

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF LONG TERM CARE RESIDENTS PROTECTION

Statutory Authority: 29 Delaware Code, Section 7971(d)(1) (29 Del.C. §7971(d)(1))
16 DE Admin. Code 3315

FINAL

ORDER

3315 Rest (Family) Care Homes

NATURE OF THE PROCEEDINGS:

The Department of Health and Social Services ("Department") / Division of Long Term Care Residents Protection (DLTCRP) initiated proceedings to establish Regulation 3315 Family Care Homes. The Department's proceedings to establish the regulation was initiated pursuant to 16 Del.C. §1119C and its authority as prescribed by 29 Delaware Code §7971.

The Department published its notice of proposed regulation changes pursuant to 29 Del.C. §10115 in the October 2014 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by October 31, 2014 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSED AMENDMENT

The proposal establishes Regulation 3315 Family Care Homes as required by 16 Del.C. §1119C.

Statutory Authority

29 Del.C. Ch. 79, "Department of Health and Social Services."
16 Del.C. §1119C, "Regulations."

Background

DLCTRP is establishing these regulations as prescribed by 16 Del.C. §1119C.

Summary of Proposed Amendment

The proposal establishes regulations Family Care Homes. DLTCRP identified the fact that the regulation for these facilities was last updated in March, 1993. Many changes have occurred in this field especially in the type of care and the delivery of care. This revision will update the regulation to the current standard of care for the population served.

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE AND EXPLANATION OF CHANGES

The Governor's Advisory Council for Exceptional Citizens ("GACEC") and the State Council for Persons with Disabilities ("SCPD") and Generations Home Care offered comments and suggestions. DLTCRP has considered each comment and responds as follows:

Comment 1: Consider amending §3.1.2.1 by adding, "Violation of any of these provisions of these rules and regulations or 16 Del.C. Ch 11."

Response: The regulation was amended as suggested at §3.1.2.1.1.

Comment 2: Amend §4.4 by adding "The level of care determination shall be made in consultation with the resident's personal primary care licensed independent practitioner, if any."

Response: §4.4 was amended as suggested.

Comment 3: At §4.7 consider substituting "admission to" for "placement in". In addition, "placement in" at §4.4 was replaced by "admission to".

Response: §4.7 was amended as suggested.

Comment 4: At §5.4.6.1 replace "beated" with "located."

Response: §5.4.6.1 was amended as suggested.

Comment: 5: It was suggested that §5.4.6.2 be amended to track the American with Disabilities Act.

Response: §5.4.6.2 was amended as follows: "A ramp must be compliant with the standards outlined in Americans with Disabilities Act (ADA)."

Comment 6: It was noted that §5.6 disallows portable air conditioners.

Response: §5.6 was amended as follows: "A licensee must ensure that the facility's or program's premises and

equipment accessible to or used by residents are free from any danger to their health, safety and well-being."

Comment 7: The regulations do not address stair-glides, stair-lifts and elevettes/elevators. The Division may wish to consider whether standards should be included.

Response: §5.6 addresses such equipment.

Comment 8: Delete the apostrophe at § 5.9.6.

Response: Apostrophe deleted.

Comment 9: §5.10 could be improved by disallowing bunk beds.

Response: The following sentence was added to §5.10.4.3 "Bunk beds are prohibited."

Comment 10: §5.10.12 allows three residents per room. This is highly offensive.

Response: 5.10.12 is amended as follows: "No more than two (2) residents may share a bedroom."

Comment 11: Consider amending §5.11.3.2 to read, "A resident may choose to provide an individual mattress to be used only by that resident."

Response: The suggestion was adopted.

Comment 12: §5.12 allows one toilet and one bathtub/shower for every eight occupants. This is highly offensive.

Response: To lower the occupancy rate to four (4) would substantially decrease the number of family care homes available. §5.12.4 is amended as follows: "There shall be one (1) bathtub or shower for every six (6) occupants."

Comment 13: §5.15.6.4 allows the provider to complete laundry for residents. This standard should be embellished to ban commingling of laundry.

Response: A minimum water temperature of 110° (F) is required in these homes. None of the regulations governing long term care facilities require the separation of laundry by individual resident.

Comment 14: §7.1.4 should be revised to refer to the "licensed independent practitioner."

Response: The section was revised.

Comment 15: §7.1.3 does not offer much flexibility if a resident wishes to keep his/her own medication.

Response: Due to the communal living situation we require that medications be kept in a locked container. Nothing would prevent a resident from keeping the container in their own bedroom.

Comment 16: Definition: Family Care Home a home that provides beds and personal care serves for 2 or 3 residents. A home that supports (1) resident is that home considered a "Family Care Home"?

Response: A home that supports one resident is not required to be licensed.

Comment 17: "Level Of Care" means a written determination of the amount of assistance a resident requires in the areas of activities of daily living. Per standard who is authorized to provide the written determination of the amount of assistance a resident requires.

Response: The definition of Level of Care has been amended to read, "'Level of Care means a written determination by a Licensed Independent Practitioner...'"

Comment 18: §3.1 Currently, a license is not required for (1) resident in a FCH. The proposed change indicates that no person shall establish, conduct or maintain in the State any FCH without first obtaining a license from the Dept. Will a home that supports (1) resident be considered a FCH and does it need to be licensed?

Response: It will not be considered a Family Care Provider under these regulations and does not require a license.

Comment 19: §3.4.1 What will be the qualifiers to determine financial capability?

Response: The qualifiers are under development in consultation with the Delaware Department of Justice.

Comment 20: § 4.11 Currently, Level I Residents in Adult Foster Care can be left alone per regulations up to 12 hours. 4.11 states that the family care provider may NOT leave the FCH when residents are present. This would mean that all residents cannot be left alone in the home without delegating duties to a responsible adult. This is not how Level I is set up or funded. The Provider would require much more financial support if the resident cannot be left alone.

Response: Because the acuity of these residents varies widely, the Division agrees that there may be times when it's permissible to leave them without supervision. However, we feel that individual assessments should be made by the resident's personal primary care licensed independent practitioner and documented by same in the Level of Care documentation. The regulations have been amended as noted below:

"Level of Care" means a written determination of the amount of assistance a resident requires in the areas of, activities of daily living, medication, treatments and therapies, mobility, behavior management and supervision.

[The document will also contain the amount of time a resident can be left unsupervised while the FCH provider is out of the residence.]

4.11 The family care provider may not leave the FCH when residents are present without delegating care duties to a responsible adult **[unless the resident's Level of Care documentation contains an amount of time that the resident can be left unsupervised. In any case, the maximum amount of time the provider can be away is 12 hours.]**

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the October 2014 *Register of Regulations*, with the

amendments listed herein, should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title 16 of the Delaware Administrative Code is adopted and shall be final effective January 12, 2015.

