

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119
(16 Del.C. §1119C & 29 Del.C. §10119)
16 DE Admin. Code 3305

EMERGENCY

EMERGENCY SECRETARY'S ORDER

Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119

16 Del. Admin. C. § 3305 Group Homes for Persons with Mental Illness

3305 Group Homes for Persons with Mental Illness

AUTHORITY

Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119, the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 Del. Admin. C. 3305: *Group Homes for Persons with Mental Illness*. Additionally, 29 Del.C. §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 Del.C. §10115. Moreover, 16 Del.C. §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for long-term care facilities and services.

REASON FOR THE EMERGENCY ORDER

Rapid and widespread transmission of COVID-19 significantly impacted congregate settings, particularly within nursing facilities, assisted living facilities, rest (residential) facilities, and intermediate care facilities for persons with intellectual disabilities.

A comprehensive infection control and prevention program based upon guidance from the Centers for Disease Controls and Prevention and other nationally recognized sources is imperative for facilities to prevent or significantly decrease transmission of COVID-19 and other infections within facilities.

While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue.

EFFECTIVE DATE OF ORDER

It is hereby ordered, that 16 Del. Admin. C. § 3305: *Group Homes for Persons with Mental Illness*, specifically, Section 15.0 which expand infection prevention and control program requirements, is temporarily modified as shown by underline as follows:

15.0 Infection Control

15.1 The group home shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.

15.1.1 The infection prevention and control program must cover all services and all areas of the group home, including provision of the appropriate personal protective equipment for all patients/residents, staff, and visitors.

15.2 The individual designated to lead the group home's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the group home's infection control outcomes.

15.3 All group home staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

~~15.0~~ 16.0 Noncompliance

15.4 16.1 Upon receipt of written notice of a violation of these regulations, the service provider shall submit a written plan of action to correct deficiencies cited within ten (10) days or such other time period as may be required by the Department. The plan of action shall address the corrective actions to be taken and include all measures to prevent their recurrence.

~~45.2~~ 16.2 The Department may impose civil money penalties and/or other enforcement remedies in accordance with the procedures outlined in 16 Del.C., Ch. 11, Subchapter I, Licensing by the State.

~~45.3~~ 16.3 The Department may suspend or revoke a license, or refuse to renew it, in accordance with 16 Del.C., Ch. 11, Subchapter I, Licensing by the State.

~~46.0-17.0~~ Waiver of Standards

Waivers may be granted by the Division of Long Term Care Residents Protection for good cause.

~~47.0-18.0~~ Severability

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

This Emergency Order shall take effect on July 1, 2021 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 Del.C. §10119(3).

PETITION FOR RECOMMENDATIONS

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to Corinna.Getchell@Delaware.gov, or by fax to 302-421-7401.

ORDER

It is hereby ordered, this 17th day of June, 2021, that the above referenced amendment to 16 *Del. Admin. C.* § 3305: *Group Homes for Persons with Mental Illness*, a copy of which is hereby attached, is adopted, pursuant to 16 *Del.C.* §1119C and 29 *Del.C.* §10119, as referenced above, and supported by the evidence contained herein.

Molly K. Magarik, MS
Cabinet Secretary

3305 Group Homes for Persons with Mental Illness

PART I - STATE APPROVAL

1.0 Purpose

The Department is issuing these regulations to promote the health, safety and well-being of all residents of group homes. These regulations are also meant to insure that service providers will be accountable to their residents and the Department. They are not intended to limit additional contract standards for community support programs with which a service provider may be expected to comply.

2.0 Authority and Applicability

The Department is authorized by 16 **Del.C.**, Ch. 11 to license and regulate group homes for adults. These regulations shall apply to group homes as defined in Section 3.0. These regulations address the minimum acceptable level of living and programmatic conditions for residents of group homes. The term "Group Homes for Persons with Mental Illness" shall not be used as part of the official name of any facility in this State, unless it has been so licensed by the Department.

3.0 Definitions

The following terms found in these regulations shall have these specific meanings:

"Department" - The Department of Health and Social Services, the legal successor to the State Board of Health.

"Group Home" - Group home residence to provide mental health treatment, rehabilitation and housing, staffed substantially full-time when residents are present for between three (3) and ten (10) adults with primary diagnosis of psychiatric disabilities, licensed pursuant to 16 **Del.C.**, Section 1101. Group home does not include supervised apartments or a residence licensed as an ICF/MR group home or neighborhood home under 16 **Del.C.**, Ch. 11.

"Incident" - An occurrence or event, a record of which must be maintained in facility files, that results or might result in harm to a resident. Incident includes alleged abuse, neglect, mistreatment and financial exploitation; incidents of unknown source which might be attributable to abuse, neglect or mistreatment; all deaths; falls; and errors or omissions in medication/treatment.

"Program" - System of treatment and residential services developed by the service provider for use in a group home.

"Reportable Incident" - An occurrence or event which must be reported at once to the Division of Long Term Care Residents Protection and for which there is reasonable cause to believe that a resident has been abused, neglected, mistreated or subjected to financial exploitation. Reportable incident also includes an incident of unknown source which might be attributable to abuse, neglect or mistreatment; all deaths; falls with injuries; and significant errors or omissions in medication/treatment which cause the resident discomfort or jeopardize the resident's health and safety.

"Residence Manager" - An individual meeting the requirements for a Clinician as contained in Section 5.3.1.1.2 and to whom the overall responsibility for the day to day operation of the group home has been delegated by those persons with the legal authority to manage the affairs of the entity.

"Resident" - An individual who lives in a group home. As the context may require, the term resident may also refer to the individual's legal representatives.

"Resident's Treatment Team" - A group consisting of a psychiatrist, residence manager, resident and other professionals with expertise or background relevant to the resident's needs and supports.

"Satisfactory Compliance History" - Any facility operated by the applicant in any state or other jurisdiction that has not had a license revoked, terminated or otherwise withdrawn by the issuing authority or voluntarily surrendered a license during a period of restriction or regulatory investigation of incidents involving serious harm, injury, impairment or death of a resident within the past five (5) years.

