

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 1119C (16 Del.C. §1119C)
16 DE Admin. Code 3301

FINAL

ORDER

3301 Group Home Facilities for Persons with AIDS

Nature of The Proceedings

The Delaware Department of Health and Social Services ("DHSS") initiated proceedings to adopt revised Regulations Governing Group Home Facilities for Persons with AIDS. The DHSS proceedings to adopt regulations were initiated pursuant to Title 29 of the Delaware Code, Chapter 101 and authority as prescribed by Title 16 of the Delaware Code, Section 1119C.

On December 1, 2021 (Volume 25, Issue 6), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 Del.C. § 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by January 3, 2022, after which time the DHSS would review information, factual evidence and public comment to the proposed regulations.

No written comments were received during the public comment period.

Summary of Proposal

On February 1, 2022, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Group Home Facilities for Persons with AIDS.

Background

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. The purpose of this amendment is to add the requirement that staff at Group Home Facilities for Persons with AIDS must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

Statutory Authority

16 Del.C. §1119C

Purpose

Rapid and widespread transmission of COVID-19 significantly impacted many vulnerable individuals receiving healthcare services throughout the community. While the availability of COVID-19 vaccines has helped to mitigate some of the risk, health and safety protocols must continue. To protect our most vulnerable citizens from COVID-19, Group Home Facilities for Persons with AIDS must expand the infection prevention and control program by requiring staff at Group Home Facilities for Persons with AIDS must either provide evidence of COVID-19 vaccination or undergo regular testing to prevent the transmission of COVID-19. While the state's requirements will offer employees the choice between getting vaccinated or getting tested, employers should encourage vaccination and federal guidance permits employers to require vaccinations.

Fiscal Impact

N/A

Findings of Fact:

The Department finds that the proposed regulation, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulation Governing Group Home Facilities for Persons with AIDS are adopted and shall become effective February 11, 2022, after publication of the final regulations in the *Delaware Register of Regulations*.

Date 01/13/2022

Molly Magarik, Secretary, DHSS

3301 Group Home Facilities for Persons with AIDS

These regulations are promulgated in accordance with 16 Del.C. Ch. 11. All facilities must comply with applicable local, state and federal laws and regulations.

1.0 Definition

The following regulations are designed specifically for Group Homes for sixteen (16) or less persons with AIDS and establish the minimal acceptable level of living and programmatic conditions in such homes. Only those residents shall be admitted with an established diagnosis and disease progression such that the resident requires a routine and frequent combination of physician, professional nursing and supportive services. Provisions shall be made for the transfer and/or discharge of residents When acute care (hospital) services are required or requested.

2.0 Glossary of Terms

“Activities of Daily Living” - Normal daily activities including but not limited to ambulating, transferring, range of motion, grooming, bathing, dressing, eating and toileting.

“Certified Nursing Assistant” - An individual certified in accordance with 16 Del.C., Ch. 30A who provides care that does not require the judgment and skills of a licensed nurse.

“Continuous” - Available at all times without cessation, break or interruption.

“Department” - Department of Health and Social Services

“Dietitian” - A person currently registered by the Commission on Dietetic Registration of the American Dietetic Association and/or a Certified Dietitian/Nutritionist in the State of Delaware.

“Direction” - Authoritative policy or procedural guidance for the accomplishment of a function or activity.

“Division” - ~~Division of Long Term Care Residents Protection~~ Health Care Quality

“Facilities” - The site, physical structure and equipment necessary to provide the required service.

“Group Home Administrator” - The individual responsible for the operation of the group home.

“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. (Also see **Reportable Incident**)

“Licensed Practical Nurse” - A nurse who is licensed to practice as a practical nurse in the State of Delaware or whose license is recognized to practice in Delaware.

“Licensee” - The person or organization to whom the group home for persons with AIDS license is granted. The licensee has full legal authority and responsibility for the governance and operation of the group home.

“Medical and Nursing Services” - The services pertaining to medical care and performed at the direction of a physician on behalf of residents by physicians, nurses, or any other professional or technical personnel such as an advanced nurse practitioner or physician's assistant and which may include the curative, restorative, preventive and palliative aspects of nursing care.