Rita Landgraf, Secretary, DHSS

3315 Rest (Family) Care Homes

4.0 Definition

~~Rest (Family Care) Home provides resident beds and personal care services for two (2) or three (3) residents who can no longer live independently and/or who need a family living situation. 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.~~

~~At the time of admission the client should be able to do all of the activities of daily living; that is, washing, bathing, feeding self, dressing, ambulating and providing for personal activities such as hygiene, comfort, toilet needs and so forth. No client with an indwelling catheter should be admitted unless all catheter care can be entirely done by the client.~~

2.0 Glossary of Terms

~~“Activities of Daily Living” getting out of bed, bathing, dressing, eating and ambulation.~~

~~“Affiliated Social Agency/Program” an agency which has entered into an agreement with the Department of Health and Social Services to determine that agreed social requirements are met.~~

~~“Care Provider” a person who is responsible for giving and providing direct supervision and care for residents. The care provider is to offer the residents who need and desire the support, protection, and security of family living, an opportunity to continue or to resume living within a family unit where they can function as an individual with both rights and obligations.~~

~~“Case Manager” an agency staff person, from an Affiliated Social Agency/Program who works with the residents, the care provider, the medical units and/or social, agencies, etc. to assist the individuals in adjusting to and maintaining oneself in the community. This includes planning, organizing, coordinating and/or advocating so that effective services are provided.~~

~~“Continuous” available at all times without cessation, break, or interruption.~~

~~“Direction” authoritative policy or procedural guidance for the accomplishment of a function or activity.~~

~~“Home(s)” the site, physical structure and equipment necessary to provide the required service.~~

~~“Licensee/Sponsor” a person who receives payment for giving and providing supervision and care for residents. Licensee may be the care provider.~~

~~“Living Space” any enclosed eating, sleeping, or recreational area available and utilized by the occupants~~

~~“Occupant” any person living in a home on a twenty four (24) hour continuing basis, in excess of forty eight (48) hours in continuity, or more than thirty (30) days per year. Included are: residents, care provider and care provider family members.~~

~~“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.~~

~~“Resident” an individual who for payment of a fee is residing in a home which provides shelter, housekeeping services, food, personal care or direction in the activities of daily living.~~

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

~~“Sanitize” the process of destruction of disease causing pathogenic microorganisms by chemical or physical means directly applies to a clean surface (Example: Immerse for two (2) minutes in a solution of one (1) tablespoon of household bleach per gallon of water).~~

~~“Supervision” direct overseeing of a function or activity by a responsible person who is not a resident.~~

3.0 Licensing Requirements and Procedures

3.1 When a home (classified under this Law and/or Regulation) plans to construct, extensively remodel or convert, they are to submit two (2) copies of properly prepared plans and specifications for the entire home to the

Division of Public Health. An approval, in writing, is to be obtained before such work is done. After the work is completed in accordance with the plans and specifications, a license to operate will be issued.

- 3.2 ~~Separate licenses are required for homes maintained in separate locations, even though operated under the same management. A license is not transferable from person to person or from one (1) location to another.~~
- 3.3 ~~The license shall be available within the home.~~
- 3.4 ~~All applications for renewal of licenses shall be filed with the State Board of Health at least thirty (30) days prior to expiration. Licenses will be issued for a period not to exceed one (1) year or twelve (12) months.~~
- 3.5 ~~The State Board of Health may also waive any or all of the regulations governing the operation of a home classified under these regulations for the purpose of instituting a demonstration project~~

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.~~

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

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

5.0 Plant, Equipment and Physical Environment

- 5.1 ~~Site Provisions. Each home shall be located on a site which is considered suitable by the Division of Public Health using the following criteria: Site must be easily drained, must be suitable for disposal of sewage and furnishing a potable water supply. All existing and new homes, new construction, extensive remodeling or conversions shall comply with these regulations.~~
- 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 ~~Window space shall not be less than one-tenth (1/10) of the floor space. Up to 25% reduction can be allowed when approved mechanical ventilation is utilized in multi-bedrooms.~~
 - 5.3.2 ~~All windows in rooms to be used by residents are to be constructed to eliminate drafts and to provide adequate light and ventilation.~~

- 5.3.3 ~~The building shall be constructed and maintained to prevent the entrance, and control the existence, of rodents and insects. All exterior openings shall be effectively screened during the fly season. Screen doors shall open outward. All screening shall have at least sixteen (16) mesh per inch.~~
- 5.3.4 ~~Residents' rooms shall open directly into a corridor.~~
- 5.3.5 ~~New and 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.~~
- 5.3.6 ~~The physical dimensions of the home will provide, as a minimum, 150 square feet of living space for the first occupant and 100 square feet of living space for each additional occupant.~~
- 5.4 ~~Plumbing. The plumbing shall meet the requirements of all municipal, county and State codes. Where there are no municipal or county codes, the provisions of the State Board of Health's Regulations Governing A Detailed 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 the 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 ~~Stairways shall have non-slip surfaces and sturdy handrails to prevent slipping. Stairways over six (6) feet in width shall have handrails on both sides.~~
 - 5.7.2 ~~Stairways shall be well lighted with electric switches at both the top and the bottom.~~
 - 5.7.3 ~~Hallways shall have night lights.~~
 - 5.7.4 ~~Low windows, open porches, changes in floor levels and areas on the grounds 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 interior areas used by residents shall be occupant being opened from either side at all times.~~
 - 5.7.7 ~~A functioning UL approved smoke detector shall be located in the hall adjacent to the bedrooms.~~
- 5.8 ~~Bedrooms~~
 - 5.8.1 ~~Each room shall be well lighted and well ventilated. Each room 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 seventy (70) square feet in size and bedrooms for more than one (1) person shall provide at least fifty (50) square feet of floor space per person and be adequately spaced for comfort. The ceiling height shall be not less than seven (7) feet from the floor on the average. Areas where the height of the ceiling is less than five (5) feet shall not be counted in the determination of the room size.~~
 - 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 three (3) feet apart in multi-bedrooms.~~
 - 5.8.5 ~~Adequate electrical outlets shall be conveniently located in each room. 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 should 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 three (3) residents.~~
 - 5.8.9 ~~A bed in good repair and having a comfortable well constructed mattress shall be furnished for each resident. The mattress shall be covered or protected with non porous material.~~
 - 5.8.10 ~~A sturdy bedside stand and chair shall be furnished each resident.~~
 - 5.8.11 ~~Each resident shall be provided with a minimum of two (2) drawers in a chest of drawers and a private and enclosed space of at least two (2) linear feet for hanging clothes.~~
- 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 eight (8) occupants. Each tub or shower shall be 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 eight (8) occupants and one (1) washbasin, with hot and cold water for every eight (8) occupants, 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 Furniture shall be arranged and located as to provide convenient access to the residents.
 - 5.10.2 There shall be provided one (1) or more areas that are adequate in size and furnished for resident dining, recreational and social activities.
 - 5.10.3 When a multi-purpose room is used, it shall have sufficient space to accommodate activities in order to prevent interference of one (1) activity with another.
- 5.11 Kitchen and Pantry/Storage Area
 - 5.11.1 Each kitchen shall have:
 - 5.11.1.1 Walls, floors and counters with coverings which are easily cleaned and impervious to water to the level of splash.
 - 5.11.1.2 At least one (1) refrigerator and one (1) freezing unit, in proper working order and capable of maintaining frozen foods in the frozen state and refrigerated foods at 45°F, or below, as determined in the warmest part of the refrigerator.
 - 5.11.1.3 At least one (1) four burner range and one (1) oven (or combination thereof) which is in proper working order.
 - 5.11.1.4 A dishwasher or facilities capable of performing a wash, rinse and a final sanitizing rinse.
 - 5.11.1.5 At least one (1) sanitary trash or garbage receptacle.
 - 5.11.1.6 At least one (1) operable window or suitable exhaust system for removal of smoke, odors and fumes.
 - 5.11.1.7 Adequate cleaning/disinfecting agents and supplies.
 - 5.11.2 Kitchen/pantry storage areas shall have:
 - 5.11.2.1 Separate areas for storage of
 - 5.11.2.1.1 food items;
 - 5.11.2.1.2 cleaning agents, disinfectants and polishes;
 - 5.11.2.1.3 poisons, sprays or other chemicals; and
 - 5.11.2.1.4 eating and serving utensils, pots, pans and cooking utensils.
 - 5.11.2.2 Adequate cold storage as listed in 5.11.1.2.
 - 5.11.2.3 Off the floor storage for a. and d. above.
 - 5.11.3 General
 - 5.11.3.1 All items of food shall be stored in closed or sealed containers or wrapping.
 - 5.11.3.2 Storage areas for foods shall be free of food particles, dust and dirt.
 - 5.11.3.3 Food preparation areas, utensils and appliances shall be cleaned following each meal prepared.
- 5.12 Sanitation and Housekeeping
 - 5.12.1 Waste material, obsolete and unnecessary articles, tin cans, rubbish and other litter shall not be permitted to accumulate on the premises of the 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 or laundry duties, the sink shall be sanitized after each use.
 - 5.12.5 No laundry or janitorial Operations may be carried out in the food service area during the preparation or serving of food.
 - 5.12.6 If the washing machine is in the kitchen, soiled laundry shall not be taken into the kitchen until it is ready to be washed.
 - 5.12.7 If linen chutes are used, they will be provided with adequate means of cleaning.
 - 5.12.8 A change of bed linen and towels shall be provided on at least a weekly basis.