"Service Provider" - A legally recognized entity (e.g. corporation, partnership, sole proprietorship) required to be licensed under Section 2.0.

4.0 Licensing by the Department

- 4.1 The service provider shall maintain a license issued by the Department for each group home. The license shall be posted in a conspicuous place in the group home to which it applies. The license shall not be transferable directly or indirectly from one service provider to another.
- 4.2 Separate licenses are required for group homes maintained in separate locations, even though operated by the same service provider. A license shall not be transferable from one group home to another or from one location to another.
- 4.3 Application for a license for a group home shall be made on forms provided by the Department. The application shall bear the notice that false statements therein are punishable. The application shall be accompanied by:
 - 4.3.1 Certification that the service provider shall comply with all applicable state and federal laws including, but not limited to, non-discrimination based on age, sex, race, nationality, religion, sexual orientation, or disability, including the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the Fair Housing Act;
 - 4.3.2 A sworn affidavit of a satisfactory compliance history as defined in 16 **Del.C.**, §1104(d) and other information to substantiate a satisfactory compliance history relating to each state or other jurisdiction in which the applicant operated a facility any time during the five year period preceding the date on which the application is made.
 - 4.3.3 The applicable license fee;
 - 4.3.4 Training and staff development plans offered by the service provider to staff, required by Section 5.3.2.;
 - 4.3.5 Written operations and personnel policies & procedures manual, and quality assurance plan required by Sections 5.0 and 7.10;
 - 4.3.6 A set of program plans which describe the service provider's capacity to implement Section 7.2.5;
 - 4.3.7 Written policies on periodic physical examinations, required by Section 9.3;
 - 4.3.8 Evidence of the ability to transport residents on an as needed basis, including provisions for emergency transportation, required by Sections 12.10 and 12.11;
 - 4.3.9 Written policies on medication maintenance and storage, required by Sections 10.;
 - 4.3.10 A letter from the Fire Marshal having jurisdiction certifying compliance by the group home with the rules and regulations of the State Fire Prevention Commission, required by Section 14.1;
 - 4.3.11 An evacuation plan required by Section 14.5;
 - 4.3.12 A staffing and work schedule;

- 4.3.13 An identification of those persons and entities listed in 16 **Del.C.**, §1104(c);
 - 4.3.14 An outline of arrangements for the provision of primary medical, emergency medical and dental care, in addition to access to community support services such as employment and day programming;
 - 4.3.15 An operating budget;
 - 4.3.16 A blueprint (or similar plan) of the group home;
 - 4.3.17 A specific plan for the safe and confidential storage of residents' records and medication including anticipated compliance with Section 8.1 and Section 10.0.
- 4.4 The Department shall grant a provisional license to any new applicant provided that the requirements of these regulations are met. The term of such provisional license shall be ninety (90) days, and thereafter, the applicant shall be entitled to an annual license, provided that the requirements of these regulations are met.
 - 4.5 All applications for renewal of licenses shall be filed with the Department at least ninety (90) days prior to expiration and shall be accompanied by the attachments set forth in Section 4.3. Licenses may be issued for a period not to exceed one year (12 months) from the date of issuance.
 - 4.6 The program will affirmatively notify the Department of any change in circumstances which precludes compliance with any of the regulations of this part.
 - 4.7 The Department shall monitor compliance with its regulations and procedures. The service provider shall make all documentation and records deemed necessary by the Department available for the Department's review, and site visits shall be permitted at any time. The Department shall have the right of access to any information directly or indirectly related to the service provider's operation of the group home.
 - 4.8 A service provider shall operate the group home in accordance with its application for licensure. A service provider shall immediately report any deviations from such operation to the Department.
 - 4.9 The service provider 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)

PART II - ADMINISTRATION

5.0 Policies and Procedures Manual

- 5.1 The service provider shall maintain and comply with a written procedures manual for its staff. A mechanism shall be in place to ensure that this manual is updated continuously to comply with changes in state and/or federal laws and regulations. The staff of the group home is to be notified promptly of changes. The manual shall be composed of two (2) sections, Operations and Personnel, as follows:
- 5.2 Operations
 - 5.2.1 A statement of the group home program's values, mission and objectives;
 - 5.2.2 Policies and procedures that:
 - 5.2.2.1 Facilitate resident referral, admission, and discharge;
 - 5.2.2.2 Provide detailed instructions for assessment, service planning and documentation procedures;
 - 5.2.2.3 Describe the handling of on-call responsibilities and resident emergencies;
 - 5.2.2.4 Provide detailed instructions for application to, and communication with, public benefit agencies such as Medicaid, Medicare, Division of Vocational Rehabilitation, etc.;
 - 5.2.2.5 Outline the conditions underlying the lawful sharing of information about residents with family members or others;
 - 5.2.2.6 Provide direction regarding handling financial resources of the group home;
 - 5.2.2.7 Describe the management of residents' funds for whom the service provider has been designated payee;
 - 5.2.2.8 Outline the management of resident medication and the monitoring of medication effects;
 - 5.2.2.9 Involve the services of a crisis intervention service in the event of psychiatric emergencies;
 - 5.2.2.10 Comply with state and federal laws and regulations for receiving and resolving resident grievances;
 - 5.2.2.11 Describe the process of resident transition or termination from the program which is in compliance with state and federal laws and regulations and are intended to ensure continuity of service;
 - 5.2.2.12 In conformity with 16 **Del.C.**, Ch. 11, describe the system for reporting and processing of abuse/neglect, mistreatment and/or financial exploitation allegations;

- 5.2.2.13 Describe a procedure for open communication with other residents of the community in which the home is located in order to facilitate group home residents' integration and social skills development; and
- 5.2.2.14 Include a provision for the development of any other policies and procedures otherwise required to be included by Departmental policy.

5.3 Personnel

5.3.1 Staff

5.3.1.1 The minimum qualifications for staff associated with a group home shall be as follows:

5.3.1.1.1 Psychiatrist: A psychiatrist shall be a person with a medical degree or Doctor of Osteopathy degree, who is licensed to practice medicine in Delaware and is board certified in psychiatry or has served a residency in psychiatry.