“Notifiable Diseases” - A communicable disease or condition of public health significance required to be reported to the Division of Public Health in accordance with the Delaware Department of Health and Social Services Regulations for the Control of Communicable and other Disease Conditions.

“Nursing Service Personnel” - Those licensed or unlicensed persons giving direct services to the residents, pertaining to the curative, restorative, preventive or palliative aspects of nursing care and who are supervised by either a registered professional nurse or a licensed practical nurse.

“Personal Care Services” - Those health related services that include general supervision of and direct assistance to, individuals in their activities of daily living.

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

“Registered Nurse” - A nurse who is a graduate of an approved school of professional nursing and who is licensed to practice in the State of Delaware or whose license is recognized to practice in Delaware.

“Reportable Incident” - An occurrence or event which must be reported at once to the Division and for which there is reasonable cause to believe that a resident has been abused, neglected, mistreated or subjected to financial exploitation. 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. (Also see **Incident**)

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

“Supervision” - That degree of oversight and inspection of licensed and unlicensed personnel necessary to ensure the safety, comfort and well-being of residents.

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

3.0 Licensing Requirements and Procedures

- 3.1 When a facility is classified under this law or regulation and plans to construct, extensively remodel or convert any buildings, one (1) copy of property prepared plans and specifications for the entire facility are to be submitted to the Division. An approval in writing is to be obtained before such work is begun. After the work is completed, in accordance with the plans and specifications, a new license to operate will be issued.
- 3.2 Separate licenses are required for facilities, maintained in separate locations, even though operated under the same management. A separate license is not required for separate buildings maintained by the same management on the same grounds. Under conditions of assignment or transfer of ownership, a new license will be issued.
- 3.3 Inspections
Every group home for persons with AIDS for which a license has been issued under this chapter shall be periodically inspected by a representative of the Division of Public Health.
- 3.3.1 Issuance of Licenses
Licenses shall be issued in the following categories:
 - 3.3.1.1 Annual License. An annual license (12 months) may be renewed yearly if the holder is in full compliance with the provisions of **16 Del.C. Ch. 11** and the rules and regulations of the Department of Health and Social Services.
 - 3.3.1.2 Provisional License. A provisional license shall be granted for a term of ninety (90) days only, and shall be granted to a group home during its first 90 days of operation. A provisional license may also be granted to a group home, which although not in full compliance, is nevertheless demonstrating evidence of improvement.
- 3.4 The Division may adopt, amend, or repeal regulations governing the operation of facilities defined under **16 Del.C. Ch. 11, Subchapter I.**, Licensing By The State, and shall establish reasonable standards of equipment, capacity, sanitation, and any other conditions which might influence the health or welfare of the residents of such institutions.

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

4.0 General Requirements

- 4.1 All required records maintained by the group home for persons with AIDS shall be open to inspection by the authorized representatives of the Division.
- 4.2 The term "Group Home" shall not be used as part of the name of any facility in this State, unless it has been so classified by the Department of Health and Social Services.
- 4.3 No rules shall be adopted by the licensee or administrator which are in conflict with these regulations.
- 4.4 The Division shall be notified, in writing, of any changes in the Administrator.
- 4.5 The group home shall establish written policies regarding the rights and responsibilities of residents, and these policies and procedures are to be made available to sponsoring agency(ies), and authorized representatives of the Division.
- 4.6 Each facility shall make known, in writing, the refund and prepayment policy at the time of admission, and in the case of thirdparty payment, an exact statement of responsibility in the event of retroactive denial.
- 4.7 The group home shall provide safe storage for resident's valuables.
- 4.8 The group home provider shall assure emergency transportation and care through use of appropriate transfer agreements with local medical facilities
- 4.9 All residents shall be afforded all protections and privileges contained in the Delaware Patients Bill of Rights.
- 4.10 The facility shall cooperate fully with the state protection and advocacy agency, as defined in **16 Del.C. §1102(7)**, in fulfilling functions authorized by Title 16, Chapter 11.

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

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

5.0 Plant, Equipment and Physical Environment

5.1 Site Provisions:

Each group home for persons with AIDS shall be located on a site which is considered suitable by the Division of Public Health. The site must be safe easily drained, suitable for the disposal of sewage, and for the furnishing of a potable water supply.