6.0 Fire Safety

Written notification to the State Board of Health by the State Fire Marshal of the existence of a fire hazard may be grounds for revocation of a license.

7.0 Services to Residents

7.1 Medications

- 7.1.1 Medications shall be self-administered or distributed directly to the resident from the prescription container, in strict accordance with the prescription directions.
- 7.1.2 If the medications prescribed for residents are kept by the care provider, they shall be kept locked in a cabinet set aside for that exclusive purpose. Medications requiring refrigeration shall be kept locked in a separate box within the refrigerator.

7.2 Food Service

- 7.2.1 A minimum of three (3) meals shall be available and/or served in each twenty four (24) hour period. There shall not be more than a fourteen (14) hour span between the evening meal and breakfast, unless suitable nourishment is provided in the interim.
- 7.2.2 The food served shall be suitably prepared and of sufficient quantity and quality to meet the nutritional needs of the residents.
- 7.2.3 Special diets shall be served on the written prescription of the resident's physician.
- 7.2.4 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.)
- 7.2.5 Foods, drugs and medications shall be kept separate and apart from disinfectants and poisons. All disinfectants and poisons shall be kept in a safe place and accessible only to the care provider and designated persons.

7.3 Communicable Disease

- 7.3.1 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 (Family Care) Home except for strict isolation and respiratory care as recommended by the Centers for Disease Control.
- 7.3.2 A resident with an active communicable disease must receive prompt medical treatment and supervision.
- 7.3.3 The care provider shall assume responsibility for seeing that necessary precautions are taken and that all rules and regulations of the Division of Public Health are followed so that there is a minimum of danger of transmission of a communicable disease. This responsibility includes all occupants of the home.
- 7.3.4 Each occupant shall have a screening test for tuberculosis. A P.P.D. skin test with an induration of less than 10mm is considered insignificant (negative). Chest x ray showing no evidence of active tuberculosis taken within a twelve (12) month period on a symptomatic individual shall satisfy this requirement. Report of skin test or chest x ray shall be on file.
- 7.3.5 The admission or occurrence of patient with a reportable disease within a Rest (Family Care) 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 Board of Health. (See Appendix A)
- 7.3.6 All homes shall have on file evidence of an annual vaccination, against influenza for all residents as recommended by the Immunization Practice Advisory Committee of the Center for Disease Control unless medically contraindicated.

7.4 Mental Illness. Residents who become mentally ill and may be harmful to themselves or others shall not be retained in a Rest (Family Care) Home.

7.5 Resident's Rights.

- 7.5.1 The interest and well-being of every resident in a Rest (Family Care) Home is protected by the Patient's Bill of Rights as defined by law under Title 16 ~~Del.C.~~ 1121. All homes and care providers are to treat their residents in accordance with these provisions.
- 7.5.2 Residents must be allowed to dine with other members of the family, utilize the normal facilities of the home and generally share the life of the family.
- 7.5.3 Residents will be permitted, and in some instances encouraged by the family, to engage in those activities and functions conducive to their physical, mental, emotional and/or spiritual well being. Each resident will be encouraged to be out of bed during the day unless ill.
- 7.5.4 Residents will receive kind, considerate treatment at all times.

- 7.5.5 The care provider will assist residents in keeping their necessary appointments (e.g. medical, dental, legal, etc.).
- 7.5.6 ~~Each care provider shall have available a complete statement enumerating all charges for services, materials and equipment which may be furnished during the period of residence. Each resident or legal guardian and/or representative payee shall be made aware of these charges and sign a statement of agreement.~~
- 7.5.7 ~~Any revocation and/or change in any part of the financial agreement shall be coordinated with the Affiliated Social Agency/Program, placement agency, or ombudsman of the Division of Aging.~~
- 7.5.8 ~~The care provider will not engage in financial transactions with a resident other than the agreed upon rate and approved incidental expenses.~~
- 7.6 ~~Personal/Care Provider. The care provider shall be responsible for complying with the regulations herein contained.~~

8.0 Records and Reports

The care provider, in conjunction with the Affiliated Social Agency/Program is responsible to maintain appropriate records on each individual resident. The records will include:

- physical examination by a physician;
- resident's name and social security number (other numbers as necessary);
- admission's date;
- physician's name, address and telephone number;
- next of kin's name, address and telephone number;
- physician's certificate as to required level of care; and
- outline of burial plans.

9.0 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.~~

10.0 Penalties And Suspensions

~~Any person who neglects or fails to comply with these regulations shall be subject to penalty as provided in 16 Del.C. 107.~~

APPENDIX A Notifiable Diseases

1. Acquired Immune Deficiency Syndrome
2. Amebiasis
3. Anthrax
4. Botulism
5. Brucellosis
6. Campylobacteriosis
7. Chancroid
8. Chlamydia trachomatis infections
9. Cholera
10. Condylomata acuminata
11. Diphtheria
12. Encephalitis
13. Foodborne Disease Outbreaks
14. Giardiasis
15. Gonococcal Infections
16. Granuloma Inguinale
17. Hansen's Disease (Leprosy)
18. Hepatitis (Viral a 11 types) Also, any unusual disease and adverse reaction to vaccine.
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

APPENDIX B

This regulations are adopted by the Director, Division of Long Term Care Residents Protection pursuant to 16 ~~Del.C.~~, Chapter 11, Subchapter II, Rights of Patients.

Patient's Bill Of Rights

RESPECT

1. Every resident shall be treated with consideration, respect, and full recognition of their dignity and individuality.
2. Every resident shall receive care, treatment and services which are adequate and appropriate.