5.3.1.1.2 Clinician: A clinician shall be a person with a doctoral or master's degree in clinical or counseling psychology, clinical social work, vocational/psychiatric rehabilitation or education from an accredited college or university; a registered nurse with certification in mental health nursing from the American Nurses Association; or a person with a bachelor's degree with five (5) years experience in mental health service delivery with at least two (2) years experience in residential services.

5.3.1.1.3 Associate Clinician: An associate clinician shall be a person with a bachelor's degree in clinical or counseling psychology, social work, nursing, vocational/psychiatric rehabilitation, education or other mental health field from an accredited college or university; or a registered nurse. An associate clinician shall have had direct experience in mental health service.

5.3.1.1.4 Residential Service Assistant: A residential service assistant shall be a person who has a high school diploma or GED.

5.3.1.2 The group home shall have a residence manager who shall be responsible for the operation of the group home and shall have the qualifications as defined in Section 5.3.1.1.2 The residence manager shall be responsible for the supervision of residents' treatment plans.

5.3.1.3 Associate Clinicians and Residential Service Assistants shall have qualifications for the treatment activities in which they engage and shall be supervised by the residence manager. At least seventy-five (75) percent of the group home staff, including the residence manager, shall be clinicians or associate clinicians. Nothing in these regulations shall be construed to exempt or limit the application of professional licensing requirements, including those pertaining to professional counselors, psychologists, and clinical social workers under 24 **Del.C.**, Chs. 30, 35, and 39, respectively.

5.3.1.4 The service provider shall maintain a current personnel policies and procedures manual that sets forth grounds for termination, adequately supports sound resident care and is made readily available to the program's staff in each home. The service provider shall comply with the provisions of such manual. The manual shall contain an explanation of the residents' rights pursuant to 16 **Del.C.** §1121 and applicable federal law.

5.3.1.5 The service provider shall comply with criminal background check and drug testing laws [16 **Del.C.**, Sections 1141 and 1142] and implementing regulations.

5.3.2 Training and Core Competencies

5.3.2.1 The above staff shall meet competency and training standards compiled by the Department.

5.3.2.2 In order to be approved by the Department, the training required of the service provider staff shall, at a minimum, include each of the following topics:

5.3.2.2.1A complete course in medications used in the treatment of mental illness including the medications' effects and side effects used alone or in combination with other prescription and non-prescription medication and alcoholic or caffeinated beverages;

5.3.2.2.2A course in mental illness including symptoms of the major mental illnesses, mood and personality disorders and indications of deterioration of an individual's mental condition;

5.3.2.2.3A course in first aid, including CPR training;

5.3.2.2.4An explanation of the rights of adults with psychiatric disabilities in residential care in Delaware;

5.3.2.2.5Expectations for confidentiality and ethical behavior towards residents who will reside in the group home;

5.3.2.2.6Policies and procedures that apply to a group home on both a daily and emergency basis;

5.3.2.2.7Fire safety and evacuation procedures;

5.3.2.2.8Health care, sanitation, and safe handling of food;

- 5.3.2.2.9Familiarization with community mental health services available in the county in which the group home is located;
- 5.3.2.2.10Orientation to situational counseling, behavioral deescalation techniques, stress management and social interaction.
- 5.3.2.2.11Training in appropriate activities and entertainment for residents;
- 5.3.2.2.12Demonstration of a clear understanding of these regulations; and
- 5.3.2.2.13A plan for the continuing education and development of staff.
- 5.3.2.3 This list of topics is not intended to be exhaustive and shall in no way limit the training requirements set forth by the Department.
- 5.3.2.4 A service provider need not require training in discrete areas in which the staff person has demonstrated competency through satisfactory job performance or previous experience to the satisfaction of the service provider and the Department.
- 5.3.2.5 Staff may be provisionally hired and perform job duties pending completion of training within thirty (30) days. Such provisional staff shall not be on duty without on-site supervision.

PART III - PROGRAM

6.0 Admission and Discharge

Admission

- 6.1 The purpose of a group home is to provide a supportive and rehabilitative environment for consumers of mental health services who are unable to live independently at a given time, who demonstrate a willingness to develop the skills for independent living, and who would benefit from group living as an alternative to their existing living situation.
- 6.2 A service provider shall ensure that no applicant is denied any benefits or services or is subject to illegal discrimination based on age, sex, race, nationality, religion, sexual orientation or disability.
- 6.3 Unless otherwise authorized by statute, admission to a group home shall be limited to adults with a psychiatric disability who apply for admission to the group home, meet the criteria contained in Section 6.4, and require intensive home and community-based support services as a result of the degree of their psychiatric disability.
- 6.4 In order to be accepted as a resident of a group home, the following criteria must be met:
 - 6.4.1 Be eighteen (18) years of age or older;
 - 6.4.2 Require a twenty-four (24) hour supervised community residence because of a primary diagnosis of serious mental illness and not require the services of a psychiatric hospital;
 - 6.4.3 Agree to abide by the rules and regulations of the program;
 - 6.4.4 Be assessed not likely to be dangerous consistent with the following standard:
 - 6.4.4.1 Individuals shall not be eligible for group home admission if their residency, even with reasonable accommodation, would either constitute a direct threat to the health or safety of self or others, or result in substantial physical damage to the property of others. Such determination shall be made on an individualized basis by a multi-disciplinary team of the group home, which shall include a psychiatrist.
 - 6.4.4.2 Individuals shall agree to comply with treatment plans.
 - 6.4.5 Not be a current user of illegal drugs during the assessment period. A drug-screening test may be required to demonstrate the remission or current nonuse of illegal drugs at the time of admission.
- 6.5 Prior to admission, the service provider shall provide the applicant or legal representative an admission agreement, including the following:
 - 6.5.1 An itemized statement of services, equipment, and supplies expected to be furnished to the applicant during the period of residency;
 - 6.5.2 The cost and expected source of funding for each item, highlighting any items chargeable to the applicant's personal funds;
 - 6.5.3 Discharge standards;
 - 6.5.4 By attachment, the Patients' Bill of Rights Act (16 Del.C., §1121). Receipt shall be acknowledged by signature of the applicant or legal representative and retained in the service provider's file; and
 - 6.5.5 Each provider shall adopt a reasonable fee schedule, which shall be shared with an applicant in writing prior to admission and at such intervals thereafter as prescribed by the Department. Fees charged residents receiving state and/or federal financial assistance shall not exceed amounts available to such

persons under law. Residents of all group homes shall be given thirty (30) days written notice of any increase in fees.