5.2 Water Supply and Sewage Disposal:

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

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

5.2.3 Hot water at shower, bathing and hand washing facilities shall not exceed 110°F (43°C).

5.3 Building:

5.3.1 The building shall be so constructed and maintained to prevent the entrance or existence of rodents and insects at all times. An 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.

5.3.2 The root exterior walls, doors, sky lights and windows shall be weather tight and watertight and shall be kept in sound condition and good repair.

5.3.3 The exterior of the site shall be free from hazards and also from the accumulation of litter.

5.3.4 Floor and wall surfaces of bathrooms, kitchens, and soiled utility rooms 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.

5.3.5 Basements shall be of such construction that they can be maintained in a dry and sanitary condition.

5.3.6 Main entrance areas shall open into general or group function areas, usually living rooms.

5.3.7 The group home facility must be handicapped accessible. The entrance and circulation areas shall meet appropriate American National Standards Institute ('A.N.S.I.') standards and all other State and Federal standards.

5.3.8 One of the main points of entry for the facility shall provide entry closet capacity for outdoor and foul weather clothing.

5.3.9 Traffic to and from any room shall not be through a bedroom bathroom, utility room or kitchen except where a utility room, toilet room or bathroom opens directly off the room it serves.

5.4 Plumbing:

The plumbing shall meet the requirements of all municipal or county codes. Where there is no local law, the provisions of the Division of Public Health Sanitary Plumbing Code shall prevail.

5.5 Heating Ventilation and Air Conditioning:

5.5.1 The heating equipment for all living and sleeping quarters shall be adequate, safe, protected, and easily controlled. It shag be capable of maintaining the temperature in each room used by residents at a minimum of 72°F (21°C). Portable heating devices shall not be used.

5.5.2 The group home must be adequately ventilated. Air conditioning equipment must be adequate and capable of maintaining the temperature in each room used by residents between 72°F 82°F.

5.6 Lighting:

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

5.7 Safety Equipment:

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

5.7.2 Floor surfaces, especially in heavy traffic areas shall be durable, yet non abrasive and slip-resistant. Area rugs on hand finished floors shall have a non skid backing. Carpeting shall be maintained in a clean and slip-resistant condition.

5.7.3 All doors for areas used by residents shall be capable of being opened from both sides.

5.8 Bedrooms:

5.8.1 Each room shall be an outside room with at least one (1) window opening directly to the outside. The windowsill shall be at least three (3) feet above the floor and above grade. Windows shall be constructed to allow a maximum of sunlight and air, to eliminate drafts, and be easy to open and close. Window area shall be no less than the equivalent of one-tenth (1/10) of the floor space.

5.8.2 Bedrooms for one (1) person shall be at least 100 square feet in size; and bedrooms for more than one (1) person shall provide at least 80 square feet of floor space per person and be adequately spaced for

resident care. (Minimum room areas are exclusively of toilet rooms, closets lockers, wardrobes, alcoves or vestibules). The ceiling shall not be less than seven (7) feet from the floor.

- 5.8.3 Each bedroom is to have walls that go to the ceiling and a door that can be closed.
- 5.8.4 Adequate electrical outlets shall be conveniently located in each room and each room shall have general lighting and night lighting. A reading light shall be provided for each resident. At least one light fixture shall be switched at the entrance to each bedroom.
- 5.8.5 Facilities shall ensure adequate privacy and separation of sexes in sleeping arrangements except in cases of husband or wife or other long term consensual partnership arrangements.
- 5.8.6 If bedroom doors of residents are locked by residents for privacy reasons, all persons on duty must carry a master key for these locks.
- 5.8.7 Bedrooms shall accommodate no more than two residents per room.
- 5.8.8 Bedrooms shall contain a separate bed of proper size and height for each resident.
- 5.8.9 Each resident shall be provided with at least one chair, chest-of-drawers, closet space with a clothes rack and shelves, and a mirror.
- 5.8.10 Bedroom windows shall have window treatment(s) that close for privacy.
- 5.8.11 Bedroom doors shall open directly into corridors or hallways.