SERVICES AND PAYMENT

3. Each resident and their families shall prior to or upon admission, and during their stay, receive a written statement of the services provided by the facility including those required to be offered on an "as needed" basis.
 - A. They shall also receive a statement of relaxed charges, including any charges for services not covered under Medicare, Medicaid or the facility's basic per diem rate.
 - B. Upon receiving such statement, the patient and his representative shall sign a written receipt, which shall be retained by the facility.
 - C. After admission, each facility shall submit to the resident or legal representative on a monthly basis, a written, itemized statement of the charges and expenses the resident incurred during the previous month. The group home shall make reasonable efforts to communicate the contents of the individual written statement to persons who it has reason to believe cannot read the statement.

TREATMENT

4. Each resident shall receive from the attending physician or resident physician of the facility, in lay terms, complete and current information regarding his diagnosis, treatment and prognosis, unless medically inadvisable.
5. Each resident:

- A. Shall participate in the planning of their medical treatment;
 - B. May refuse medication or treatment;
 - C. Shall be informed of the medical consequences of all medication and treatment alternatives; and
 - D. Shall give prior informed consent to participation in any experimental research, which shall be verified by his signature and the signature of a family member or representative.
6. The facility shall see to it that the name, address, and telephone number of the resident's physician is readily accessible to them at their bedside.
7. Each resident's medical care program shall be conducted discreetly and in accordance with the patient's need for privacy.
- A. Persons not directly involved in the resident care shall not be present during medical examinations, treatment and case discussion.
 - B. Personal and medical records shall be treated confidentially, shall not be made public without the consent of the resident shall not be released to any person inside or outside the facility who has no demonstrable need for such records.
8. Every resident shall be free from chemical and physical restraints imposed for the purposes of discipline and convenience, and not necessary to treat the resident's medical condition.

COMMUNICATIONS

9. Every resident shall receive from the Administrator or staff of the facility a courteous, timely and reasonable response to his/her requests, and the facility shall make prompt efforts to resolve grievances. Responses to requests and grievances shall be made in writing upon request by the resident.
10. Every resident shall be provided with information as to any relationships of the facility to other healthcare or service providers, including but not limited to pharmacy and rehabilitation services. Such information shall be provided in writing upon admission, and thereafter when additional services are offered.
11. To maintain reasonable continuity of care, every resident at the least shall be informed of the availability of physicians and appointment times.
12. Every resident may associate and communicate privately and without restriction with persons and groups of the resident's own choice at any reasonable hour.
- A. May send and receive mail promptly and unopened
 - B. Shall have access to any reasonable hour to a telephone where he may speak privately.
 - C. Shall have access to writing instruments, stationery and postage.

CONTROL OF FINANCIAL AFFAIRS

13. Each resident has the right to manage his own financial affairs.
- A. If, by written request, the facility manages the patient's financial affairs, it shall have available for inspection a monthly accounting and shall furnish a quarterly statement upon request to the patient or a designated representative.
 - B. The resident shall have unrestricted access to such accounts at reasonable hours.

PRIVACY

14. If married, every resident shall enjoy privacy in visits by his/her spouse and, if both reside in the facility, they shall be allowed to share a room, unless medically contraindicated.
15. Every resident has the right of privacy in the resident's room and the facility's staff shall respect this right by knocking on the door before entering the room.

GRIEVANCES

16. Every resident has the right, personally or through others, to present grievances; to recommend changes in the group home's policies or services on behalf of himself/herself or others; to present complaints or petitions to the group home's staff or administrator, to the Division of Services for Aging and Adults With Physical Disabilities, Division of Long Term Care Residents Protection, or to other persons or groups without fear of reprisal, restraint, interference, coercion or discrimination. Any alleged violation of any provisions of these Rules and Regulations should be presented orally or in writing and forwarded to the attention of the Division of Long Term Care Residents Protection.

PERSONAL CHOICE/PERSONAL PROPERTY

17. A resident shall not be required to perform services for the facility.
18. Every resident shall have the right to retain and use his/her personal clothing and possessions where reasonable and shall be entitled to have security in their storage and use.

TRANSFERS/DISCHARGES

19. No resident shall be transferred or discharged from a facility except for the following:
- A. For medical reasons;

B. For the resident's own welfare or the welfare of the other residents; and

C. For nonpayment of justified charges.

20. If good cause exists, the resident shall be given 30 days advance notice of the proposed action and the reasons for the action and may request an impartial hearing. In emergency situations, such notice need not be given.

21. If a hearing is requested, it shall be held within ten (10) working days of request. The hearing shall be conducted by the Division of Long Term Care Residents Protection. Hearing officers could include:

A. Nursing Home Ombudsman;

B. A staff member of the advocacy section, Division of Aging;

C. A physician from the Division of Public Health not employed by any of the hospitals' it operates.

D. The licensure program director for the type of home involved.

The Deputy Attorney General for the Division of Long Term Care Residents Protection may attend as legal officer in these hearings.

22. If the hearing determines in favor of the resident, the group home shall be instructed to comply. If the group home refuses to comply, the matter will be referred to the Attorney General's Office to see if further action is called or permissible under the law.

23. Every resident shall have the right to inspect all records pertaining to him/her, upon oral or written request within 24 hours of notice to the group home.

24. Every resident shall be fully informed, in a language he/she can understand, of his/her rights and all rules and regulations governing resident conduct and his/her responsibilities during the stay in the group home.

25. Every resident shall have the right to choose a personal attending physician.

26. Every resident shall have the right to examine the results of the most recent survey of the group home conducted by federal and/or state surveyors and any plan of correction in effect with respect to the group home. Survey results shall be posted in a place accessible to residents.

27. Every resident shall have the right to receive information from agencies acting as client advocates and be afforded the opportunity to contact these agencies.

28. Every resident shall be free from verbal, physical or mental abuse, cruel, and unusual punishment, involuntary seclusion, withholding of monetary allowance and food, and deprivation of sleep.

29. Every resident shall be free to make choices regarding activities, schedules, healthcare and other aspects of his/her life that are significant to the resident as long as it does not compromise the health or safety of the resident or other residents in the group home.

30. Every resident has the right to participate in an ongoing program of activities designed to meet the resident's interests, physical, mental, and psychosocial well being, in accordance with his/her assessments and plan of care.

31. Every resident shall have the right to participate in social, religious and community activities that do not interfere with the rights of other residents.

32. Every resident shall receive notice before the resident's room or roommate is changed, except in emergencies.

33. Every resident shall be encouraged to exercise his/her rights as a citizen of the State and the United States of America.

34. Every resident shall have the right to request and receive information regarding minimum acceptable staffing levels as it relates to his/her care.

35. Every resident shall have the right to request and receive the names and positions of staff members providing care to the resident.

36. Every resident shall have the right to request and receive an organizational chart outlining the group home's chain of command for purposes of making request and asserting grievances.

37. Where a resident is adjudicated incompetent; is determined to be incompetent by his/her attending physician, or is unable to communicate, his/her rights shall devolve to his/her next of kin, guardian or representative.

DEVOLUTION OF RIGHTS

Where consistent with the above rights, all rights, particularly as they pertain to a resident adjudicated incompetent, a resident determined to be medically incompetent by his/her attending physician or a resident unable to communicate, shall devolve to that resident's next of kin, guardian, representative, sponsoring agency or representative payee (except where the Group home itself is the representative payee).

NOTICE—AWARENESS OF RIGHTS

I. These provisions shall be posted conspicuously in a public place in each group home.

II. Copies are to be furnished to the resident upon admission and to all current residents and next of kin, guardian, representative, sponsoring agency or two representative payee.