- 6.6 The service provider shall complete an assessment, using a format approved by the Division of Substance Abuse and Mental Health, prior to each resident's admission to the group home with the assistance of the group home's psychiatrist.

A written summary of the assessment completed by the applicant's primary clinician must be clearly explained to the applicant. The summary of the assessment shall address, at a minimum, the following:

- 6.6.1 Current psychiatric or behavioral health symptomatology and mental status;
- 6.6.2 Compliance with and response to prescribed medical/psychiatric treatment;
- 6.6.3 Medical, dental, and visual needs;
- 6.6.4 Recent key life events and current social functioning;
- 6.6.5 Vocational and educational functioning;
- 6.6.6 Accommodations and supports to facilitate activities of daily living;
- 6.6.7 Recommendations pertaining to limitations on the applicant's diet or activities, if any, signed by a licensed physician; and
- 6.6.8 Drug and alcohol history and history of assaultive behavior up to five (5) years prior to institutionalization.

- 6.7 Based on the results of the assessment, the service provider and resident shall develop an initial individualized treatment plan no later than the date of the resident's admission to the group home. The service provider shall comply with the provisions of such plan. Copies of such plan and all amendments shall promptly be provided to the resident. In addition, copies of such plans shall be maintained for each resident at the resident's group home and shall be available for inspection by the Department upon request.

- 6.8 Discharge. Consistent with 16 Del.C., Section 1121, a provider may seek discharge of a resident for good cause. Prior to discharge, the provider shall ensure the development of a written discharge plan in consultation with the resident; his guardian or legal representative, if any; anticipated post-discharge providers; and a multidisciplinary team which shall include a psychiatrist.

6.8.1 Content of a Discharge Plan

At a minimum, the discharge plan shall include:

- 6.8.1.1 A realistic assessment of the resident's post discharge social financial, vocational, housing, and treatment needs;
- 6.8.1.2 Identification of available support services and provider linkages necessary to meet the assessed needs; and
- 6.8.1.3 Identification and a timetable of discrete, pre-discharge activities necessary to promote the resident's successful transition to the post-discharge setting.

6.8.2 Good Cause

Good cause for discharge includes the following:

- 6.8.2.1 The resident has demonstrated the ability and willingness to live in a less restrictive setting;
- 6.8.2.2 The resident, even with reasonable accommodation, poses either a direct threat to the health or safety of self or others; or direct threat of substantial physical damage to the property of others;
- 6.8.2.3 The resident requires a level of care beyond the scope of that reasonably available within the group home; or
- 6.8.2.4 The resident has materially violated essential rules of operation of the group home and such violation seriously affects the welfare of the resident or other residents of the group home.

- 6.9 A resident to be discharged shall be given thirty (30) days prior notice of the discharge and the reasons therefore, and shall be entitled to an impartial hearing to challenge the discharge. In emergency situations, a resident may be discharged without notice and a hearing, provided that as soon as practical a resident will be provided an opportunity to challenge the discharge through a hearing after the discharge has occurred, and further provided that no resident may be discharged before the service provider develops and implements an emergency discharge plan adequate to protect the resident's safety and welfare until the discharge hearing.

The emergency plan shall address the resident's need for housing. For purposes of this subsection, a situation is an emergency when the behavior of a resident is causing or threatens to imminently cause physical injury or death to the resident, other residents, staff, or others.

No resident shall be discharged on an emergency basis without prompt notification to the Division of Substance Abuse and mental Health.

- 6.10 Short-term transfer to a medical treatment setting, including a psychiatric hospital, shall not result in discharge.

7.0 Care, Treatment and Quality Assurance

- 7.1 The service provider shall operate the group home in a manner such that residents will be able to maximize their quality of life as a result of the following:
 - 7.1.1 Involvement and choice in all aspects of their care, rehabilitation and support;
 - 7.1.2 Development and maintenance of supportive social networks;
 - 7.1.3 Access to services, programs, and activities in the most integrated setting; and
 - 7.1.4 Access to rehabilitative support during the course of day to day activities.
- 7.2 The following requirements represent minimum guidelines to implement these principles:
 - 7.2.1 The service provider shall maintain the following staffing pattern:
 - 7.2.1.1 Between the hours of 8 AM and 10 PM:
 - 7.2.1.1.1A minimum of one (1) clinician or associate clinician shall be on duty and on site for every one (1) to five (5) residents present in the home.
 - 7.2.1.1.2A minimum of two (2) staff members, at least one (1) of whom shall be a clinician or associate clinician, shall be on duty and on site whenever six (6) or more residents are present in the home.
 - 7.2.1.2 At all other times, a minimum of one (1) clinician or associate clinician shall be on duty and on site whenever any residents are present in the home.
 - 7.2.1.3 At all times, at least one (1) clinician, associate clinician, or residential service assistant shall be available on call. When a staff member is on duty and on site alone, the on-call person must be a clinician or associate clinician.
 - 7.2.1.4 The Department may require a modified staffing pattern based on extenuating circumstances or resident need.
 - 7.2.2 The service provider shall develop procedures for facility and resident emergencies/crises and shall train all staff to implement such procedures prior to their assumption of an in-home resident support role. Emergency procedures shall include prompt methods for acquiring assistance of the following: facility on-call and other appropriate staff; 911 personnel; and medical/psychiatric personnel, including the area's crisis intervention service and local hospital/medical aid unit's emergency room. Psychiatric on-call coverage must be available at all times.
 - 7.2.3 Each resident shall have his/her progress and continuing treatment needs thoroughly reassessed at least once every six (6) months. The reassessment will be conducted by a the resident's treatment team, which shall include a psychiatrist.
 - 7.2.4 A service provider shall employ, or have under contract, a psychiatrist who shall participate in staff support and training, resident intake evaluation, emergency responses, and staff performance plans and reviews in each group home. This psychiatrist may be a physician other than the primary treating physician for one or all of the patients. The psychiatrist shall visit the group home at least once a week and spend a minimum of one-half hour per resident per month providing direct services to residents on site, participating in the assessment of residents' needs, planning service provision, and providing supervision/consultation to other program staff.
 - 7.2.5 The service provider shall offer a full range of rehabilitation, treatment and support services for each resident including, but not limited to, the following:
 - 7.2.5.1 Three hundred sixty-five (365) day per year services, with on-site staff available to make face-to-face contact on a twenty-four (24) hour basis;
 - 7.2.5.2 Psychiatric treatment and linkage to community support programs or day hospital programs;
 - 7.2.5.3 Clinical liaison during periods of psychiatric hospitalization;
 - 7.2.5.4 Outreach and crisis response;
 - 7.2.5.5 Social networking in an effort to promote a stable social network for the resident;
 - 7.2.5.6 Support to ensure educational and vocational training opportunities and help residents to get and keep a job;
 - 7.2.5.7 Teaching and counseling on-site to improve interpersonal skills and to assist residents to control psychiatric symptoms;
 - 7.2.5.8 Support and assistance in on-site activities of daily living such as personal hygiene, care and grooming, and training in community living;
 - 7.2.5.9 Support and assistance in the receipt of entitlements and social services;