5.9 Bathrooms and Hand Washing Facilities:

- 5.9.1 At least one (1) window or mechanical ventilation to the outside shall be provided.
- 5.9.2 Bathroom design shall be handicapped accessible and meet appropriate American National Standards Institute (ANSI) Standards.
- 5.9.3 Toilets, showers, bathtubs and wash basins shall provide accessible traffic patterns for all resident rooms.
- 5.9.4 Toilets, bathing and toileting appliances shall be equipped for use by multiple handicapped residents.
- 5.9.5 There shall be at least one toilet of appropriate size for every four clients:
 - 5.9.5.1 Each toilet shall be equipped with a toilet seat and toilet tissue.
 - 5.9.5.2 Separate toilet facilities with hand washing must be provided for staff.
- 5.9.6 There shall be at least one hand washing sink for every four clients. Hand washing facilities shall be readily accessible to residents and staff. Hand washing facilities shall be provided in each resident room or located in an adjoining toilet room available at a reasonable distance from the resident room.
- 5.9.7 There shall be at least one tub or shower equipped with grip bars and slip resistant surfaces for every four residents. At least one shower must be handicapped accessible without curbs.
- 5.9.8 Wash basins shall be available in or immediately adjacent to bathrooms and toilet rooms.
- 5.9.9 Bathroom areas shall be equipped with mirrors for personal grooming. Mirrors shall be installed in such a way to minimize the danger or breakage.

5.10 Day Room and Dining Area:

- 5.10.1 There shall be at least 30 square feet per client within the house, not including client bedrooms, for recreation, dining and program activities.
- 5.10.2 When a multi-purpose room is used for dining and recreation, it shall have sufficient space to accommodate all activities and to prevent interference among activities.
- 5.10.3 Basement space may be used for recreation activities if there are a minimum of two fire exits.
- 5.10.4 Appropriate leisure and mealtime furniture, as well as comfortable seating shall be provided for each resident.

5.11 Kitchen and Pantry/Storage Areas:

- 5.11.1 The kitchen shall provide sufficient space to carry out proper food preparation and dishwashing operations and shall have:
 - 5.11.1.1 Walls, floors and counters with coverings which are easily cleaned and impervious to water. Food contact surfaces, utensils and equipment shall be of approved material, cleanable and shall be kept in good repair.
 - 5.11.1.2 At least one (1) refrigerator in proper working order, capable of maintaining foods at 41°F, or below, as determined in the warmest part of the refrigerator, and one (1) freezing unit, in proper working order capable of maintaining frozen foods in a continuous frozen state.
 - 5.11.1.3 At least one (1) four burner range and one (1) oven which are in proper working order.
 - 5.11.1.4 A dishwasher shall be provided to effectively remove food sod and soaps or detergents from dishes, utensils and equipment used in food storage, preparation and service. The dishwasher

must be supplied with hot water of 165°F. If a dishwasher is not used, dishes, equipment, and utensils shall first be washed, next rinsed, and then sanitized according to the following:

5.11.1.4.1 Immersion for at least one-half (1/2) minute in clean, hot water of a temperature of at least 1700 F;

5.11.1.4.2 Immersion for at least one (1) minute in a clean solution containing at least fifty (50) parts per million of available chlorine as a hypochlorite (household bleach or the equivalent) and having a temperature of at least 750F.

5.11.2 Cleaned dishes, utensils and equipment shall be stored in a clean dry area protected from contamination by splash, dust or other means.

5.12 Sanitation and Housekeeping:

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

5.12.2 Policy manuals shall be prepared and followed which outline maintenance and cleaning procedures safe storage of cleaning materials and pesticides and other potentially toxic materials, and safe storage and handling of linen and other matters which pertain to the comfort and safety of the residents.

5.12.3 There shall be a minimum of three sets of towels, washcloths, sheets and pillowcases for each resident which shall be changed at least weekly or whenever soiled.

5.12.4 There shall be separate areas for storage of

5.12.4.1 Food items.

5.12.4.2 Cleaning agents, disinfectants and polishes.

5.12.4.3 Poisons, chemicals and pesticides.

5.12.4.4 Eating, serving and cooking utensils.

5.12.5 A ventilated janitors closet must be provided containing a service sink for storage and use of housekeeping items.

5.12.6 Laundry processing must limit the handling of laundry and must utilize universal precautions in the handling of all soiled laundry.

5.12.6.1 On-site laundry processing area must include:

5.12.6.1.1 One room with areas for receiving, sorting, and washing of soiled linen. Washers must be supplied with hot water of 160°F. Room must be properly ventilated with air flow under negative pressure in relation to adjacent areas.

