compliance with the Delaware Food Code. That code contains requirements for sanitization.*

16. SCPD commented that there is some "tension" between §8.1.3.4 and §8.1.4.

*Response: Amended to eliminate the "tension."*

17. In §10.1.6, SCPD believes the Division intended to insert the word "or" after "facility". The published regulation contains only an "r".

*Response: Amended.*

18. SCPD suggests including a specific requirement that the LTC Bill of Rights be posted and copies be provided to each resident.

*Response: A new Section 3.11 was added: [3.11. The Patient's Bill of Rights (Title 16) is posted in a conspicuous location within the residence to ensure easy access by individuals served.*

## FINDINGS OF FACT

The Department finds that the proposed changes set forth in the October 2012 *Register of Regulations* should be adopted, subject to the modification set forth above which is not substantive.

**THEREFORE, IT IS ORDERED**, that the proposed changes to Regulation 3230 – Rest (Residential) Homes, with the modification indicated herein, is adopted and shall be final effective January 1, 2013.

Rita Landgraf, Secretary, DHSS

## 3230 Rest (Residential) Home Regulations

~~The regulations contained here within are based on the common needs of the rest (Residential) care recipients and are minimal health standards.~~

~~The facility must be in compliance with all State and local laws and regulations applicable to the facility's personnel, provision of services and the physical plant.~~

~~Division of Public Health Laws And Regulations Pertaining To Sanatoria, Rest Homes, Boarding Homes, Nursing Homes And Related Institutions~~

### 4.0 Definition

~~"Rest (Residential) Home" is an institution that provides resident beds and personal care services for persons who are normally able to manage activities of daily living. The home should provide friendly understanding to persons living there as well as appropriate care in order that the resident's self-esteem, self-image, and role as a contributing member of the community may be reinforced.~~

### 2.0 Glossary of Terms

~~"Activities of Daily Living" Getting out of bed, bathing, dressing, eating and ambulation.~~

~~"Continuous" Available at all times without cessation break or interruption.~~

~~"Direction" Authoritative policy or procedural guidance for the accomplishment of a function or activity.~~

~~"Facility" The site, physical structure and equipment necessary to provide the required services.~~

~~"Institution" The term "institution" as it appears in these regulations is used to refer to all facilities covered by Title 16, Delaware Code Annotated, Section 1101.~~

~~"Licensed Nursing Home Administrator" A person who is licensed by the Board of Examiners of Nursing Home Administrators of the State of Delaware.~~

~~"Nurse Aide/Nurse Assistant/Residential Care" An individual who provides care that does not require the judgment and skills of a licensed nurse. The care may include but is not limited to the following: bathing,~~

dressing, grooming, toileting, ambulating, transferring and feeding, observing and reporting the general well-being for the persons) to whom they are providing care.

~~“Personal Care Services”~~ Those services that include general supervision of, and direct assistance to, individuals in their activities of daily living to insure their safety, comfort, nutritional needs and well-being.

~~“Physician”~~ A physician licensed to practice in the State of Delaware.

~~“Rehabilitation”~~ The restoration of an ill or injured person to self-sufficiency at his highest attainable level.

~~“Resident”~~ An individual who, for payment of a fee, is residing in a facility which provides shelter, housekeeping services, board, personal surveillance or direction in the activities of daily living

~~“Resident Beds”~~ Accommodations with supportive services (such as: food, laundry and housekeeping) for persons who generally stay in excess of twenty four (24) hours.

~~“Supervision”~~ Direct overseeing and inspection of the act of accomplishing a function or activity by a responsible person who is not a resident.

### **3.0 Licensing Requirements and Procedures**

- 3.1 When an institution is classified under this Law and/or Regulation and plans to construct, extensively remodel or convert any buildings, two (2) copies of properly prepared plans and specifications for the entire institution are to be submitted to the Division of Public Health. An approval, in writing, is to be obtained before such work is begun. After the work is completed, in accordance with the plans and specifications, a new license to operate will be issued.
- 3.2 Separate licenses are required for institutions maintained in separate locations, even though operated under the same management. A separate license is not required for separate buildings maintained by the same management on the same grounds. A license is not transferrable from person to person nor from one location to another.
- 3.3 In the event of the sale of a nursing home, the Prospective buyer may be informed of the waivers which were officially granted the previous owner. The Division of Public Health may grant the new owner of a nursing home, the same waivers which had been granted to the former owner, with the condition that a plan for correcting all deficiencies within a reasonable time must be submitted to and be acceptable to the Division of Long Term Care prior to issuance of a license.
- 3.4 The license shall be conspicuously posted.
- 3.5 All applications for renewal of licenses shall be filed with the Division of Public Health at least thirty (30) days prior to expiration. Licenses will be issued for a period of not to exceed one (1) year.
- 3.6 Homes of up to fifteen (15) beds licensed without waiver or restriction as Rest-Boarding Homes as of July 1, 1977, shall be allowed to continue in operation with the number of beds which have been accepted by the Division of Public Health as of this date. Change of ownership or substantial alterations will negate this exception. After July 1, 1977, no home shall receive an annual license for a number of beds greater than the number which had been approved (without waiver or restriction) by the Division of Public Health as of that date.

### **4.0 General Requirements**

- 4.1 All required records maintained by the institution shall be open to inspection by authorized representatives of the Division of Public Health.
- 4.2 The term "**Rest (Residential) 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.
- 4.3 An institution classified under these regulations shall not admit any person under the age of fifteen (15) as a resident unless approved by the Division of Public Health.
- 4.4 No rules shall be adopted by the licensee or administrator of any institution which are in conflict with these regulations.
- 4.5 The Division of Public Health shall be notified, in writing, of any changes in ownership or management personnel.
- 4.6 Each facility shall exhibit, with an admission agreement, to all residents or their sponsors a complete statement enumerating all charges for services, materials and equipment which may be furnished during the period of residency. A signed statement as to receipt of the statement of charges shall be retained by the facility and the resident.
- 4.7 Refund and Prepayment Policy

- 4.7.1 Each facility shall make known, in writing, the refund and prepayment policy of the facility at the time of admission, and in the case of third-party payment, an exact statement of responsibility in the event of retroactive denial.
- 4.7.2 All payments shall be receipted.
- 4.7.3 Any revocation of any part of the financial agreement shall require one (1) week's notice.
- 4.8 The 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.

**14 DE Reg. 1360 (06/01/11)**

**5.0 Plant, Equipment and Physical Environment**

5.1 Site Provisions:

Each institution shall be located on a site which is considered suitable by the Division of Public Health. Site must be easily drained, and must be suitable for disposal of sewage, and furnishing a potable water supply.

5.2 Water Supply and Sewage Disposal:

5.2.1 The water supply and the sewage disposal system shall be approved by the Division of Public Health and the Department of Natural Resources and Environmental Control, respectively.

5.2.2 The water system shall be designed to supply adequate hot and cold water, under pressure, at all times.

5.3 Building:

5.3.1 All new construction, extensive remodeling or conversions shall comply with the applicable parts of the standards as set forth under Long Term Care of the General Standards of Construction and Equipment for Hospital and Medical Facilities, a publication of the Department of Health, and Human Services, and its amendments.

5.3.2 Existing Facilities shall have:

5.3.2.1 Window space shall not be less than one-tenth (1/10) of the floor space. Up to a twenty-five (25%) reduction can be allowed when approved mechanical ventilation is utilized in multi-bedrooms.

5.3.2.2 All windows in rooms to be used by residents are to be so constructed to eliminate drafts and to provide adequate light and ventilation.

5.3.2.3 Residents' rooms shall open directly into a corridor.

5.3.2.4 Existing facilities accommodating residents who regularly require wheelchairs shall be equipped with ramps, located at primary and secondary means of egress. A ramp shall not exceed one (1) foot of rise in twelve (12) feet of run.

5.4 Plumbing:

The plumbing shall meet the requirements of all municipal and county codes. Where there are no local codes, the provisions of the Division of Public Health's Sanitary Plumbing Code shall prevail.

5.5 Heating:

The heating equipment for all living and sleeping quarters shall be adequate, safe and easily controlled. It shall be capable of maintaining the temperature in each room used by residents at a minimum of 72°F.

5.6 Lighting:

Each room shall be suitably lighted at all times for maximum safety, comfort, sanitation and efficiency of operation. A minimum of thirty (30) foot candles of light shall be provided for all working and reading surfaces, and a minimum of ten (10) foot candles of light on all other areas. This includes hallways, stairways, storerooms, and bathrooms.