- 7.2.5.10 Provision and encouragement of participation in activities outside of the home, to the maximum extent possible. In addition, providers shall create incentives for residents to become involved in the activities of their choice;
 - 7.2.5.11 Transportation of residents to community activities; and
 - 7.2.5.12 Support and encouragement to promote resident participation in mutual support and self-advocacy groups.
- 7.3 The service provider shall designate a clinician or associate clinician to be the primary clinician for each resident who shall:
- 7.3.1 Maintain the clinical file for the resident;
 - 7.3.2 Conduct and participate in treatment planning and case conferences with other staff of the group home, and other appropriate agencies;
 - 7.3.3 Maintain a therapeutic alliance with the resident;
 - 7.3.4 Refer and link the resident to all needed services provided outside the program;
 - 7.3.5 Follow up to ensure that all needed services provided outside of the group home are received and monitor the resident's benefit from those services;
 - 7.3.6 Coordinate the provision of emergency services and hospital liaison services when a resident is in crisis;
 - 7.3.7 Coordinate overall independent living assistance services and work with community agencies to develop needed resources including housing, employment options and income assistance; and
 - 7.3.8 Support and consult with the resident's family.
- 7.4 The duties of the service coordinator notwithstanding, all staff of the program shall share responsibility for resident care to the extent they are credentialed to provide such care.
- 7.5 Within thirty (30) days of the resident's admission, the individualized treatment plan shall be revised and updated by the resident and the resident's treatment team.
- 7.6 The treatment plan shall include both short-range and long-range goals, stated in measurable terms and including criteria for revision of goals. It shall include the specific treatment, rehabilitation and support interventions, and their frequency, planned to achieve treatment goals.
- 7.7 The resident's participation in the development of treatment goals shall be documented. With the permission of the resident, the resident's treatment team shall engage the involvement of other service providers and members of the resident's social network in formulating treatment plans.
- 7.8 The treatment plan shall be prepared on forms which are subject to Departmental approval. It shall be signed by members of the resident's treatment team and the resident.
- 7.9 The treatment plan shall be reviewed in full at least every six (6) months by the resident and the resident's treatment team. The date, results of the review, and any changes in the treatment plan shall be recorded.
- 7.10 The service provider shall develop, implement, and adhere to a documented, ongoing, quality assurance program that includes an internal monitoring process that tracks performance and measures resident satisfaction.

8.0 Records

- 8.1 The service provider shall maintain an on-site treatment record for each resident that includes sufficient documentation of assessments, treatment plans and treatment to permit a clinician not familiar with the resident to evaluate the course of treatment. Resident treatment records shall be kept confidential and safeguarded in a manner consistent with the requirements of 16 Del.C., §1121, applicable federal law and Departmental guidelines adopted in conformity with 16 Del.C., §1119 A.
- The resident's records shall be maintained by the service provider in their entirety for at least seven (7) years after the date of discharge or as otherwise directed by the Department.
- The resident's record shall contain the following:
- 8.1.1 An up-to-date face sheet and resident consent to treatment and consent to any occasion of release of treatment information;
 - 8.1.2 Results of all pertinent examinations, tests and other assessment information, reports from referral sources and clinical consults, and hospital discharge summaries;
 - 8.1.3 Assessments and summary of assessments;
 - 8.1.4 A treatment plan;
 - 8.1.5 Weekly and monthly progress notes;
 - 8.1.6 Documentation of at least semiannual reviews of treatment, including reassessment of current functioning, summary of progress and treatment plan revisions;

8.1.7 Medication history and orders including the following:

- 8.1.7.1 The brand or established name and strength of medication to extent measurable;
- 8.1.7.2 Identity of dispensing pharmacy;
- 8.1.7.3 Identity of prescribing physician;
- 8.1.7.4 Date of order;
- 8.1.7.5 Dose;
- 8.1.7.6 Special instructions included on the prescription;
- 8.1.7.7 Frequency and, if specified, time period of intended administration; and
- 8.1.7.8 For each discrete self-administration/administration of medication, the following:
 - 8.1.7.8.1 Time and date;
 - 8.1.7.8.2 Amount or dose;
 - 8.1.7.8.3 Route of administration;
 - 8.1.7.8.4 Identity of person administering, assisting with administration, or, if applicable, monitoring self-administration of medication; and
 - 8.1.7.8.5 Any adverse reactions.