III. Receipts for the statement signed by the above parties shall be retained in the group home files.

State Board of Health Regulations adopted pursuant to 16 Del.C. 1109 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, January 25, 1978, September 19, 1978, October 17, 1978, October 14, 1980, April 14, 1981, March 3, 1983, to be effective April 1, 1983, February 1, 1989, and March 3, 1993, to be effective March 4, 1993.

1.0 Purpose

These regulations are developed and promulgated to promote and ensure the health, safety and well-being of all residents of Family Care Homes. These regulations also ensure that Family Care Homes will be responsible and accountable to their residents. The regulations establish the minimal acceptable level of services for residents of Family Care Homes.

2.0 Definitions

The following words and terms, when used in this regulation, should have the following meaning unless the context clearly indicates otherwise:

"**Activities of Daily Living**" (ADL) means the tasks for self-care which are performed either independently, with supervision, or with assistance. Activities of daily living include but are not limited to ambulating, transferring, grooming, bathing, dressing, eating and toileting.

"**Affiliated Social Agency/Program**" means an agency which has entered into an agreement with the Department of Health and Social Services to ensure that the health and welfare needs of the resident are met.

"**Case Manager**" means an individual from an affiliated social agency/program who works with the residents, the family care provider and others to assist the residents in adjusting to and maintaining themselves in the community. This includes planning, organizing, coordinating and/or advocating so that effective services are provided.

"**Department**" means the Delaware Department of Health and Social Services.

"**Family Care Home**" (FCH) means a home (physical structure and necessary equipment) that provides beds and personal care services for 2 or 3 residents who cannot live independently and who need or could benefit from a family living situation. The home provides shelter, housekeeping services, food/meals and personal care for residents.

"**Family Care Provider**" means a person, the holder of the license, who is responsible for providing direct supervision and care for residents. The family care provider is to provide consumer-driven services which maximize independence through individual choice, enable individuals to continue living active and productive lives and protect those who are vulnerable and at risk.

"**Level of Care**" means a written determination of the amount of assistance a resident requires in the areas of, activities of daily living, medication, treatments and therapies, mobility, behavior management and supervision. [The document will also contain the amount of time a resident can be left unsupervised while the FCH provider is out of the residence.]

"**Licensed Independent Practitioner**" means a physician; a physician's assistant; or a nurse practitioner licensed under 24 **Del.C.** Chs. 17 or 19.

"**Occupant**" means any person living in a home on a 24 hour continuing basis, in excess of 48 hours per week, or more than 30 days per year. Included are: residents, family care provider and family care provider family members.

"**Physician**" means an individual currently licensed as such by 24 **Del.C.** Ch. 17.

"**Resident**" means an individual residing in a family care home.

"**Supervision**" means direct oversight of a function or activity by a responsible person who is not a resident.

3.0 Licensing Requirements and Procedures

3.1 No person shall establish, conduct or maintain in this State any FCH without first obtaining a license from the Department.

3.1.1 Issuance of Licenses

3.1.1.1 Initial License

3.1.1.1.1 An initial license approval will be granted to those applicants who meet the requirements for licensure.

3.1.1.1.2 Once an initial license approval has been issued the applicant may accept residents.

3.1.1.1.3 An initial license shall be issued when the first resident moves in and shall be for a term of six (6) months, during which a follow-up inspection will be conducted. If the applicant meets the licensing requirement at that time an annual license for the remainder of the licensure year will be issued.

3.1.1.1.4 If the applicant does not meet the requirements but shows the ability to meet the requirements a provisional licensed may be issued for a period of 90 days pending the implementation of the corrective actions.

3.1.1.2 Provisional License:

- 3.1.1.2.1 A provisional license may be granted for a period of 90 days to an FCH that, after inspection by the Department, is not in substantial compliance with these rules and regulations but has demonstrated the ability and willingness to comply within the 90-day period.
- 3.1.1.2.2 The Department shall designate the conditions and the time period under which a provisional license is issued.
- 3.1.1.2.3 A provisional license may not be renewed unless a Plan for Corrective Action has been approved by the Department and implemented by the FCH.
- 3.1.1.2.4 A license will not be granted pursuant to 3.1.1.2 after the provisional licensure period to any FCH that is not in substantial compliance with these rules and regulations.

3.1.1.3 Annual License:

- 3.1.1.3.1 A license shall be granted, for a period of one year (12 months), to all FCHs which are and remain in substantial compliance with these rules and regulations.
- 3.1.1.3.2 A license shall be effective for a twelve-month period following date of issue and shall expire one year following such date, unless it is: modified to a provisional license, suspended, revoked, or surrendered prior to the expiration date.
- 3.1.1.3.3 FCHs must apply for licensure at least 30 days prior to the expiration date of the license.
- 3.1.1.3.4 A license will not be issued to an FCH which is not in substantial compliance with these regulations and/or whose deficient practices present an immediate threat to the health and safety of its residents.

3.1.2 Suspension or Revocation of Licenses

- 3.1.2.1 The Department may suspend or revoke a license issued under this chapter for good cause, including but not limited to the following:
 - 3.1.2.1.1 Violation of any of the provisions of these rules and regulations [or 16 Del.C. Ch. 11].
 - 3.1.2.1.2 Deficiencies which present a threat to the health and safety of residents.
 - 3.1.2.1.3 Permitting, aiding, or abetting the commission of any illegal act in the FCH.
 - 3.1.2.1.4 Conduct or practices detrimental to the welfare of the resident.
 - 3.1.2.1.5 Refusal to allow the Department access to the FCH to conduct surveys/investigations as deemed necessary by the Department.
- 3.1.2.2 Before any license issued under this chapter is suspended or revoked, the Department shall give 10 calendar days written notice to the holder of the license, during which (s)he may appeal for a hearing before the Secretary of the Department or her/his designee.
- 3.1.2.3 The holder of the license may, within such 10-day period, give written notice of her/his desire to have a hearing. Proceedings in regard to such hearing shall be conducted in accordance with provisions for case decisions as set forth in 29 Del.C. Ch. 101 and in accordance with applicable rules and regulations of the Department.

3.1.3 Fees

- 3.1.3.1 Fees shall be in accordance with 16 Del.C. Ch. 11.

3.1.4 A license is not transferable from person to person or from one location to another.

3.1.5 The license shall be posted in a conspicuous place on the licensed premises.

3.2 Inspection

3.2.1 Every FCH for which a license has been issued under this chapter shall be periodically inspected by a representative of the Department.

3.3 Application Process

- 3.3.1 All persons or entities applying for a license shall request a licensure application from the Department.
- 3.3.2 The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the Department.
- 3.3.2 Applicants shall submit, to the Department, the names, ages and relationship to the family care provider of each person living in the home.

3.4 Financial Requirement

3.4.1 Each family care provider shall submit financial documentation to the Department that will be used solely to determine financial capability.