5.7 Safety Equipment:

5.7.1 To prevent slipping, staircases shall have stair treads and sturdy handrails.

5.7.2 Stairways shall be well lighted, with electric switches at both the top and bottom.

5.7.3 Hallways shall have night lights

5.7.4 Low windows, open porches, changes in floor levels and areas on the ground shall not present safety hazards.

5.7.5 Floor surfaces shall not be slippery and shall be kept in good repair. If rugs are used, they should be free of such hazards as curled edges, rips or potential for slipping.

5.7.6 All doors for areas used by residents shall be capable of being opened from either side

5.8 Bedrooms:

5.8.1 Each bedroom shall be well lighted and well ventilated. Each bedroom shall be an outside room with at least one (1) window opening directly to the outside. The window sill shall be at least three (3) feet above

the floor and above grade. Windows shall be so constructed as to allow a maximum of sunlight and air and to eliminate drafts, and easy to open and close.

5.8.2 Bedrooms for one (1) person shall be at least one hundred (100) square feet in size and bedrooms for more than one (1) person shall provide eighty (80) square feet of floor space per person, and be arranged for comfort. The ceiling shall not be less than seven (7) feet from the floor.

5.8.3 Each bedroom is to have walls that go to the ceiling, and have a door that can be closed.

5.8.4 The beds shall be at least four (4) feet apart in multi-bedrooms.

5.8.5 Adequate electrical outlets shall be conveniently located in each bedroom. A reading light shall be provided for each resident. At least one (1) light fixture shall be switched at the entrance of each bedroom.

5.8.6 Walls shall be finished in colors which are light and cheerful.

5.8.7 Facilities shall insure adequate privacy and separation of sexes in sleeping arrangements, except in cases of husband and wife.

5.8.8 The maximum capacity per bedroom shall be four (4) residents.

#### 5.9 Bathrooms:

5.9.1 Bathrooms shall be constructed so that the walls and floors are impervious to water. At least one (1) window or mechanical ventilation to the outside shall be provided. Floors shall not be slippery.

5.9.2 Bathtubs or showers shall be provided at the rate of one (1) for every four (4) residents. Each tub or shower shall be located in an individual room or enclosure which provides space for the private use of the bathing fixture and for drying and dressing.

5.9.3 At least one (1) toilet for every four (4) residents and one (1) washbasin, with hot and cold water, for every four (4) residents shall be located on the floor occupied by the residents. When more than one (1) toilet is located in the same room, provisions for private use shall be made.

5.9.4 Each toilet, bathtub or shower used by residents shall be provided with a substantial handgrip.

#### 5.10 Dayroom and Dining Area:

5.10.1 There shall be provided one (1) or more areas that are adequate in size and furnished for resident dining, recreational and social activities. At least thirty (30) square feet per resident will be assigned to these areas.

5.10.2 When a multi-purpose room is used, it shall have sufficient space to prevent interference of one activity with another.

#### 5.11 Kitchen and Food Storage Areas:

The Division of Public Health's Regulations governing the sanitation of public eating places shall apply to institutions, and are appended hereto.

#### 5.12 Sanitation and Housekeeping:

5.12.1 Waste materials, obsolete and unnecessary articles, tin cans, rubbish and other litter shall not be permitted to accumulate on the premises of the institution.

5.12.2 All rooms and every part of the building shall be kept clean, orderly and free of offensive odors.

5.12.3 Infectious waste shall be stored in sanitary containers and disposed of in a sanitary manner.

5.12.4 When a separate sink is not provided for janitorial duties, the sink shall be sanitized after each use.

5.12.5 No laundry or janitorial operations can be carried out where food is prepared, served or stored.

5.12.6 If linen chutes are used, they will be provided with adequate means of cleaning.

5.12.7 All areas used for soiled linen are to be vented outside and have a higher air removal rate than the surrounding area.

5.12.8 The laundry room shall provide for keeping the soiled linen separate from the clean, and have handwashing facilities accessible to this area. The laundry shall contain equipment sufficient to take care of a minimum of seven (7) days' needs. A laundry room is not required if all laundry is processed outside the facility.

5.12.9 All bathrooms shall include handwashing facilities, soap and individual towels.

5.12.10 Preventive measures for insect and rodent control must be in effect. All exterior openings used for outside ventilation shall be effectively screened during the fly season. Screen doors shall open outward. All screening shall have at least sixteen (16) mesh per inch.

#### 5.13 Equipment and Supplies:

5.13.1 Each resident shall be provided with:

5.13.1.1 A bed in good repair and having a comfortable, well constructed mattress. This mattress shall be covered or protected with non-porous material.

- 5.13.1.2 A bedside stand.
- 5.13.1.3 A minimum of two (2) drawers in a chest of drawers.
- 5.13.1.4 A private and enclosed space of at least two (2) linear feet for hanging clothing.
- 5.13.1.5 A chair.
- 5.13.1.6 A means of communication shall be provided for residents to alert staff.

## **6.0 Fire Safety**

~~Evidence of written notification of compliance with the Rules and Regulations of the State Fire Prevention Commission shall be provided to the Division of Public Health to obtain an initial license. Written notification to the Division of Public Health by the State Fire Marshal of noncompliance with these Rules and Regulations shall be grounds for revocation of license.~~

## **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.

#### 7.9 Nurse Aide Training Program Curriculum

The following material identifies the minimum curriculum content for nurse aides/nursing assistants being prepared to work in nursing home facilities either as direct or contract staff.

The curriculum content for the nurse aide training program must include material which will provide a basic level of both knowledge and demonstrable skills for each individual completing the program. The program must be a minimum of 75 hours in length, divided equally between skills training and classroom instruction. Additional hours may be in either of these areas or both.

Programs may expand the curriculum content to provide opportunities for nurse aides to be placed in settings where nurse aides/nursing assistants are employed to perform basic skills as delegated by a licensed nurse in support of a professional plan of care.

##### 7.9.1 The Nurse Aide Role and Function

Key concepts: Introduces the characteristics of an effective nurse aide: personal attributes, on-the-job conduct, appearance, grooming, health and ethical behavior. Also presented are the responsibilities of the nurse aide as a member of the patient care team. Legal aspects of patient care and patient rights are presented. Relevant Federal and State statutes are referenced.

##### Competencies:

7.9.1.1 Function as a nurse aide within the legal and ethical standards set forth by the profession of nursing.

7.9.1.1.1 Define the role and functions of the nurse aide and provide awareness of the legal limitations of being a nurse aide.

7.9.1.1.2 Recognize the responsibilities of the nurse aide as a member of the health care team.

7.9.1.1.3 Identify the "chain of command" in the organizational structure of the health care agency.

7.9.1.1.4 Maintain acceptable personal hygiene and exhibit appropriate dress practices.

7.9.1.1.5 Recognize the importance of punctuality and commitment on the job.

7.9.1.1.6 Differentiate between ethical and unethical behavior on the job.

7.9.1.2 Demonstrate behavior which maintains resident's and/or client's rights.

7.9.1.2.1 Provide privacy and maintenance of confidentiality.

7.9.1.2.2 Promote the resident's right to make personal choices to accommodate individual needs.

7.9.1.2.3 Give assistance in resolving grievances.

7.9.1.2.4 Provide needed assistance in giving to and participating in resident and family groups and other activities.

7.9.1.2.5 Maintain care and security of resident's personal possessions.

7.9.1.2.6 Provide care which maintains the residents free from abuse, mistreatment or neglect and report any instances of such poor care to appropriate facility staff.

7.9.1.2.7 Maintain the resident's environment and care through appropriate nurse aide behavior so as to minimize the need for physical and chemical restraints.

##### 7.9.2 Environmental Needs of the Patient

Key Concepts: Introduces the nurse aide to the need to keep patients safe from injury and infection in the long term care setting. The nurse aide is taught why and how to use infection control and isolation techniques. Safety through prevention of fires and accidents, and emergency procedures for fire and other disasters are presented.