8.1.8 Discharge plan developed in conformity with Sections 6.8, 6.9 and 6.10.

- 8.2 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. Incident reports shall be kept on file in the facility. Reportable incidents shall be communicated immediately to the Division of Long Term Care Residents Protection, 3 Mill Road, Suite 308, Wilmington, DE 19806; telephone number: 1-877-453-0012; fax number: 1-877-264-8516.

9.0 General Health Care

- 9.1 The service provider shall ensure that residents receive needed medical, dental, visual and behavioral health care. Residents shall have a complete physical examination by a physician within thirty (30) days of admission to the group home unless they have had one within one (1) year of admission and their medical records are available to their current primary care physician.
- 9.2 The service provider shall identify generic medical services and the professional providing the services, including a physician and dentist, for each resident.
- 9.3 The service provider shall ensure that each resident has an annual physical exam.
- 9.4 The service provider shall ensure that dental evaluations and preventive care are provided at least annually.
- 9.5 Upon confirmation of a reportable disease, the service provider shall notify the appropriate County Health Officer of the Division of Public Health.
- 9.6 The service provider shall provide or arrange transportation for the resident's routine medical and dental care.
- 9.7 Unless otherwise prescribed, the daily diet for each resident shall include a minimum of three balanced meals a day.
- 9.8 The service provider shall immediately report, by telephone, a suspected occurrence of food poisoning to the County Health Officer of the Division of Public Health, and the resident's physician.
- 9.9 If the service provider's staff does not include a registered nurse, the service provider shall train sufficient staff to ensure that, at all times, one or more members of the staff on duty in the group home has basic knowledge in first aid (including CPR), prevention of disease, proper handling of food, and care of sick persons. Reference materials on nutrition, drugs, and illness shall be available to the staff.
- 9.10 All group homes shall have on file results of tuberculin tests performed annually for all group home staff and residents. Mantoux techniques (5TU-PPD-T) is the tuberculin skin test recommended by the Division of Public Health. The service provider shall report the test results of any staff or resident found to react significantly to the skin test (ten (10) mm induration or greater) to the Division of Public Health.
- 9.11 New group home staff and new residents fifty (50) years of age or older who have a nonsignificant reaction to the tuberculin test, defined as less than ten (10) mm induration, should be retested within ten (10) to fourteen (14) days to identify those who demonstrate delayed reactions.
- 9.12 Group home staff and residents who have a documented history of a significant tuberculin test should not be retested, ever. Clinical histories on such group home staff and residents should be taken and those with symptoms of pulmonary tuberculosis should have chest x-rays.

- 9.13 The Department may require a group home to conduct more frequent tuberculin screening should the Department judge that the risk of tuberculosis in the group home warrants such action.

10.0 Medications

- 10.1 Medication monitoring is to be conducted as follows:
- 10.1.1 The psychiatrist shall evaluate each resident's response to prescribed medication at least every two (2) weeks;
 - 10.1.2 The service provider shall monitor and document, as required in Section 8.1.7, resident compliance in following prescribed medication treatment and medication effects and side effects. The service provider shall assist the resident in reporting side effects to the psychiatrist or other physician prescribing the medication. Suspected drug reactions shall be noted in the medication record and reported to the psychiatrist immediately;
 - 10.1.3 A registered nurse or licensed practical nurse may administer medications, including injections, at the direction of the prescribing physician; and
 - 10.1.4 Residents shall retrieve and take their medications under the direct supervision of a qualified staff member except as specifically authorized by the treatment plan.
- 10.2 Residents receiving medication shall be trained to take their own medication, where possible. Staff who have successfully completed a Board of Nursing approved medication training program may assist residents in the taking of medication provided that the medication is in the original container and properly labeled. The medication must be taken exactly as indicated on the label.
- 10.3 No prescription medication shall be administered to a resident without an order by a physician or other legally authorized person.
- 10.4 No person other than a physician or licensed nurse shall administer injectable medication.
- 10.5 Group home staff shall immediately report medication errors to the prescribing physician.
- 10.6 A minimum of a three (3) day supply of each resident's medication shall be available at all times.
- 10.7 The service provider shall be responsible for the storage of medication. Medications not in the authorized possession of residents are to be kept in a locked cabinet or in a locked box in a refrigerator, in a locked room.

11.0 Resident Rights and Responsibilities

- 11.1 Consistent with Section 4.3.1, residents may solicit, and the service provider shall consider, resident requests for reasonable accommodation based on disability. Residents should review their admissions agreements and shall have an opportunity to accept or reject admission to the group home program prior to enrollment.
- 11.2 Residents shall be kept informed through written guidelines and documentation in their clinical records of their rights and responsibilities contained in written policies and procedures including reference to:
- 11.2.1 Behavioral expectations and limitations including:
 - 11.2.1.1 Prohibition against the use of alcohol or other drugs other than those prescribed by their physicians;
 - 11.2.1.2 Respect for privacy rights of fellow residents and others and respect for laws regarding conduct outside the group home; and
 - 11.2.1.3 Cooperation with treatment;
 - 11.2.2 Confidentiality; and
 - 11.2.3 All applicable appeal processes.
- 11.3 Each service provider shall maintain a fair, timely, and impartial grievance system, whose operational standards may be prescribed by the Department, to address resident complaints. The availability of such system shall not preclude or diminish a resident's right to pursue remedies in alternate forums, including those authorized by 16 Del.C., §§1121, 1125, and 1152.
- 11.4 Subject to 16 Del.C., §1121, the service provider shall adopt reasonable program or house rules which promote resident safety and responsibility without unnecessarily compromising individual self-determination and choice. On a case-by-case basis, a resident's treatment team may authorize a variance from application of such rules (e.g. during transition to and from the residence). Any variance that restricts personal activities within the general scope of adult discretion shall be based on clinical necessity and the specific rationale included in the resident's treatment plan.
- 11.5 The service provider shall comply with all applicable state laws, regulations, and policies regarding reporting and responding to allegations of abuse and neglect.
- 11.6 The service provider shall comply with the applicable posting and disclosure requirements of 16 Del.C., §1108.