4.0 General Requirements

- 4.1 Admission to an FCH shall be limited to residents whose needs can be met with the following services: assistance with activities of daily living where the resident needs moderate, standby or "hands on" assistance; assistance with/and or administration of medications, interventions to manage occasional behaviors and; scheduling of and, if necessary, transportation to scheduled treatments or therapies.
- 4.2 The holder of the license must be living in the home full-time.
- 4.3 The FCH must meet and maintain compliance with all applicable federal, state, and local laws and regulations.
- 4.4 The affiliated social agency/program or a licensed independent practitioner with the placement agency will establish a level of care. The level of care **[determination shall be made in consultation with the resident's personal primary care licensed independent practitioner if any, and]** will include an assessment of the physical and mental status of the resident prior to **[placement in admission to]** the FCH and annually thereafter.
- 4.4.1 A copy of the level of care must be maintained by the licensee.
- 4.5 When a licensed independent practitioner with the placement agency determines that a resident requires additional medical services, it is the responsibility of the family care provider to ensure that those services are received by the resident.
- 4.6 All required records maintained by the FCH shall be open to inspection by authorized representatives of the Department and an affiliated social agency/program.
- 4.7 A resident who is not sponsored by an affiliated social agency/program will arrange with a licensed independent practitioner to establish a level of care. The level of care will include an assessment of the physical and mental status of the resident prior to placement in the FCH and annually thereafter.
- 4.7.1 A copy of the level of care must be maintained by the licensee.
- 4.8 An FCH licensed under these regulations shall not admit any person under the age of 18 years as a resident.
- 4.8.1 The FCH may request a waiver of this provision, through the Department for residents with specific medical or social needs.
- 4.8.2 If a waiver is granted and a juvenile resident is to be housed on the same floor as an adult resident, the juvenile's affiliated social service agency/program must also give written approval to the FCH and provide a copy to the Department. The affiliated social service agency/program shall also ensure the placement is appropriate given the physical, emotional and medical conditions of the other residents.
- 4.9 A resident must be provided a bedroom separate from the family care provider and her/his family members.
- 4.10 The holder of the license must notify the Department at least 30 days before any change in the family care provider or a change in the FCH ownership.
- 4.11 The family care provider may not leave the FCH when residents are present without delegating care duties to a responsible adult **[unless the resident's Level of Care documentation contains an amount of time that the resident can be left unsupervised. In any case, the maximum amount of time the provider can be away is 12 hours]**.
- 4.11.1 The name and contact information for the alternate responsible adult must be on file with the Department.
- 4.12 The family care provider must notify the Department, in advance when possible, of any absence of 1 week or longer.
- 4.13 Each FCH shall cooperate fully with the state protection and advocacy agency, as defined in 16 **Del.C.** §1102(7), in fulfilling functions authorized by 16 **Del.C.** Ch. 11.
- 4.14 A family care provider that provides 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.
- 4.15 Family pets must have all necessary yearly updated vaccinations from a veterinarian and there will be no vicious or dangerous animals residing in the home that could pose a risk of harm to a resident.

5.0 Environment

5.1 Site Provisions

- 5.1.1 Each FCH shall be located on a site which is considered suitable by the Department.
- 5.1.2 The site must be safe, easily drained, must be suitable for disposal of sewage and furnishing a potable water supply.
- 5.1.3 The exterior of the site shall be free from hazards and also from the accumulation of waste materials, obsolete and unnecessary articles, tin cans, rubbish, and other litter.

- 5.2 The FCH must have a safe and sanitary environment, properly constructed, equipped, and maintained to protect the health and safety of residents.
- 5.3 The FCH shall comply with all local and state building codes and ordinances as pertain to this occupancy.
- 5.4 Physical Plant
- 5.4.1 All construction - new, renovations, or remodeling - must conform to the local building codes, current at the time of construction.
- 5.4.2 When an FCH plans to construct, renovate or extensively remodel, the holder of the license must submit a copy of properly prepared plans and specifications to the Department for approval.
- 5.4.2.1 The Department must issue an approval in writing before any work is done.
- 5.4.2.2 The Department must visit the site upon completion of the work to ensure that the work was completed according to plans submitted.
- 5.4.3 Windows
- 5.4.3.1 Window space shall not be less than one tenth (1/10) of the floor space.
- 5.4.3.1.1 Up to 25% reduction may be allowed when approved mechanical ventilation is utilized in multi-bed rooms.
- 5.4.3.2 All windows in rooms to be used by residents are to be constructed to eliminate drafts and to provide adequate light and ventilation.
- 5.4.4 The building shall be constructed and maintained to prevent the entrance, and control the existence, of rodents and insects.
- 5.4.4.1 All exterior openings shall be effectively screened.
- 5.4.4.2 Screen doors shall open outward and shall be equipped with self-closing devices.
- 5.4.4.3 All screening shall have at least 16 mesh per inch.
- 5.4.5 Resident bedrooms shall open directly into a corridor.
- 5.4.6 FCHs accommodating residents who regularly require wheelchairs shall be equipped with ramps.
- 5.4.6.1 Egress ramps must be located at the primary means of egress.
- 5.4.6.1.1 A secondary means of egress that is independent and remotely located from the primary means of egress must be provided to the outside of the dwelling at street/ground level or open to an exterior balcony.
- 5.4.6.2 A ramp ~~[shall not exceed one (1) foot of rise in 12 feet of run] must be compliant with the standards outlined in Americans with Disabilities Act (ADA)].~~
- 5.4.7 The physical dimensions of the home will provide, as a minimum, 150 square feet of common living space for the first occupant and 100 square feet of living space for each additional occupant.
- 5.4.8 FCHs with below grade accommodations must have a direct means of egress to the outside from that level.
- 5.4.9 The roof, exterior walls, doors, skylights and windows shall be weather tight and watertight and shall be kept in sound condition and good repair.
- 5.5 Water supply and sewage disposal
- 5.5.1 Non-public water systems must be approved by the Department.
- 5.5.2 Non-public sewage disposal systems must be approved by the Department of Natural Resources and Environmental Control.
- 5.5.3 The water system must supply adequate hot and cold water, under pressure, at all times.
- 5.5.4 The plumbing shall meet the requirements of all municipal or county codes. Where there are no local codes, the provisions of the Department Sanitary Plumbing Code shall prevail.
- 5.5.5 Hot water at shower, bathing and hand washing facilities shall not exceed 110°F (43°C).
- 5.6 ~~[The HVAC systems for all areas shall be adequate, safe, protected, and easily controlled. It shall be capable of maintaining the temperature in each room used by residents between 70°F and 80°F. Portable heating or cooling devices shall not be used.]~~ A licensee must ensure that the facility's or program's premises and equipment accessible to or used by residents are free from any danger to their health, safety and well-being.]
- 5.7 Electric shall meet all municipal, county and State requirements and laws.
- 5.8 Each room and access way shall be suitably lighted at all times for maximum safety, comfort, sanitation and efficiency of operation particularly in areas that present safety hazards. Careful attention shall be given to avoid glare.
- 5.9 Safety equipment