##### Competencies:

7.9.2.1 Apply the basic principles of infection control.

- 7.9.2.1.1 Identify how diseases are transmitted.
- 7.9.2.1.2 Perform basic cleaning, disinfecting, and sterilizing tasks.
- 7.9.2.1.3 Demonstrate proper isolation and safety techniques in care of infectious resident.
- 7.9.2.2 Assist with basic emergency procedures.
  - 7.9.2.2.1 Follow safety and emergency procedures.
  - 7.9.2.2.2 Identify safety measures that prevent accidents to residents.
  - 7.9.2.2.3 Recognize signs when a resident is choking or may have an obstructed airway.
  - 7.9.2.2.4 Assist with clearing obstructed airway.
  - 7.9.2.2.5 Call for help when encountering convulsive disorders, loss of consciousness, shock, hemorrhage, and assist the resident until professional help arrives.
  - 7.9.2.2.6 Follow disaster procedures.
  - 7.9.2.2.7 Report emergencies accurately and immediately.
  - 7.9.2.2.8 Identify potential fire hazards.
- 7.9.2.3 Provide a safe, clean environment.
  - 7.9.2.3.1 Identify the resident's need for a clean and comfortable environment.
  - 7.9.2.3.2 Report unsafe conditions.
  - 7.9.2.3.3 Report pests.
  - 7.9.2.3.4 Report non-functioning equipment.
  - 7.9.2.3.5 Prepare soiled linen for laundry.
  - 7.9.2.3.6 Clean and disinfect unit for admission or following discharge.
  - 7.9.2.3.7 Arrange furniture and equipment for the resident's convenience.

### 7.9.3 Psycho-Social Needs of the Patient

**Key Concepts:** Focus is placed on the social, emotional, recreational and religious needs of patients in a long term care setting. It describes some of the physical, mental, and emotional changes associated with aging and institutionalization, and presents ways in which the nurse aide may effectively communicate with patients and their families.

#### Competencies:

- 7.9.3.1 Demonstrate appropriate and effective communication skills.
  - 7.9.3.1.1 Demonstrate effective verbal and nonverbal communications in keeping with the nurse aide's role with residents and their families.
  - 7.9.3.1.2 Observe by using the senses of sight, hearing, touch and smell to report resident behavior to the licensed nurse.
  - 7.9.3.1.3 Document observations using appropriate terms.
  - 7.9.3.1.4 Recognize the importance of maintaining the patient's record.
  - 7.9.3.1.5 Communicate with residents according to their state of development.
- 7.9.3.2 Demonstrate basic skills by identifying the psychosocial characteristics of the populations being served in the nursing facility including persons with mental retardation, mental illness and persons with dementia, Alzheimer's disease and related disorders.
  - 7.9.3.2.1 Indicate the ways to meet the resident's basic human needs for life and mental well-being.
  - 7.9.3.2.2 Modify his/her own behavior in response to resident's behavior.
  - 7.9.3.2.3 Identify developmental tasks associated with the aging process.
  - 7.9.3.2.4 Provide training in, and the opportunity for, self care according to resident's capabilities.
  - 7.9.3.2.5 Demonstrate principles of behavior management by reinforcing appropriate behavior and reducing or eliminating inappropriate behavior.
  - 7.9.3.2.6 Demonstrate skills supporting age appropriate behavior by allowing the resident to make personal choices, providing and reinforcing other behavior consistent with resident's dignity.
  - 7.9.3.2.7 Utilize resident's family as a source of emotional support.
  - 7.9.3.2.8 Recognize how age, illness and disability affect sexuality.

### 7.9.4 Physical Needs of the Patient

**Key Concepts:** Presents the basic skills which nurse aides use in the physical care of patients. The nurse aide will learn basic facts about body systems and what is needed to promote good functioning. The nurse aide will learn to provide physical care to patients safely and to keep the patient clean, dry and comfortable. The nurse aide will also learn to make observations regarding patients and to record and/or

report observations. The nurse aide will learn to maintain range of motion while providing physical care to patient. Introduction of the basics of range of motion and its integration into routine personal care activities.

Competencies:

- 7.9.4.1 Apply the principles of basic nutrition in the preparation and serving of meals.
  - 7.9.4.1.1 List general principles of basic nutrition.
  - 7.9.4.1.2 Read the instructions for special diets.
  - 7.9.4.1.3 Serve prepared food as instructed.
  - 7.9.4.1.4 Identify cultural variations in diet.
- 7.9.4.2 Recognize abnormal signs and symptoms of common diseases and conditions. Examples are:
  - 7.9.4.2.1 Upper respiratory infection – Report coughing, sneezing, elevated temperatures, etc.
  - 7.9.4.2.2 Diabetes – Report excessive thirst, frequent urination, change in urine output and drowsiness, excessive perspiration and headache.
  - 7.9.4.2.3 Urinary tract infection – Report frequent urination, burning or pain on urination, change in color of urine, blood or sediment in urine and strong odors.
  - 7.9.4.2.4 Cardiovascular conditions – Report shortness of breath, chest pain, blue color to lips, indigestion, sweating, change in pulse, etc.
  - 7.9.4.2.5 Cerebral vascular conditions – Report dizziness, changes in vision such as seeing double, etc., change in blood pressure, numbness in any part of the body, or inability to move arm or leg, etc.
  - 7.9.4.2.6 Skin conditions – Report break in skin, discoloration such as redness, black and blue areas, rash, itching, etc.
  - 7.9.4.2.7 Gastrointestinal conditions – Report nausea, vomiting, pain, inability to swallow, bowel movement changes such as color, diarrhea, constipation. (Continue to list common diseases and conditions based on the population being served.)
- 7.9.4.3 Provide personal care and basic nursing skills as directed by the licensed nurse.
  - 7.9.4.3.1 Provide for resident's privacy when providing personal care.
  - 7.9.4.3.2 Assist the resident to dress and undress.
  - 7.9.4.3.3 Assist the resident with bathing and personal grooming.
  - 7.9.4.3.4 Observe and report condition of the skin.
  - 7.9.4.3.5 Assist the resident with oral hygiene.
  - 7.9.4.3.6 Administer oral hygiene for the unconscious resident.
  - 7.9.4.3.7 Demonstrate measures to prevent decubitus ulcers, i.e., positioning, turning, and applying heel and elbow protectors.
  - 7.9.4.3.8 Assist the resident in using the bathroom.
  - 7.9.4.3.9 Assist the resident in using a bedside commode, urinal and bedpan.
  - 7.9.4.3.10 Demonstrate proper bedmaking procedures.
  - 7.9.4.3.11 Feed residents oral table foods in an appropriate manner.
  - 7.9.4.3.12 Distribute nourishment and water.
  - 7.9.4.3.13 Accurately measure and record:
    - 7.9.4.3.13.1 intake and output
    - 7.9.4.3.13.2 height and weight
    - 7.9.4.3.13.3 T, P, R
  - 7.9.4.3.14 Assist the resident with shaving.
  - 7.9.4.3.15 Shampoo and groom hair.
  - 7.9.4.3.16 Provide basic care of toenails and fingernails if appropriate.
  - 7.9.4.3.17 Assist with catheter care.
  - 7.9.4.3.18 Assist the professional nurse with a physical examination.
  - 7.9.4.3.19 Apply a non-sterile dressing.
  - 7.9.4.3.20 Apply non-sterile compresses and soaks.
  - 7.9.4.3.21 Apply cold and/or heat applications.
- 7.9.4.4 Demonstrate skills which incorporate principles of restorative care under the direction of a licensed nurse.
  - 7.9.4.4.1 Assist the resident in bowel and bladder training.

- 7.9.4.4.2 Assist the resident in activities of daily living and encourage self help activities.
- 7.9.4.4.3 Assist the resident with ambulation aids, i.e., cane, quadcane, walker, crutches, wheelchair and transfer aids, i.e., hydraulic lifts.
- 7.9.4.4.4 Perform range of motion exercise as instructed by the physical therapist or the professional nurse.
- 7.9.4.4.5 Assist in care and use of prosthetic devices.
- 7.9.4.4.6 Assist the resident in proper use of body mechanics.
- 7.9.4.4.7 Assist the resident with dangling, standing and walking.
- 7.9.4.4.8 Demonstrate proper turning and/or positioning both in bed and in a chair.
- 7.9.4.4.9 Demonstrate proper technique of transferring resident from bed to chair.
- 7.9.4.5 One man cardiopulmonary resuscitation (CPR) skills in the checking of conscious and unconscious victims.
- 7.9.4.6 Provide care to resident when death is imminent.
  - 7.9.4.6.1 Discuss own feelings and attitude about death.
  - 7.9.4.6.2 Explain how culture and religion influence a person's attitude toward death.
  - 7.9.4.6.3 Discuss the stages of dying.
  - 7.9.4.6.4 Recognize and report the common signs of approaching death.
  - 7.9.4.6.5 Provide care (if appropriate) to the resident's body after death.