- 11.7 The service provider shall comply with the Patient's Bill of Rights set forth in 16 Del.C., §1121. A copy of the Patient's Bill of Rights shall be conspicuously posted within the home.

PART IV - QUALITY AND SAFETY OF LIVING ARRANGEMENTS

12.0 Physical Facility Standards

- 12.1 Rooms or other areas of the group home that are not sleeping rooms shall not be used for sleeping accommodations.
- 12.2 Sleeping rooms shall be rooms with one (1) outside wall and shall provide for quiet and privacy.
- 12.2.1 Each bedroom shall have walls that go to the ceiling, a door that can be closed and that opens directly into a corridor, and at least one (1) window that opens directly to the outside.
- 12.2.2 Bedrooms for one (1) individual shall be at least one hundred (100) square feet in size and bedrooms for more than one (1) individual shall provide at least eighty (80) square feet of floor space per individual and be adequately spaced for resident care. Minimum room measurements shall not include toilet rooms, closets, lockers, wardrobes, alcoves or vestibules. The ceiling shall not be less than seven (7) feet from the floor. Each bedroom shall accommodate no more than two (2) residents.
- 12.2.3 Each resident shall have a separate bed of appropriate size and height and in good repair with a comfortable, well-constructed mattress. There shall be closet space and a minimum of two (2) drawers in a chest of drawers for storing personal belongings. There shall be a sturdy bedside stand and reading light for each resident.
- 12.2.4 Electrical outlets shall be conveniently located in each room with at least one (1) light fixture switch at the entrance to the bedroom.
- 12.2.5 The service provider shall ensure adequate privacy and separation of sexes in sleeping arrangements, except in cases of husband and wife.
- 12.2.6 If bedroom doors of residents are locked by residents for privacy reasons, a master key shall be available to staff persons.
- 12.2.7 Bedroom windows shall have window treatments that close for privacy.
- 12.3 Every resident shall receive notice before the resident's room or roommate is changed, except in emergencies. The service provider shall endeavor to honor the room or roommate requests of the resident whenever possible. Smoking and non-smoking residents, where practical, shall not share a room except by mutual agreement.
- 12.4 There shall be a telephone in the group home accessible to staff and residents.
- 12.5 There shall be sufficient heating, ventilation, and light in all living and sleeping quarters to provide a comfortable atmosphere.
- 12.6 The exterior of the group home site shall be free from hazards as well as the accumulation of litter.
- 12.7 The group home and grounds shall be clean and orderly and maintained in an attractive appearance reasonably consistent with the character of the immediate area in which the group home is located.
- 12.8 There shall be provided one (1) or more areas that are adequate in size and furnished for resident dining, recreational, and social activities, and which shall include TV, radio and entertainment. At least thirty (30) square feet per resident shall be assigned to these areas. Basement space may be used for recreation activities if there is a minimum of two (2) means of egress from the basement.
- 12.9 Any physical alteration of a group home shall be approved by the Department in writing prior to the commencement of the alteration. One (1) copy of the building permit for the alteration, the application for the building permit and accompanying plans and specifications shall be submitted to the Department before the alteration may be considered.
- 12.10 All vehicles used to transport residents by the service provider shall be equipped with a seat belt for each resident, a means of communication, and shall comply with applicable safety and licensing standards established by the Delaware Division of Motor Vehicles. The service provider shall maintain liability insurance as required by Delaware law. A driver of a vehicle used to transport residents shall have a valid license.
- 12.11 Emergency transportation shall be available on a twenty-four (24) hour basis. Each group home shall demonstrate the ability to transport residents on an as-needed basis, including provisions for emergency transportation, as a condition of licensure.

13.0 Health and Sanitation

- 13.1 The group home site shall be easily drained, suitable for the disposal of sewage, and furnished with a potable water supply that meets requirements of the appropriate State agencies.

- 13.2 The water system in the group home shall be designed to supply adequate hot and cold water, under pressure, at all times.
- 13.3 Hot water at shower, bathing and hand washing faucets in the group home shall not exceed 120° F.
- 13.4 The plumbing in the group home shall meet the requirements of all applicable municipal, county, and state codes. Where there are no municipal or county codes, the plumbing in the group home shall meet the provisions of the Department's Sanitary Plumbing Code.
- 13.5 There shall be private bathroom facilities with a toilet, shower or tub, and wash basin in each group home. These facilities shall be accessible to each resident according to his/her individual needs.
 - 13.5.1 Traffic to and from any room shall not be through a bedroom or bathroom except where a bathroom opens directly off the room it serves.
 - 13.5.2 There shall be at least one (1) window or mechanical ventilation to the outside of the bathroom.
 - 13.5.3 Toilets, bathing and toileting appliances shall be equipped for use by residents with physical disabilities, as dictated by such residents' needs.
 - 13.5.4 There shall be at least one (1) toilet of appropriate size for each four (4) residents. Each toilet shall be equipped with a toilet seat and toilet tissue.
 - 13.5.5 There shall be at least one (1) wash basin and one (1) tub or shower for each four residents.
 - 13.5.6 Wash basins with soap and towels shall be available in or immediately adjacent to bathrooms and/or toilet rooms.
 - 13.5.7 Shower and tub areas shall be equipped with substantial hand-grip bars and slip-resistant surfaces.
 - 13.5.8 Bathroom areas shall be equipped with mirrors for personal grooming. Mirrors shall be installed in such a way as to minimize the danger of breakage.
- 13.6 All group homes shall prepare regular and therapeutic menus. A copy of a recent diet manual shall be available for planning menus.
- 13.7 A minimum of three (3) meals shall be 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.
- 13.8 The food served shall be suitably prepared and of sufficient quality and quantity to meet the nutritional needs of the residents.
- 13.9 Special diets shall be served on the written prescription of the physician.
- 13.10 A registered dietitian shall plan, review, revise and document menus with resident input.
- 13.11 Menus showing food actually served shall be kept on file for at least one (1) month.
- 13.12 A three (3) day supply of food for emergency feeding shall be kept on the premises.
- 13.13 There shall be refrigeration for perishable foods in the group home. There shall be 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 41° F. or below.
- 13.14 Food returned from individual plates shall not be used in preparation of other food dishes or served again.
- 13.15 There shall be at least one (1) four (4) burner range and one (1) oven (or combination thereof) that is in proper working order.
- 13.16 There shall be at least one (1) sanitary trash or garbage receptacle.
- 13.17 There shall be adequate cleaning and disinfecting agents and supplies.
- 13.18 There shall be separate areas of storage for:
 - 13.18.1 Food items;
 - 13.18.2 Cleaning agents, disinfectants and polishes;
 - 13.18.3 Poisons, chemicals and pesticides; and
 - 13.18.4 Eating, serving and cooking utensils.
- 13.19 All containers of poisonous and toxic materials kept in a group home shall be prominently and distinctly marked or labeled for easy identification as to contents and shall be used only in such manner and under such conditions as will not contaminate food or constitute a hazard to the residents and staff. All poisonous or toxic materials shall be locked in secure storage spaces.
- 13.20 All outside doors and windows shall have screens if used for ventilation.
- 13.21 There shall be a dishwasher or facilities for performing a wash, rinse, and a final sanitizing rinse.
- 13.22 The kitchen shall be equipped with at least one (1) operable window or exhaust system for removal of smoke, odors and fumes.
- 13.23 There shall be walls and floors that are cleanable and counters that are both cleanable and impervious to water.