5.12.6.1.2 One room for drying and folding of clean linen. Room must have hand washing immediately accessible and be properly ventilated with air flow under positive pressure in relation to adjacent areas.

5.12.6.2 Off-site laundry processing must comply with the following:

5.12.6.2.1 A contract with a commercial laundry must be obtained for the proper processing of soiled linen.

5.12.6.2.2 A properly ventilated soiled linen holding room (ventilated directly outside, with an air flow under negative pressure) or a designated area in the soiled utility room shall be provided for the storage of soiled linen.

5.12.6.2.3 A clean linen storage closet sufficient for the storage of clean linen must be provided.

5.12.7 Soiled utility room for storage of regulated infectious waste, sharps and disposal of body fluids must be provided and must contain a work counter, hand washing facilities, clinical sink or other bed pan cleaning device. This room must be properly ventilated directly outside with air flow under negative pressure in relation to adjacent area (10 total air exchanges per hour).

5.13 Nursing Equipment and Supplies:

5.13.1 There shall be sufficient equipment and supplies for nursing care to meet the needs of each resident. It shall be the responsibility of the administrator to obtain specific items required for individual cases.

5.13.2 Over the bed tables shall be provided for residents who may not be able to be served a meal in the dining room.

5.13.3 There shall be sufficient space and facilities available for the proper cleansing, disinfection, sterilization (if done on premises) and storage of nursing supplies and equipment.

5.13.4 A call system shall be provided for each resident. This system shall be accessible to each bed, each toilet room bathroom and shower room used by residents.

5.13.5 The facility shall maintain a scale on the premises which can accommodate the physical condition of each resident.

5.13.6 The group home provider shall provide bag and mask for assisted ventilation.

6.0 Fire Safety

- 6.1 Fire safety in group homes shall comply with the adopted rules and regulations of the State Fire Prevention Commission. Enforcement of Fire Regulations is the responsibility of the State Fire Prevention Commission. All applications for a license or renewal of a license must include, with the application, a letter certifying compliance by the Fire Marshal having jurisdiction. Notification of noncompliance with the Rules and Regulations of the State Fire Prevention commission shall be grounds for revocation of a license.
- 6.2 There must be sufficient staff (a minimum of two) awake and on duty at all times including the night shift, to evacuate all residents in case of fire. More than two staff shall be on duty at all times if the Fire Marshal determines that more staff is required to evacuate residents timely in case of fire.
- 6.3 Residents and all staff on each shift shall be trained in executing the evacuation plan.
- 6.4 Evacuation drills must be held at least quarterly on each shift for all staff and residents.

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

7.0 Personnel/Administrative

- 7.1 There must be a licensee of the facility. The licensee must:
 - 7.1.1 Exercise general policy, budget, and operating direction over the facility;
 - 7.1.2 Appoint the administrator of the facility who shall have:
 - 7.1.2.1 An associates degree or higher from an accredited college or university plus three (3) years experience in a health or human services field; or
 - 7.1.2.2 A bachelor's degree or higher in a health, business, or related field and a minimum of one year's work experience in a health or human service field.
 - 7.1.2.3 Insure all operations of the group home facility are conducted in accordance with these regulations and applicable Federal, state and local laws and requirements.
- 7.2 The licensee and the administrator shall be responsible for complying with the regulations herein contained. In the absence of the administrator, a qualified substitute shall be authorized, in writing, to be in charge.
- 7.3 The administrator must be on duty and on site in the home a minimum of four (4) hours a day, five (5) days a week.
- 7.4 In addition to the staff engaged in the direct care and treatment of residents, there must be sufficient personnel to provide basic services such as: food service, laundry, housekeeping and plant maintenance. Nursing service personnel shall not be engaged in food service, laundry, housekeeping and plant maintenance.
- 7.5 All personnel shall submit to and pass a criminal background check and drug testing in accordance with 16 **Del.C.** Ch. 11, Subchapter IV., Criminal Background Checks and Mandatory Drug Testing.
- 7.6 No employee shall be less than 18 years of age and no person shall be employed who has been convicted of a disqualifying crime as set forth in the Criminal Background Check regulations of the Division of Long Term Care Residents Protection.
- 7.7 The facility shall have written personnel policies and procedures that adequately support sound resident care. Personnel records of each employee shall be kept current and available upon request by the Division representatives and shall contain sufficient information to support placement in the positions to which assigned.
- 7.8 Minimum requirements for employee physical examinations include:
 - 7.8.1 The facility shall have on file results of tuberculin tests performed annually for all employees, including volunteers who are involved in the care of residents. The tuberculin test to be used is the Mantoux test containing 5 TU-PPD stabilized with Tween, injected intradermally, using a needle and syringe, usually on the volar surface of the forearm. Persons found to have a significant reaction (defined as 10 mm of induration or greater) to tests shall be reported to the Division of Public Health and managed according to recommended medical practice. A tuberculin test as specified, done within the twelve months prior to employment or a chest x-ray showing no evidence of active tuberculosis shall satisfy this requirement for asymptomatic individuals. A report of this skin test shall be kept on file.
 - 7.8.2 Employees who do not have a significant reaction to the initial tuberculin test (those individuals who have less than 10 mm induration) should be retested within 7 - 21 days to identify those who demonstrate delayed reactions. Tests done within one year of a previous test need not be repeated in 7 -21 days.
 - 7.8.3 No person, including volunteers, found to have active tuberculosis in an infectious stage shall be permitted to give care and service to residents.