## 7.10 Instructors

- 7.10.1 Primary instructor is an individual responsible for overall coordination and implementation of nurse aide training program.

### Qualifications

- 7.10.1.1 RN licensure in the State of Delaware.
- 7.10.1.2 Two (2) years nursing experience in caring for the elderly and/or chronically ill of any age.
- 7.10.1.3 For instructors without prior teaching experience:
  - 7.10.1.3.1 Successful completion of a "Train the Trainer" program which provides preparation in teaching adult learners principles of effective teaching and teaching methodologies.
- 7.10.1.4 Waiver of the Train the Trainer requirement is made for those nurses who demonstrate at least one (1) year of continuous teaching experience at the nursing assistant or LPN or RN program level.
- 7.10.2 Program Trainer (s) is the individual(s) who provide assistance to primary instructors as resource personnel from the health field.

### Qualifications

- 7.10.2.1 Trainers may include: registered nurses, licensed practical nurses, pharmacists, dietitians, social workers, physical or occupational therapists, environmental health specialists, etc.
- 7.10.2.2 One (1) year of current experience in caring for the elderly and/or chronically ill of any age or have equivalent experience.
- 7.10.2.3 Trainers are to be licensed, registered and/or certified in their field, where applicable.

## 7.11 Training for Primary Instructors

The approved instructors will develop into competent trainers, possessing the necessary skills to train nursing assistants to meet the established certification criteria. The trainers will understand the roles and responsibilities associated with training. They will be able to design and implement a training program, assess its value, and modify it as needed. They will recognize the characteristics of adult learners and create a training environment conducive to effective learning.

### 7.11.1 Training Course Outline Shall Include:

- 7.11.1.1 Role of trainer.
- 7.11.1.2 Communication techniques.
- 7.11.1.3 Demonstration skills.
- 7.11.1.4 Teaching a process.
- 7.11.1.5 Teaching techniques.
- 7.11.1.6 Training techniques.
- 7.11.1.7 Developing a formal training plan.

### 7.11.2 Course Management Information

- 7.11.2.1 Training time will consist of sixteen minimum hours.

7.11.2.2 The instructor must have formal educational preparation or experience with skills of adult learning.  
**15 DE Reg. 192 (08/01/11)**

## **8.0 Services to Residents**

### **8.1 Medication and Drugs:**

- 8.1.1 All orders for prescription drugs shall be in writing and signed by a physician. Medications will be self-administered or distributed directly to the resident from the prescription container, in strict accordance with the prescription directions.
- 8.1.2 Medications not in possession of residents are to be kept in a locked cabinet by the person in charge.
- 8.1.3 Medications requiring refrigeration shall be kept in a separate locked box within the refrigerator.
- 8.1.4 All disinfectants and poisons shall be kept in a safe place, separate and apart from medications and food, and accessible only to owner/operator and designated employees.
- 8.1.5 An approved first aid kit shall be available at all times.

### **8.2 Food Service**

- 8.2.1 A minimum of three (3) meals shall be available and/or served in each twenty four (24) hour period.
- 8.2.2 The food served shall be suitably prepared and of sufficient quantity and quality to meet the nutritional needs of the residents.
- 8.2.3 Special diets served shall be, on the written prescription of the resident's physician.
- 8.2.4 A copy of the current week's menus – regular and therapeutic – shall be posted in the kitchen.
- 8.2.5 A copy of a recent diet manual shall be available for planning therapeutic menus and as a resource for physicians.
- 8.2.6 Menus showing food actually served each day shall be kept on file for three (3) months.
- 8.2.7 A two (2) day supply of food for emergency feeding shall be on the premises. (Items that need little or no water and heat to be served/readied are recommended.)

### **8.3 Resident's Rights**

- 8.3.1 A resident is fully informed, in writing, prior to or at the time of admission and during stay of the services available and the related charges.
- 8.3.2 Every resident has the right to manage his own financial affairs. If, at the resident's request, the facility manages the resident's financial affairs, the facility shall have a monthly accounting available for inspection and shall furnish the resident with a quarterly statement.
- 8.3.3 Every resident may associate and communicate privately, and without restrictions, with persons and groups of his choice on his own or their initiative at any reasonable hour.
- 8.3.4 Every resident may send and receive mail promptly and unopened.
- 8.3.5 Every resident may have access, at any reasonable hour, to a telephone where he may speak privately, and shall have access to his writing instruments, stationery and postage.

## **9.0 Communicable Disease**

- 9.1 Persons suffering from a communicable disease may at the discretion of the Director of the Division of Public Health be admitted to and reside in a Rest (Residential) Home except for strict isolation and respiratory care as recommended by the Centers for Disease Control.
- 9.2 The institution shall assume responsibility for seeing that necessary precautions are taken and that all rules of the State or Local Division of Public Health are followed so that there is a minimum of danger of transmission of a communicable disease to the residents. This responsibility includes the institution's employees as well as the residents.
- 9.3 No resident found to have active tuberculosis in an infectious stage may continue to reside in a residential care facility. Such an individual, when suspected or when diagnosed as such, shall be on isolation care in a private room until the family, guardian or responsible social agency can place the resident under adequate care.
- 9.4 The occurrence of a reportable disease shall be reported immediately, by telephone, to the County Health Officer. The occurrence of a communicable disease (i.e. influenza) where more than three (3) people in the facility are involved, shall be reported immediately, by telephone, to the County Health Officer.
- 9.5 The admission or occurrence of a patient with a notifiable disease within a Rest (Residential) Home shall be reported to the Director of the Division of Public Health so as to determine the potential health hazard involved as currently required by the State Division of Public Health. (See Appendix A – Notifiable Diseases)
- 9.6 All facilities shall have on file results of tuberculin test:

- 9.6.1 performed annually for all employees
- 9.6.2 performed on all newly admitted patients

The tuberculin test to be used is the Mantoux test containing 5 TU-PPD stabilized with Tween, injected intradermal, using a needle and syringe, usually on the volar surface of the forearm. Persons found to have a significant reaction (defined as 10mm 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 admission or employment, satisfies this requirement for a symptomatic individuals. A report of this skin test shall be kept on file.

- 9.7 Employees and patients who do not have a significant reaction to the initial tuberculin test (those individuals who have less than 10mm 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.
- 9.8 All facilities shall have on file evidence of annual vaccination against influenza for all residents as recommended by the Immunization Practice Advisory Committee of the Center for Disease Control unless medically contraindicated.

#### **10.0 Mental Illness**

Residents who are, or become, mentally ill and who may be harmful to themselves or others shall not be admitted or retained in a Rest (Residential) Care Facility.

#### **11.0 Records and Reports**

- 11.1 There shall be a separate record maintained on each resident. Every resident record shall contain:
  - 11.1.1 Admission record: Including resident's name, birthdate, home address prior to entering the facility, identification numbers such as social security, medicaid, medicare, etc., date of admission, physician's name, address and phone number, next of kin (relationship, name, address and phone number).
  - 11.1.2 History and physical examination: Prepared by physician within seven (7) days of the residents admission to the home. If the resident has been admitted to the home immediately after discharge from a hospital, the residents summary and history which was prepared at the hospital and the residents physical examination which was performed at the hospital, if performed within seven (7) days prior to admission to the home, may be substituted in lieu of the above records. Additionally, a record of an annual medical evaluation performed by a physician must be contained in each resident's file.
  - 11.1.3 A current individual medication inventory shall be maintained.
  - 11.1.4 Accident reports.
  - 11.1.5 Discharge records or notes, including place to which discharged.
  - 11.1.6 Inter-agency transfer form, if the resident was admitted from an acute facility or any other long-term care facility.
- 11.2 Records shall be available at all times to legally authorized persons; otherwise such records shall be held confidential. The consent of the resident or the legally responsible party shall be obtained before any personal information is released from his records
- 11.3 For the legal protection of the institution, records shall be retained for five (5) years before being destroyed.
- 11.4 An accident report, with adequate documentation, shall be completed for each incident. Adequate documentation shall consist of the name of the resident involved, a description and time of the incident, disposition of the resident, and notice that physician and family have been contacted. Accident reports are to be kept on file in the facility.