- 5.9.1 Stairways shall have non-slip surfaces and sturdy handrails to prevent slipping. Stairways over six (6) feet in width shall have handrails on both sides.
- 5.9.2 Working electric switches shall be located at the top and the bottom of stairways.
- 5.9.3 Hallways shall be equipped with working night-lights.
- 5.9.4 Floor surfaces shall be durable, yet non-abrasive and slip-resistant. Floor surfaces shall be kept in good repair. Area rugs on hard finished floors shall have a non-skid backing. Carpeting shall be maintained in a clean condition.
- 5.9.5 All interior doors in areas used by residents shall be capable of being opened from either side at all times.
- 5.9.6 ~~Camera's~~ **Cameras** or monitoring devices are not permitted in resident bedrooms or bathrooms unless written permission by resident(s), resident guardian(s) is on file.
- 5.10 Resident bedrooms
 - 5.10.1 Each bedroom shall be well-ventilated.
 - 5.10.2 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.
 - 5.10.3 A one (1) person bedroom shall be at least seventy (70) square feet.
 - 5.10.4 Multi-person bedrooms shall:
 - 5.10.4.1 Provide at least fifty (50) square feet of floor space per person.
 - 5.10.4.2 Be adequately spaced for comfort.
 - 5.10.4.3 Have the beds spaced at least three (3) feet apart. **[Bunk beds are prohibited.]**
 - 5.10.5 The ceiling height shall be not less than seven (7) feet from the floor on average. Areas where the height of the ceiling is less than five (5) feet shall not be counted in the determination of the room size.
 - 5.10.6 Walls must extend from the floor to the ceiling.
 - 5.10.7 Doors must be closable.
 - 5.10.8 Each bedroom must have adequate electrical outlets which are conveniently located.
 - 5.10.9 At least one (1) light fixture shall be switched at the entrance of each bedroom.
 - 5.10.10 Walls shall be cleanable.
 - 5.10.11 Each bedroom shall ensure adequate privacy.
 - 5.10.12 No more than ~~three (3)~~ **two (2)** residents may share a bedroom.
- 5.11 Bedroom furnishings for each resident must include:
 - 5.11.1 A reading light.
 - 5.11.2 A bed in good repair with a frame.
 - 5.11.3 A comfortable well constructed mattress.
 - 5.11.3.1 The mattress shall be covered or protected with non porous material.
 - 5.11.3.2 ~~If a resident chooses they may bring their own mattress that may only be used by that resident.~~ **A resident may choose to provide an individual mattress to be used only by that resident.]**
 - 5.11.4 A sturdy bedside stand and chair.
 - 5.11.5 A chest of drawers with at least 2 drawers.
 - 5.11.6 At least two (2) linear feet in a closet for hanging clothes.
- 5.12 Bathrooms
 - 5.12.1 Floor and wall surfaces shall be constructed and maintained to be impervious to water and to permit the floor and walls to be easily kept in a clean condition.
 - 5.12.2 At least one (1) window or mechanical ventilation to the outside shall be provided.
 - 5.12.3 Floor surfaces shall be durable, yet non-abrasive and slip-resistant. Floor surfaces shall be kept in good repair.
 - 5.12.4 There shall be one (1) bathtub or shower for every ~~eight (8)~~ **six (6)** occupants.
 - 5.12.4.1 Each bathtub or shower shall be in an individual room or enclosure which provides private space for bathing, drying and dressing.
 - 5.12.4.2 Each bathtub or shower shall be equipped with grab bars and slip-resistant surfaces.
 - 5.12.5 There shall be at least one (1) toilet for every eight (8) occupants which shall be located on the same level as the resident's bedroom(s).
 - 5.12.5.1 When more than one (1) toilet is located in the same room, provisions for private use shall be made.

5.12.5.2 Each toilet shall be equipped with a substantial grab bar.

5.12.6 There shall be at least one (1) hand washing sink for every eight (8) occupants which shall be located on the same level as the resident's bedroom(s).

5.12.6.1 The hand washing sink shall have hot and cold water.

5.13 Kitchen

5.13.1 Floor, wall and counter surfaces shall be constructed and maintained to be impervious to water (to the level of splash) and to permit the floor and walls to be easily kept in a clean condition.

5.13.2 There shall be:

5.13.2.1 At least one (1) refrigerator and one (1) freezing unit, in proper working order and capable of maintaining frozen foods in the frozen state and refrigerated foods at 42°F, or below, as determined in the warmest part of the refrigerator.

5.13.2.1.1 Each refrigerator shall be equipped with a refrigerator thermometer.

5.13.2.2 At least one (1) four-burner range and one (1) oven in proper working order.

5.13.2.3 A dishwasher that has a sanitizing cycle or the provider must use a dish-washing detergent containing bleach.

5.13.2.4 At least one (1) clean trash receptacle.

5.13.2.5 At least one (1) operable window or suitable exhaust system for removal of smoke, odors and fumes.

5.13.2.6 Adequate cleaning/disinfecting agents and supplies.

5.13.2.7 Storage areas with separate storage for:

5.13.2.7.1 Food, which must be stored off of the floor.

5.13.2.7.2 Cleaning agents, disinfectants and polishes.

5.13.2.7.3 Poisons, pesticides or other toxic chemicals which must be stored in locked cabinets/storage areas.

5.13.2.7.4 Eating and serving utensils, pots, pans and cooking utensils which must be stored off of the floor.

5.13.3 All food items shall be stored in closed or sealed containers or wrapping.

5.13.4 Food storage areas shall be free of food particles, dust and dirt.

5.13.5 Food preparation areas, utensils and appliances shall be cleaned following each meal prepared.

5.14 Dining and dayroom area

5.14.1 There shall be provided one (1) or more areas that are adequate in size and furnished for resident dining, recreational and social activities.

5.14.2 The furniture shall be of such condition so as not to pose a safety hazard and arranged and located as to provide convenient access to the residents.

5.14.3 When a multi-purpose room is used, it shall have sufficient space to accommodate activities in order to prevent interference of one (1) activity with another.

5.15 Sanitation and housekeeping

5.15.1 All rooms and every part of the building shall be kept clean, orderly, in good repair and free of offensive odors.

5.15.2 Waste material, obsolete and unnecessary articles, tin cans, rubbish and other litter shall not be permitted to accumulate in the home.

5.15.3 Sharps shall be stored in sanitary containers and disposed of in a sanitary manner.

5.15.4 When a separate sink is not provided for janitorial or laundry duties, the sink shall be sanitized with bleach after each use.

5.15.5 No laundry may be done in the food service area during the preparation or serving of food.

5.15.6 Laundry

5.15.6.1 Bed linens and towels must be changed at least weekly or more often as necessary.

5.15.6.2 If linen chutes are used, they will maintained in a sanitary condition.

5.15.6.3 If the clothes washing machine is in the kitchen, soiled laundry shall not be taken into the kitchen until it is ready to be washed.

5.15.6.4 The family care provider will complete laundry for residents who are incapable of doing so on their own.

6.0 Fire Safety

- 6.1 There must be a functioning UL approved smoke detector on each level of the residence and in the hall adjacent to the resident bedrooms.
- 6.2 There shall be at least one functional fire extinguisher, that is readily accessible, on each floor of living space in the home.
- 6.3 Written notification to the Department by the State Fire Marshal of the existence of a fire hazard in the FCH may be grounds for revocation of a license.
- 6.4 The Department may require an inspection by a certified electrician at any time for good cause.