- 7.9 Each applicant of a group home must have a medical evaluation for tuberculosis before being admitted to a group home. Any resident found to have active tuberculosis in an infectious stage may not be admitted or continue to reside in a group home.
- 7.10 The licensee shall approve written policies and procedures pertaining to the services the group home provides. Such policies and procedures should reflect the philosophy and objectives of the home to provide on a continuing basis good medical, nursing and psychosocial care for all persons admitted to the home who require such care. Such policies and procedures shall reflect the requirements of Section 62.7 and include:
- 7.10.1 Admission, transfer and discharge policies
 - 7.10.2 Categories of residents accepted or not accepted
 - 7.10.3 Physician services
 - 7.10.4 Nursing services
 - 7.10.5 Food and nutrition services including kitchen sanitation, food handling and storage
 - 7.10.6 Rehabilitative services
 - 7.10.7 Pharmaceutical services
 - 7.10.8 Diagnostic services
 - 7.10.9 Housekeeping services
 - 7.10.10 A written policy and procedure denoting care of residents
 - 7.10.10.1 In an emergency
 - 7.10.10.2 During a communicable disease episode
 - 7.10.10.3 In case of critical illness or mental disturbance
 - 7.10.11 Dental services
 - 7.10.12 Social services
 - 7.10.13 Resident activities, recreational, social, religious
 - 7.10.14 Clinical records
 - 7.10.15 Fire and safety policies
 - 7.10.16 Advance directives to include:
 - 7.10.16.1 On admission, inform residents in writing of their right 1) to accept or refuse treatment, 2) to give written instructions concerning their care and 3) to appoint an agent or proxy to make health care decisions.
 - 7.10.16.2 Documenting in medical records whether or not residents have executed advance directives.
 - 7.10.16.3 Ensuring compliance with requirements of state law on advance directives.
 - 7.10.16.4 Providing education for staff on issues concerning advance directives.
 - 7.10.17 Infection control.
- 7.11 A group home that provides direct healthcare services to persons diagnosed as having Alzheimer's disease or other forms of dementia shall provide dementia specific training each year to those healthcare providers who must participate in continuing education programs. The mandatory training must include: communicating with persons diagnosed as having Alzheimer's disease or other forms of dementia; the psychological, social, and physical needs of those persons; and safety measures which need to be taken with those persons. This paragraph shall not apply to persons certified to practice medicine under the Medical Practice Act, Chapter 17 of Title 24 of the Delaware Code.

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

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

8.0 Services to Residents

8.1 Group Home Services:

- 8.1.1 The group home, shall provide to all residents the care deemed necessary for their comfort, safety nutritional requirements and general well being
- 8.1.2 The group home shall have in effect a written transfer agreement with one (1) or more hospitals, which provides the basis for an effective working arrangement under which inpatient hospital care, or other hospital services, are available promptly to the facilities residents, when needed.
- 8.1.3 The group home shall have a written contract agreement for promptly obtaining required laboratory, x-ray and other diagnostic services. These services may be obtained from other facilities that meet applicable local, state and Federal laws and regulations.