- 13.24 Every part of the building shall be kept free of offensive odors. Floors, walls, ceilings, and other surfaces shall be kept clean and in good repair.
- 13.25 Written policies that outline maintenance, electrical maintenance, cleaning procedures, storage of cleaning material, pesticides and other potentially toxic materials shall be prepared and followed.
- 13.26 There shall be a minimum of two (2) sets of towels, wash cloths, sheets and pillowcases per resident that shall be changed at least weekly, or more often if soiled.
- 13.27 Laundry should not be done in the kitchen area.
- 13.28 Exterminator services shall be required when there is evidence of any infestation.

14.0 Safety

- 14.1 Fire safety in group homes shall comply with the adopted rules and regulations of the State Fire Prevention Commission. All applications for the license or renewal of a license shall include, with the application, a letter certifying compliance by the Fire Marshal having jurisdiction. Notification of non-compliance with the rules and regulations of the State Fire Prevention Commission shall be grounds for revocation of a license.
- 14.2 The group home shall have a minimum of two (2) doors to the outside and windows that can be opened.
- 14.3 The group home shall have an adequate number of UL (Underwriter's Laboratory) approved smoke detectors in working order:
 - 14.3.1 In a single level group home, a minimum of one (1) smoke detector placed between the bedroom area and the remainder of the group home.
 - 14.3.2 In a multistory group home, a minimum of one (1) smoke detector on each level. On levels that have bedrooms, the detector shall be placed between the bedroom area and the remainder of the group home.
- 14.4 There shall be two (2) five (5) pound ABC Fire Extinguishers that are readily accessible and visible in the group home. Extinguishers are to be checked annually.
- 14.5 The group home shall have a written posted evacuation plan with specific responsibilities of each resident and staff member identified in case of fire or emergencies. Residents and staff shall be trained in executing the evacuation plan. Sufficient staff will be present to ensure timely resident evacuation in the event of an emergency.
- 14.6 Evacuation drills shall be held quarterly for each shift of group home personnel. Drills shall be held on different days of the week. Drills shall be held at different times of the day, including times when residents are asleep.
- 14.7 The service provider shall prohibit firearms, and other dangerous weapons within the buildings or on the grounds of the group home.
- 14.8 Emergency telephone numbers, including telephone numbers for fire, police, physicians, psychiatrists, poison control, crisis intervention services, and ambulance shall be conspicuously posted adjacent to the telephones.
- 14.9 Glass shower doors shall be marked for safety.
- 14.10 Smoking shall be limited to designated smoking areas.
- 14.11 Stairways, ramps, and open-sided approaches shall have adequate lighting and handrails for safety. Non-skid surfaces shall be used when slippery surfaces present a hazard.
- 14.12 All stairways and hallways shall be kept free and clear of obstructions at all times.
- 14.13 Floors, walls, ceilings, and other surfaces shall be kept clean and in good repair. Floor surfaces shall not be slippery. If rugs are used, they should be free of such hazards as curled edges, rips, and other irregularities that have a potential for tripping residents.

15.0 Infection Control

- 15.1 The group home shall establish an infection prevention and control program which shall be based upon Centers for Disease Control and Prevention and other nationally recognized infection prevention and control guidelines.
 - 15.1.1 The infection prevention and control program must cover all services and all areas of the group home, including provision of the appropriate personal protective equipment for all patients/residents, staff, and visitors.
- 15.2 The individual designated to lead the group home's infection prevention and control program must develop and implement a comprehensive plan that includes actions to prevent, identify, and manage infections and communicable diseases. The plan must include mechanisms that result in immediate action to take preventive or corrective measures that improve the group home's infection control outcomes.
- 15.3 All group home staff shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program.

45.0 ~~15.0~~ 16.0 Noncompliance

~~45.1~~16.1 Upon receipt of written notice of a violation of these regulations, the service provider shall submit a written plan of action to correct deficiencies cited within ten (10) days or such other time period as may be required by the Department. The plan of action shall address the corrective actions to be taken and include all measures to prevent their recurrence.

~~45.2~~16.2 The Department may impose civil money penalties and/or other enforcement remedies in accordance with the procedures outlined in 16 **Del.C.**, Ch. 11, Subchapter I, Licensing by the State.

~~45.3~~16.3 The Department may suspend or revoke a license, or refuse to renew it, in accordance with 16 **Del.C.**, Ch. 11, Subchapter I, Licensing by the State.

46.0 ~~16.0~~ 17.0 Waiver of Standards

Waivers may be granted by the Division of Long Term Care Residents Protection for good cause.

47.0 ~~17.0~~ 18.0 Severability

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

6 DE Reg. 323 (09/01/02)

6 DE Reg. 654 (11/01/02)

25 DE Reg. 13 (07/01/21) (Emer.)