#### **12.1 Severability**

Should any section, sentence, clause or phrase of these regulations be legally declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be affected thereby.

### **APPENDIX A Notifiable Diseases**

1. Acquired Immune Deficiency Syndrome
2. Amebiasis
3. Anthrax
4. Botulism

5. Brucellosis
6. Campylobacteriosis
7. Chancroid
8. Chlamydia trachomatous infections
9. Cholera
10. Condylomata acuminata (venereal warts)
11. Diphtheria
12. Encephalitis
13. Foodborne Disease outbreaks
14. Giardiasis
15. Gonococcal Infections
16. Granuloma Inguinale
17. Hansen's Disease (Leprosy)
18. Hepatitis (viral-all types)
19. Herpes
20. Histoplasmosis
21. Human Immunodeficiency Virus (HIV)
22. Influenza
23. Lead Poisoning
24. Legionnaires Disease
25. Leptospirosis
26. Lyme Disease
27. Lymphogranuloma Venereum
28. Malaria
29. Measles
30. Meningitis (bacterial)
31. Meningitis (aseptic)
32. Meningococcal Disease (other)
33. Mumps
34. Pertussis
35. Plague
36. Poliomyelitis
37. Psittacosis
38. Rabies (man, animal)
39. Reye's Syndrome
40. Rocky Mountain Spotted Fever
41. Rubella
42. Rubella, Congenital Syndrome
43. Salmonellosis
44. Shigellosis
45. Smallpox
46. Syphilis
47. Tetanus
48. Toxic Shock Syndrome
49. Trichinosis
50. Tuberculosis
51. Tularemia
52. Typhoid Fever
53. Typhus Fever
54. Vaccine Adverse Reactions
55. Waterborne Disease Outbreaks

## 56. Yellow Fever

State Board of Health Regulations adopted July 1, 1956, Amended March 13, 1962, December 18, 1969, November 24, 1971, February 17, 1972, December 27, 1972, May 23, 1973, August 21, 1975, August 8, 1977, October 17, 1978, February 12, 1979, June 5, 1979, July 1, 1979, November 16, 1979, November 1, 1980, April 21, 1989, July 14, 1989 and May 15, 1990

### **1.0 Scope**

- 1.1 "Rest (Residential) Home" is a facility that provides resident beds and personal care services in a homelike environment for persons who are normally able to manage activities of daily living. The home should provide friendly understanding to persons living there as well as appropriate supportive care in order that the resident's self-esteem, self-image, and role as a contributing member of the community may be reinforced. The regulations contained here within are based on the common needs of the rest (Residential) care recipients and are minimal health standards.
- 1.2 The facility must be in compliance with all State and local laws and regulations applicable to the facility's personnel, provision of services and the physical plant.

### **2.0 Definitions**

"Activities of Daily Living" ("ADLs") means normal daily activities including but not limited to ambulating, transferring, range of motion, grooming, bathing, dressing, eating, and toileting.

"Continuous" means available at all times without cessation, break or interruption.

"Direction" means authoritative policy or procedural guidance for the accomplishment of a function or activity.

"Department" means Department of Health and Social Services

"Division" means Division of Long Term Care Residents Protection.

"Facility" means the site, physical structure and equipment necessary to provide the required services.

"Homelike" means having the qualities of a home, including privacy, comfortable surroundings supported by the use of residential building materials and furnishings, and the opportunity to modify one's living area to suit one's individual preferences, in accordance with the facility's policies. A homelike environment provides residents with an opportunity for self-expression and encourages interaction with community, family, and friends.

"Incident" means an occurrence or event, a record of which must be maintained in facility files, which includes all reportable incidents and the additional occurrences or events listed in Section 10.6 and 10.7 of these regulations. (Also see Reportable Incident, 10.7)

"Legal Representative" means a resident's guardian, agent acting through a power of attorney, advanced health care directive or similar document or authorized representative pursuant to Title 16 Del.C. §1121(34) and 1122.

"Licensed Nurse" means an individual who has the "authorization to practice nursing within this State granted by the Delaware Board of Nursing and includes the authorization to practice in Delaware under the Interstate Nurse Licensure Compact" Title 24 Del.C. §1902(h).

"Licensed Nursing Home Administrator" means a person who is licensed by the Board of Examiners of Nursing Home Administrators of the State of Delaware.

"Nurse Aide/Nurse Assistant/Resident Assistant" means an individual who provides care that does not require the judgment and skills of a licensed nurse. The care may include but is not limited to the following: bathing, dressing, grooming, toileting, ambulating, transferring and feeding, observing and reporting the general well being of the resident for whom care is provided.

"Personal Care Services" means those services that include general supervision of, and direct assistance to, individuals in their activities of daily living to ensure their safety, comfort, nutritional needs and well being.

"Physician" means an allopathic doctor of medicine and surgery or a doctor of osteopathic medicine and surgery who is registered and certified to practice medicine" pursuant to 24 Del.C. §1702(8).

"Rehabilitation" means the restoration of an ill or injured person to self sufficiency at his [the or her] highest attainable level.

"Reportable Incident" means an occurrence or event which must be reported immediately to the Division and for which there is reasonable cause to believe that a resident has been abused, neglected, mistreated or subjected to financial exploitation as those terms are defined in 16 Del.C. §1131. Reportable incident also includes an occurrence or event listed in Section 10.7 of these regulations.

"Resident" means an individual 18 years old or older who lives in a Rest Residential Home. Where appropriate in the context of these regulations, "resident" as used herein includes a legal representative as defined in 2.0.

"Resident Beds" means accommodations with supportive services (such as: food, laundry and housekeeping) for persons who generally stay in excess of twenty four (24) hours.

"Supervision" means direct overseeing and inspection of the act of accomplishing a function or activity by a responsible person who is not a resident.

### **3.0 General Requirements**

- 3.1 The term "Rest Residential Home" shall not be used as part of the name of any facility in this State unless it has been so licensed by the Division.
- 3.2 Each Rest Residential Home shall develop written policies pertaining to the services provided.
- 3.3 A Rest Residential Home shall not adopt any policy which conflicts with applicable statutes or regulations.
- 3.4 Inspections and monitoring by the Division shall be carried out in accordance with 16 Del.C. §1107.
- 3.5 Upon receipt of a report of any violation(s) of these regulations, the facility shall submit a written plan of action to correct cited deficiencies within 10 working days or such other time period as may be specified. The plan of action shall address corrective actions and include all measures and completion dates to prevent their recurrence as follows:
  - 3.5.1 How the corrective action will be accomplished for a resident(s) affected by the deficient practice;
  - 3.5.2 How the facility will identify other residents having the potential to be affected by the same deficient practice;
  - 3.5.3 What measures or systemic changes will be put in place to ensure that the deficient practice will not recur;
  - 3.5.4 What program will be put into place to monitor the continued effectiveness of the corrective actions.
- 3.6 The Division shall be notified, in writing, upon any changes in the administrator, assistant administrator or director of nursing positions.
- 3.7 The Rest Residential Home shall comply with 16 Del.C. §1121 regarding the rights of residents. Those rights shall be made available in writing to residents, guardians, representatives or next of kin.
- 3.8 Each facility shall provide, in writing, the refund and prepayment policy at the time of admission, and in the case of residents admitted while awaiting approval of third-party payment, an exact statement of responsibility in the event of retroactive denial. The facility shall notify residents, in writing, at least 30 days prior to a rate increase.
- 3.9 A facility may require an individual who has legal access to a resident's income or resources available to pay for facility care to sign a contract to provide for facility payment from the resident's income or resources. However, in doing so, the facility shall not require the individual to incur personal financial liability for the facility expenses.
- 3.10 The Residential 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.
- [3.11 **The Patient's Bill of Rights (Title 16) is posted in a conspicuous location within the residence to ensure easy access by individuals served.]**

### **4.0 Licensing Requirements and Procedures**

- 4.1 Licenses and renewals shall be issued to a Rest Residential Home which meets the requirements of 16 Del.C. §1104. For initial licensure, the Rest Residential Home shall also demonstrate during a physical inspection of the premises that the facility complies with all applicable regulations.
- 4.2 The Division shall consider the applicant's compliance history in determining licensure eligibility. Accordingly, the applicant shall disclose the following:
  - 4.2.1 The imposition of temporary management by any state jurisdiction against the applicant or associated entity during the preceding five years
  - 4.2.2 The imposition of immediate jeopardy against the applicant or associated entity during the preceding five years
  - 4.2.3 A substandard survey by any state jurisdiction against the applicant or associated entity during the preceding five years
  - 4.2.4 The imposition of a civil money penalty by any state jurisdiction against the applicant or associated entity during the preceding five years
  - 4.2.5 A ban on admissions by any state jurisdiction against the applicant or associated entity during the preceding five years
  - 4.2.6 A list of all facilities managed, owned or controlled by the applicant or associated entity in any jurisdiction during the preceding five years