7.0 Resident Services

7.1 Healthcare

- 7.1.1 Each resident shall have a physical/medical examination within 90 days prior to placement.
- 7.1.2 Each resident shall have a physical/medical examination annually or more frequently as required by a physician or the affiliated social agency/program.
- 7.1.3 **Medications**
 - 7.1.3.1 Medications prescribed for residents shall be kept locked in a cabinet or a lock box set aside for that exclusive purpose.
 - 7.1.3.2 Medications requiring refrigeration shall be kept locked in a separate box within the refrigerator.
 - 7.1.3.3 Medications shall be self-administered or distributed directly to the resident from the prescription container in strict accordance with the prescription directions.
 - 7.1.3.4 The family care provider shall ensure that prescription medication is not used by other than the resident for whom the medication was prescribed.
- 7.1.4 The family care provider shall maintain a list of each resident's **physician(s) or licensed independent practitioner(s)**, the **physician(s)** contact information **[for each]** and all medications taken by the resident.
- 7.1.5 **Communicable disease**
 - 7.1.5.1 A person with an active communicable disease may not be admitted to an FCH until the individual is no longer contagious.
 - 7.1.5.2 A resident with an active communicable disease must receive prompt medical treatment and supervision.
 - 7.1.5.3 The family care provider shall assume responsibility for seeing that necessary precautions are taken and that there is a minimum danger of transmission of a communicable disease to any occupant of the home.
 - 7.1.5.4 Minimum requirements for tuberculosis (TB) testing require all occupants to have a base line two step tuberculin skin test.
 - 7.1.5.4.1 Original home occupants must complete the baseline PPD testing prior to acceptance of any resident.
 - 7.1.5.4.2 Potential residents must have baseline testing within the six (6) month period prior to admission.
 - 7.1.5.5 All homes shall have on file evidence of an annual vaccination against influenza for all residents unless refused or medically contraindicated.

7.2 Food service

- 7.2.1 A minimum of three (3) meals shall be available and/or served in each twenty-four (24) hour period.
- 7.2.2 There shall not be more than a 14 hour span between the evening and breakfast meals unless suitable nourishment is provided in the interim.
- 7.2.3 The food served shall be suitably prepared and of sufficient quantity and quality to meet the nutritional needs of the residents.
- 7.2.4 Special diets shall be served on the written prescription of the resident's physician.
- 7.2.5 A three (3) day supply of food and water for emergency feeding shall be on the premises.

8.0 Resident Rights

- 8.1 Every resident shall have the right to receive considerate, respectful, and appropriate care, treatment and services, recognizing each person's basic personal and property rights which include dignity and individuality.

- 8.2 Prior to the admission of a resident, the family care provider shall provide to the resident a complete statement enumerating all charges for services, materials and equipment which may be furnished during the period of residence.
- 8.2.1 Each resident or legal representative shall be made aware of these charges and sign a statement of agreement prior to admission.
- 8.2.2 The care provider will not engage in financial transactions with a resident other than the agreed upon rate and approved incidental expenses.
- 8.2.3 Any revocation and/or change in any part of the financial agreement shall be coordinated with the Affiliated Social Agency/Program, placement agency, or State Long Care Ombudsman.
- 8.3 Every resident shall receive respect and privacy in the resident's own medical care program.
- 8.4 Every resident shall be free from chemical and physical restraints imposed for purposes of discipline and convenience.
- 8.5 Every resident shall receive from the family care provider a courteous, timely and reasonable response to requests, and the family care provider shall make prompt efforts to resolve grievances. Responses to requests and grievances shall be made in writing upon written request by the resident.
- 8.6 Every resident may associate and communicate, including visits and visitation, privately and without restriction with persons and groups of the resident's own choice at any reasonable hour.
- 8.7 Every resident may send and shall receive mail promptly and unopened.
- 8.8 Every resident shall have access at any reasonable hour to a telephone where the resident may speak privately.
- 8.9 Every resident shall have access to writing instruments, stationery and postage.
- 8.10 Every resident has the right to manage her/his financial affairs.
- 8.10.1 If, by written request signed by the resident or the legal representative, the family care provider manages the resident's financial affairs, the family care provider shall:
- 8.10.1.1 Have a monthly accounting of expenditures available for inspection; and,
- 8.10.1.2 Shall furnish the resident or resident's legal representative with a quarterly statement of the resident's account.
- 8.10.1.3 The resident shall have unrestricted access to such account at reasonable hours.
- 8.11 If married, every resident shall enjoy privacy in visits by the resident's spouse.
- 8.12 Every resident has the right of privacy in the resident's own room and the family care provider shall respect this right by knocking on the door before entering the resident's room.
- 8.13 A resident shall not be required to perform services for the FCH.
- 8.14 Every resident shall have the right to retain and use the resident's own personal clothing and possessions where reasonable, and shall have the right to security in the storage and use of such clothing and possessions.
- 8.15 Every resident shall be fully informed, in language the resident can understand, of the resident's rights and all rules and regulations governing resident conduct and the resident's responsibilities during the stay at the FCH.
- 8.16 Every resident shall have the right to choose a personal attending physician.
- 8.17 Every resident shall have the right to examine the results of the most recent survey of the FCH.
- 8.18 Every resident shall have the right to receive information from the protection and advocacy agency and agencies acting as client advocates and be afforded the opportunity to contact those agencies.
- 8.19 Every resident shall be free from verbal, physical or mental abuse, cruel and unusual punishment, involuntary seclusion, withholding of monetary allowance, withholding of food and deprivation of sleep.
- 8.20 Every resident shall be free to make choices regarding activities, roommates, schedules, health care and other aspects of the resident's life that are significant to the resident, as long as such choices do not compromise the health or safety of the resident or other residents within the FCH.
- 8.21 Every resident has the right to participate in an ongoing program of activities designed to meet the resident's interests and physical, mental and psychosocial well-being.
- 8.22 Every resident shall have the right to participate in social, religious and community activities that do not interfere with the rights of other residents.
- 8.23 Every resident shall receive notice before the resident's room or roommate is changed, except in emergencies.
- 8.24 Every resident shall be encouraged to exercise the resident's own rights as a citizen of the State and the United States of America.
- 8.25 Each resident will be encouraged to be out of bed during the day unless ill.

9.0 Records and Reports

- 9.1 The family care provider must maintain the following records for each resident:
 - 9.1.1 Resident's name, social security number and other appropriate information;
 - 9.1.2 Date of admission to the FCH;
 - 9.1.3 Physician(s) name(s) and contact information;
 - 9.1.4 Next of kin's name and contact information;
 - 9.1.5 A list of all medications taken by the resident;
 - 9.1.6 Certificate as to required level of care; and,
 - 9.1.7 Burial plans.

10.0 Disciplinary Actions

- 10.1 Any person who fails to comply with these regulations shall be fined not less than \$100 and not more than \$1000, together with costs, unless otherwise provided by law.
- 10.2 Before any disciplinary action is taken:
 - 10.2.1 The Department shall give ten calendar days written notice to the holder of the license, setting forth the reasons for the determination.
 - 10.2.2 The disciplinary action shall become final ten calendar days after the mailing of the notice unless the licensee, within such ten calendar day period, shall give written notice of the [agency's] desire for a hearing.
 - 10.2.2.1 If the licensee gives such notice, the licensee shall be given a hearing before the Secretary of the Department or her/his designee and may present such evidence as may be proper.
 - 10.2.2.2 The Secretary of the Department or her/his designee shall make a determination based upon the evidence presented.
 - 10.2.2.3 A written copy of the determination and the reasons upon which it is based shall be sent to the licensee.
 - 10.2.2.4 The decision shall become final ten calendar days after the mailing of the determination letter unless the licensee, within the ten calendar day period, appeals the decision to the appropriate court of the State.

11.0 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.

18 DE Reg. 569 (01/01/15) (Final)