- 4.2.7 Information as required by 16 Del.C. §1104(e)
- 4.2.8 The disclosure shall be supported by a sworn affidavit pursuant to 16 Del.C. §1104 (d).
- 4.3 Financial information disclosed to the Division as required by 16 Del.C. §1104(e) shall not be subject to Freedom of Information Act requests except as follows:
- 4.3.1 Any information known to the Division regarding a civil action for debt owed by a facility
- 4.3.2 Any information known to the Division regarding current facility bankruptcy proceedings
- 4.3.3 The name of any facility currently under intensive Division review for potential financial incapability
- 4.4 Each license shall be renewed on the anniversary date of initial licensure or as directed by the Division. Each license holder shall file an application for renewal at least 30 days prior to the expiration of the current license and pay the applicable fee as established in 16 Del.C. §1106(a).
- 4.5 A new license shall be required in the event of a change in the Rest Residential Home management company, building owner or controlling person as defined in 16 Del.C. §1102(1).
- 4.6 Each license shall specify the number of licensed beds. A facility seeking to change the number of licensed beds shall apply to the Division for a modified license authorizing the revised number of beds.
- 4.7 Separate licenses are required for facilities maintained in separate locations, even though operated under the same management.
- 4.8 When a facility plans to construct or extensively remodel a licensed facility or convert a building to a licensed facility, it shall submit one copy of properly prepared plans and specifications for the entire facility to the Division. An approval, in writing, shall be obtained before such work is begun. After the work is completed, in accordance with the plans and specifications, a modified license to operate shall be issued. All completed construction, extensive remodeling or conversions shall remain in accordance with the plans and specifications, as approved by the Division.

## **5.0 Plant, Equipment and Physical Environment**

- 5.1 Site Provisions. Each Rest Residential Home shall be located on a site which is considered suitable by the Department of Health and Social Services. Site must have good drainage, be suitable for disposal of sewage and provide a potable water supply.
- 5.2 Water Supply and Sewage Disposal:
- 5.2.1 The water supply and the sewage disposal system shall be approved by the Division of Public Health and the Department of Natural Resources and Environmental Control, respectively.
- 5.2.2 The water system shall be designed to supply adequate hot and cold water, under pressure, at all times.
- 5.3 Building:
- 5.3.1 All new construction, extensive remodeling or conversions shall comply with the applicable parts of the standards as set forth under the most recent edition of the Guidelines for Design and Construction of Health Care Facilities, a publication of the Department of Health, and Human Services, and its amendments.
- 5.3.2 Existing Facilities shall have:
- 5.3.2.1 Window space shall not be less than one-tenth (1/10) of the floor space. Up to a twenty-five (25%) reduction can be allowed when approved mechanical ventilation, is utilized in multi-bedrooms.
- 5.3.2.2 All windows in rooms to be used by residents are to be so constructed to eliminate drafts and to provide adequate light and ventilation.
- 5.3.2.3 Residents' rooms shall open directly into a corridor.
- 5.3.2.4 Existing facilities accommodating residents who regularly require wheelchairs shall ~~be equipped with ramps, located at primary and secondary means of egress. A ramp shall not exceed one (1) foot of rise in twelve (12) feet of run~~ comply with the Americans With Disabilities Act standards].
- 5.4 The plumbing shall meet the requirements of all municipal and county codes. Where there are no local codes, the provisions of the Division of Public Health's Sanitary Plumbing Code shall prevail.
- 5.5 Heating and cooling systems (HVAC) in common areas shall be maintained at a temperature between 71°F and 81°F. A resident with an individual temperature controlled residential room or unit may heat and cool to provide individual comfort.
- 5.6 Lighting. Each room shall be suitably lighted at all times for maximum safety, comfort, sanitation and efficiency of operation. A minimum of thirty (30) foot candles of light shall be provided for all working and reading surfaces, and a minimum of ten (10) foot candles of light on all other areas. This includes hallways, stairways, storerooms, and bathrooms.

5.7 Safety Equipment:

- 5.7.1 To prevent slipping, staircases shall have stair treads and sturdy handrails.
- 5.7.2 Stairways shall be well lighted, with electric switches at both the top and bottom or continuous illumination or motion activated illumination.
- 5.7.3 Hallways shall have night lights
- 5.7.4 Low windows, open porches, changes in floor levels and areas on the ground shall not present safety hazards.
- 5.7.5 Floor surfaces shall not be slippery and shall be kept in good repair. If rugs are used, they should be free of such hazards as curled edges, rips or potential for slipping.
- 5.7.6 All doors for areas used by residents shall be capable of being opened from either side [and comply with the Americans With Disabilities Act standards.]

5.8 Bedrooms:

- 5.8.1 Each bedroom shall be well lighted and well ventilated. Each bedroom shall be an outside room with at least one (1) window opening directly to the outside. The window sill shall be no more than three (3) feet above the floor and above grade. Windows shall be so constructed as to allow a maximum of sunlight and air and to eliminate drafts, and easy to open and close.
- 5.8.2 Bedrooms for one (1) person shall be at least one hundred (100) square feet in size and bedrooms for more than one (1) person shall provide eighty (80) square feet of floor space per person, and be arranged for comfort. The ceiling shall not be less than seven (7) feet from the floor.
- 5.8.3 Each bedroom is to have walls that go to the ceiling, and have a door that can be closed.
- 5.8.4 The beds shall be at least four (4) feet apart in multi bedrooms.
- 5.8.5 Adequate electrical outlets shall be conveniently located in each bedroom. A reading light shall be provided for each resident. At least one (1) light fixture shall be switched at the entrance of each bedroom.
- 5.8.6 Walls shall be finished in colors which are light and cheerful.
- 5.8.7 Facilities shall ensure adequate privacy.
- 5.8.8 The maximum capacity per bedroom shall be two (2) residents.

5.9 Bathrooms:

- 5.9.1 Bathrooms shall be constructed so that the walls and floors are impervious to water. At least one (1) window or mechanical ventilation to the outside shall be provided. Floors shall not be slippery.
- 5.9.2 Bathtubs or showers shall be provided at the rate of one (1) for every four (4) residents. Each tub or shower shall be located in an individual room or enclosure which provides space for the private use or the bathing fixture and for drying and dressing.
- 5.9.3 At least one (1) toilet for every four (4) residents and one (1) washbasin, with hot and cold water, for every four (4) residents shall be located on the floor occupied by the residents. When more than one (1) toilet is located in the same room, provisions for private use shall be made.
- 5.9.4 Each toilet, bathtub or shower used by residents shall be provided with a substantial handgrip.
- [5.9.5 Hot water as shower, bathing and handwashing facilities shall not exceed 115 degrees Fahrenheit.]**

5.10 Dayroom and Dining Area:

- 5.10.1 There shall be provided one (1) or more areas that are adequate in size and furnished for resident dining, recreational and social activities. At least thirty (30) square feet per resident will be assigned to these areas.
- 5.10.2 When a multi purpose room is used, it shall have sufficient space to prevent interference of one activity with another.

5.11 Kitchen and Food Storage Areas. Facilities shall comply with the Delaware Food Code.

5.12 Sanitation and Housekeeping:

- 5.12.1 Waste materials, obsolete and unnecessary articles, tin cans, rubbish and other litter shall not be permitted to accumulate on the premises of the [institution home].
- 5.12.2 All rooms and every part of the building shall be kept clean, orderly and free of offensive odors.
- 5.12.3 Infectious waste shall be stored in sanitary containers and disposed of in a sanitary manner.
- 5.12.4 When a separate sink is not provided for janitorial duties, the sink shall be sanitized after each use.
- 5.12.5 No laundry or janitorial operations can be carried out where food is prepared, served or stored.
- 5.12.6 If linen chutes are used, they will be provided with adequate means of cleaning.
- 5.12.7 All areas used for soiled linen are to be vented outside and have a higher air removal rate than the surrounding area.

5.12.8 The laundry room shall provide for keeping the soiled linen separate from the clean, and have hand washing facilities accessible to this area. The laundry shall contain equipment sufficient to take care of a minimum of seven (7) days' needs. A laundry room is not required if all laundry is processed outside the facility.

5.12.9 All bathrooms shall include hand washing facilities, soap and individual towels. [The water temperature shall not exceed 115 degrees Fahrenheit.]

5.12.10 The facility shall contract with a licensed pest control vendor to ensure that the entire facility is free of live insects and other vermin. Preventive measures for insect and rodent control must be in effect. All exterior openings used for outside ventilation shall be effectively screened during the fly season. Screen doors shall open outward. All screening shall have at least sixteen (16) mesh per inch.

#### 5.13 Equipment and Supplies:

5.13.1 Each resident shall be provided with:

5.13.1.1 A bed in good repair and having a comfortable, well constructed mattress. This mattress shall be covered or protected with non porous material.

5.13.1.2 A bedside stand.

5.13.1.3 A minimum of two (2) drawers in a chest of drawers.

5.13.1.4 A private and enclosed space of at least two (2) linear feet for hanging clothing.

5.13.1.5 A chair.

5.13.1.6 A means of communication shall be provided for residents to alert staff.

### **6.0 Emergency Preparedness**

6.1 Rest Residential Homes shall comply with the rules and regulations adopted and enforced by the State Fire Prevention Commission or the municipality with jurisdiction. Evidence of written notification of compliance with the Rules and Regulations of the State Fire Prevention Commission shall be provided to the Division to obtain an initial license. Written notification to the Division by the State Fire Marshal of noncompliance with these Rules and Regulations shall be grounds for revocation of license.

6.2 Regular fire drills shall be held at least quarterly on each shift. Written records shall be kept of attendance at such drills.

6.3 Each facility shall develop and maintain all-hazard emergency plans for evacuation and sheltering in place. The emergency plan shall conform to the template provided by the Division.

6.4 The staff on all shifts shall be trained on emergency and evacuation plans. Evacuation routes shall be posted in a conspicuous place at each nursing station.

6.5 Each facility shall submit its all hazards emergency plan with their annual license renewal unless a different time is directed by the Division.

### **7.0 Personnel/Administrative**

7.1 Administrator:

7.1.1 All administrators must be licensed by the Board of Examiners of Nursing Home Administrators. Administrators in a facility of 25 beds or more must be a full time employee. Administrators in a facility of 25 beds or less must be on duty at least 4 hours per day, 5 days per week. When an administrator is responsible for more than one licensed entity on the same campus, the criteria for the highest level of care would determines 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 a resident care facility shall be physically and mentally capable of performing the duties and responsibilities of the job.

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 Nursing Services

7.2.1 The licensed nurse shall administer medications to residents who do not self administer.

7.2.2 The Licensed Nurse shall ensure that an onsite review of the resident's cognitive ability is completed as specified in sections 8.1.6 and 8.1.7 for those residents who self medicate.

7.2.3 The licensed nurse shall ensure that an on-site medication review is conducted as specified in section 8.1.8.

- 7.2.4 Nursing and Nurse Aide/Nurse Assistant/Resident Assistant staff sufficient in number and adequately trained to meet the requirements of the residents shall be employed and must provide to at least 1.75 hours direct care per twenty four (24) hour period, per resident.
- 7.3 The Rest Residential Home shall have written personnel policies and procedures that support sound resident care. An application for employment and personnel records shall be maintained for all employees.
- 7.4 No person having a communicable disease shall be permitted to give care or service. All reportable communicable diseases shall be reported to the Division of Public Health and the Division of Long Term Care Residents Protection.
- 7.5 Separate bathroom facilities shall be provided for the staff.
- 7.6 Adequate facilities shall be provided for the orderly storage of employee's clothing and personal belongings.

## **8.0 Services to Residents**

- 8.1 Medication Management
  - 8.1.1 A Rest Residential Home shall establish and adhere to written medication policies and procedures which shall address:
    - 8.1.1.1 Obtaining and refilling medication;
    - 8.1.1.2 Storing and controlling medication;
    - 8.1.1.3 Disposing of medication; and
    - 8.1.1.4 Administration of medication, self-administration of medication and medication management by an adult family member/support person.
    - 8.1.1.5 Provision for a quarterly pharmacy review conducted by a pharmacist which shall include:
      - 8.1.1.5.1 Rest Residential Home with the development and implementation of medication-related policies and procedures;
      - 8.1.1.5.2 Physical inspection of the medication storage areas;
      - 8.1.1.5.3 Review of each resident's medication regimen with written reports noting any identified irregularities or areas of concern.
  - 8.1.2 Each Rest Residential Home shall have a drug reference guide, with a copyright date no older than 2 years, available and accessible for use by employees.
  - 8.1.3 Medication stored by the Rest Residential Home shall be stored and controlled as follows:
    - 8.1.3.1 Medication shall be stored in a locked container, cabinet, or area that is only accessible to authorized personnel;
    - 8.1.3.2 Medication that is not in locked storage shall not be left unattended and shall not be accessible to unauthorized personnel;
    - 8.1.3.3 Medication shall be stored in the original labeled container;
    - 8.1.3.4 A bathroom or laundry room shall not be used for medication storage [unless it is kept in a locked container under the circumstances addressed in 8.1.4]; and
    - 8.1.3.5 All expired or discontinued medication, including those of deceased residents, shall be disposed of according to the Rest Residential Home's medication policies and procedures.
  - 8.1.4 Residents who self-administer medication shall be provided with a lockable container or cabinet. This requirement does not apply to medications which are kept in the immediate control of the individual resident, such as in a pocket or in a purse. Facility policies must require that medications be secured in a locked container or in a locked room.
  - 8.1.5 A separate medication log must be maintained for each resident documenting administration of medication by staff.
  - 8.1.6 Within 30 days after a resident's admission the Rest Residential Home shall arrange for an on-site review by an RN of the resident's medication regime if he or she self-administers medication. The purpose of the on-site review is to assess the resident's cognitive and physical ability to self-administer medication or the need for staff administration of medication.
  - 8.1.7 The Rest Residential Home shall ensure that the review required by section 8.1.6 is documented in the resident's records, including any recommendations given by the reviewer.
  - 8.1.8 The Rest Residential Home shall arrange for an on-site medication review by a registered nurse, for residents who self-administer or staff administration of medication, to ensure that:
    - 8.1.8.1 Medications are properly labeled, stored and maintained;
    - 8.1.8.2 Each resident receives the medications that have been specifically prescribed in the manner that has been ordered;

- 8.1.8.3 The desired effect of each medication is achieved, and if not, that the appropriate authorized prescriber is so informed;
- 8.1.8.4 Any undesired side effects, adverse drug reactions, and medication errors are identified and reported to the appropriate authorized prescriber; and
- 8.1.8.5 Any unresolved discrepancy of controlled substances shall be reported to the Delaware Office of Narcotics and Dangerous Drugs.

## 8.2 Food Service

- 8.2.1 A minimum of three (3) meals shall be available and/or served in each twenty four (24) hour period.
- 8.2.2 The food served shall be suitably prepared and of sufficient quantity and quality to meet the nutritional needs of the residents.
- 8.2.3 Special diets served shall be, on the written prescription of the resident's physician.
- 8.2.4 A copy of the current week's menus regular and therapeutic shall be posted in the kitchen.
- 8.2.5 A copy of a recent diet manual shall be available for planning therapeutic menus and as a resource for physicians.
- 8.2.6 Menus showing food actually served each day shall be kept on file for three (3) months.
- 8.2.7 A Three (3) day supply of food for emergency feeding shall be on the premises.

## 9.0 Communicable Diseases

### 9.1 General Requirements

- 9.1.1 The facility shall follow Division of Public Health regulations for the Control of Communicable and Other Disease Conditions and Centers for Disease Control guidelines for communicable diseases.
- 9.1.2 The facility shall establish written policies and procedures implementing the Division of Public Health regulations and Centers for Disease Control guidelines for communicable diseases.
- 9.1.3 The Rest Residential Home shall ensure that the necessary precautions stated in the policies and procedures are followed.
- 9.1.4 A resident, when suspected or diagnosed as having a communicable disease, shall be placed on the appropriate precautions as recommended for that disease by the Centers for Disease Control. Residents infected or colonized with the same organism may share a room based on current standard of practice.
- 9.1.5 The admission of a resident with or the occurrence of a disease or condition on the Division of Public Health List of Notifiable Diseases/Conditions within a Rest Residential Home shall be reported to the resident's physician. The facility shall also report such an admission or occurrence to the Division of Public Health's Health Information and Epidemiology office and the Division of Long term Care Residents Protection.

### 9.2 Specific Requirements for Tuberculosis

- 9.2.1 A resident diagnosed with active tuberculosis in an infectious stage shall not continue to reside in a Rest Residential Home unless that facility has a room with negative pressure ventilation and staff trained to care for residents requiring respiratory isolation.
- 9.2.2 A resident of any facility unable to provide care as described above who is diagnosed with active tuberculosis in an infectious stage shall be transferred to an acute care hospital and the facility shall notify the Division of Public Health's Health Information and Epidemiology office immediately.
- 9.2.3 The facility shall have on file the results of tuberculin testing performed on all newly placed residents.
- 9.2.4 Minimum requirements for new employee tuberculosis (TB) testing require all employees to have a base line two step tuberculin skin test (TST) or single Interferon Gamma Release Assay (IGRA or TB blood test) such as QuantiFeron. Any required subsequent testing according to risk category shall be in accordance with the recommendations of the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services. Should the category of risk change, which is determined by the Division of Public Health, the facility shall comply with the recommendations of the Center for Disease Control for the appropriate risk category.
  - 9.2.4.1 No person, including volunteers, found to have active tuberculosis in an infectious stage shall be permitted to give care or service to residents.
  - 9.2.4.2 Any person having a positive skin test but a negative X-ray shall receive an annual evaluation for signs and symptoms of active TB if they cannot provide documentation of completion of treatment for LTBI (latent TB infection).
  - 9.2.4.3 Persons with a prior BCG vaccination are required to be tested as set forth in 9.2.4.

## **10.0 Records and Reports**

- 10.1 There shall be a separate record maintained on each resident. Every resident record shall contain:
  - 10.1.1 Admission record: Including resident's name, birth date, home address prior to entering the facility, identification numbers such as social security, Medicaid, Medicare, etc., date of admission, physician's name, address and phone number, next of kin (relationship, name, address and phone number).
  - 10.1.2 History and physical examination: Prepared by physician within (14) days of the residents admission to the home. If the resident has been admitted to the home immediately after discharge from a hospital, the resident's discharge summary, physical examination and history which were prepared at the hospital, if performed within seven (7) days prior to admission to the home, may be substituted in lieu of the above records. Additionally, a record of an annual medical evaluation performed by a physician must be contained in each resident's file.
  - 10.1.3 A current individual medication inventory shall be maintained.
  - 10.1.4 Accident reports.
  - 10.1.5 Discharge records or notes, including place to which discharged.
  - 10.1.6 Inter-agency transfer form, if the resident was admitted from an acute facility or any other long term care facility.
- 10.2 Records shall be made available to the resident or the resident's legal representative upon reasonable notice. Otherwise such records shall be held confidential. The consent of the resident or the resident's legal representative shall be obtained before any personal information is released.
- 10.3 Records shall be retained for five (5) years after discharge or three (3) years after death before being destroyed.
- 10.4 Incident reports, with adequate documentation, shall be completed for each incident. Adequate documentation shall consist of the name of the resident(s) involved; the date, time and place of the incident; a description of the incident; a list of other parties involved, including witnesses; the nature of any injuries; resident outcome; and follow-up action, including notification of the resident's representative or family, attending physician and licensing or law enforcement authorities, when appropriate.
- 10.5 All incident reports whether or not required to be reported shall be retained in facility files for three years. Reportable incidents shall be communicated immediately, which shall be within eight hours of the occurrence of the incident, to the Division of Long Term Care Residents Protection. The method of reporting shall be as directed by the Division.
- 10.6 Incident reports which shall be retained in facility files are as follows:
  - 10.6.1 All reportable incidents as detailed below.
  - 10.6.2 Falls without injury and falls with minor injuries that do not require transfer to an acute care facility or neurological reassessment of the resident.
  - 10.6.3 Errors or omissions in treatment or medication.
  - 10.6.4 Injuries of unknown source.
  - 10.6.5 Lost items which are not subject to financial exploitation.
  - 10.6.6 Skin tears.
  - 10.6.7 Bruises of unknown origin.
- 10.7 Reportable incidents are as follows:
  - 10.7.1 Abuse as defined in 16 Del. C., §1131.
    - 10.7.1.1 Physical abuse with injury if resident to resident and physical abuse with or without injury if staff to resident or any other person to resident.
    - 10.7.1.2 Any sexual act between staff and a resident and any non-consensual sexual act between residents or between a resident and any other person such as a visitor.
    - 10.7.1.3 Emotional abuse whether staff to resident, resident to resident or any other person to resident.
  - 10.7.2 Neglect, mistreatment or financial exploitation as defined in 16 Del. C., §1131.
  - 10.7.3 Resident elopement under the following circumstances:
    - 10.7.3.1 A resident's whereabouts on or off the premises are unknown to staff and the resident suffers harm.
    - 10.7.3.2 A cognitively impaired resident's whereabouts are unknown to staff and the resident leaves the facility premises.
    - 10.7.3.3 A resident cannot be found inside or outside a facility and the police are summoned.
  - 10.7.4 Significant injuries.

- 10.7.4.1 Injury from an incident of unknown source in which the initial investigation or evaluation supports the conclusion that the injury is suspicious. Circumstances which may cause an injury to be suspicious are: the extent of the injury, the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma), the number of injuries observed at one particular point in time, or the incidence of injuries over time.
- 10.7.4.2 Injury which results in transfer to an acute care facility for treatment or evaluation or which requires periodic neurological reassessment of the resident's clinical status by professional staff for up to 24 hours.
- 10.7.4.3 Areas of contusions or bruises caused by staff to a dependent resident during ambulation, transport, transfer or bathing.
- 10.7.4.4 Significant error or omission in medication/treatment, including drug diversion, which causes the resident discomfort, jeopardizes the resident's health and safety or requires periodic monitoring for up to 48 hours.
- 10.7.4.5 A burn greater than first degree.
- 10.7.4.6 Any serious unusual and/or life-threatening injury.
- 10.7.5 Entrapment which causes the resident injury or immobility of body or limb or which requires assistance from another person for the resident to secure release.
- 10.7.6 Suicide or attempted suicide.
- 10.7.7 Poisoning.
- 10.7.8 Fire within a facility.
- 10.7.9 Utility interruption lasting more than eight hours in one or more major service including electricity, water supply, plumbing, heating or air conditioning, fire alarm, sprinkler system or telephones.
- 10.7.10 Structural damage or unsafe structural conditions.
- 10.7.11 Water damage which impacts resident health, safety or comfort.
- 10.8 The facility shall maintain written policies and procedures, in accordance with 16 Del. C. Chapter 25, regarding health care decisions including advance directives. The facility shall provide written information to all residents explaining such policies and procedures.

## **11.0 Facility Closure**

- 11.1 In the event of the closing of a facility, the facility shall:
  - 11.1.1 Notify the Division of Long Term Care Residents Protection, the Ombudsman, the Division of Public Health and, if applicable, the Division of Medicaid and Medical Assistance and the Centers for Medicare and Medicaid Services at least 90 days before the planned closure.
  - 11.1.2 Notify each resident directly and his/her attending physician and, if applicable, his/her responsible party by telephone and in writing at least 90 days before the planned closure.
  - 11.1.3 Give the resident or the resident's responsible person an opportunity to designate a preference for relocation to a specific facility or for other arrangements.
  - 11.1.4 Arrange for relocation to other facilities in accordance with the resident's preference, if possible.
  - 11.1.5 Ensure that all resident records, medications, and personal belongings are transferred with the resident and, if to another facility, accompanied by the interagency transfer form.
  - 11.1.6 Provide an accounting of resident trust fund accounts which shall be transferred to each resident's possession or to the facility to which the resident relocates. A record of the accounting of the funds shall be maintained by the closing facility for audit purposes.
  - 11.1.7 Advise any applicant for admission to a facility which has a planned closure date in writing of the planned closure date prior to admission.

## **12.1 Severability**

Should any section, sentence, clause or phrase of these regulations be legally declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be affected thereby.