- 8.1.4 The group home shall have arrangements for the provision of all other services and supplies to meet the health and psychosocial needs of each resident. Such arrangements may be other met by appropriately licensed facility staff or by contractual agreements with organizations or individuals licensed as applicable by the State of Delaware.
- 8.1.5 The group home shall immediately inform the attending or emergency physician, registered nurse and if known, notify the resident's legal representative, interested family member, or other parties as designated by the resident when there is:
 - 8.1.5.1 an accident involving the resident.
 - 8.1.5.2 a significant change in the resident's physical, mental, or psychosocial status (i.e., a deterioration in health, mental or psychosocial status in either life threatening conditions or clinical complications);
 - 8.1.5.3 a need to alter treatment significantly (i.e., a need to discontinue an existing form of treatment due to adverse consequences, or to commence a new form of treatment).

8.2 Medical and Nursing Services:

- 8.2.1 The group home shall provide for medical and nursing services either directly or through contract arrangements with organizations or individuals licensed as applicable by the State of Delaware.
- 8.2.2 All persons admitted to a group home shall be under the care of a licensed physician and shall be seen by their attending physician at least every 30 days, unless Justified otherwise and documented by the attending physician.
- 8.2.3 All group homes shall arrange for one (1) or more licensed physicians to be called in an emergency. Names and phone numbers of these physicians shall be posted in a conspicuous location.
- 8.2.4 All orders for medications, treatments, diets, and diagnostic services shall be in writing and signed by the attending physician. Telephone orders shall be countersigned by the physician within fourteen (14) working days.
- 8.2.5 All statements of medical treatment goals and treatment plans shall be reviewed and updated as needed by the attending physician, to insure continuing appropriateness of the goals, consistency of management methods with the goals and the achievement of progress towards the goals.
- 8.2.6 A progress note shall be written and signed by the physician if he/she makes an on-site visit.
- 8.2.7 The nursing services provided either directly or through contractual arrangements include:
 - 8.2.7.1 An assessment of the resident upon admission, by a registered nurse and development of written resident care plans in conjunction with the physician and other professionals as needed.
 - 8.2.7.1.1 Individual written resident care plans to meet the resident's needs shall be developed within seven (7) days of admission and reviewed at least every 62 days by registered nurses and other professional disciplines, as required.
 - 8.2.7.1.2 In the event that there is a significant change in the resident's medical or psychosocial condition the care plan shall be modified to meet the needs of the resident.
 - 8.2.7.2 The coordination and monitoring of resident care and services with the physician and other health professionals by a registered nurse who visits the group home at least weekly.
 - 8.2.7.3 A supervisory visit to the group home at least every two weeks by a registered nurse who conducts an assessment of the care provided by the certified nurse assistants.
 - 8.2.7.4 The administration of treatments and medications by licensed nurses in accordance with the Nurse Practice Act.
- 8.2.8 There must be a sufficient number of trained personnel to provide for direct care of residents with a minimum of two (2) nursing service personnel on duty at all times. However, should all residents be ambulatory and capable of self-evacuation, only one nursing service personnel shall be required on duty at all times. Each nurse assistant employed by the group home shall have met the training and testing requirements for certification and be registered in good standing on the Delaware Nurse Aide Registry.

8.3 Infection Control:

8.3.1 Prevention and Control Services

The facility shall establish and implement an infection prevention and control program. The Administrator shall ensure the development and implementation of the program.

The facility shall establish and implement written policies and procedures regarding infection prevention and control including, but not limited to:

- 8.3.1.1 Universal Precautions as established by the Centers for Disease Control and Prevention (CDC).

- 8.3.1.2 A system for investigating, reporting, and evaluating the occurrence of all infections, diseases, or conditions which are reportable to the Division of Public Health that ~~may~~ may be related to staff activities and procedures of the facility;
- 8.3.1.3 Notifiable diseases shall be reported to the County Public Health Administrator;
- 8.3.1.4 Care of residents with communicable diseases;
- 8.3.1.5 Policies and procedures for exclusion from work and authorization to return to work for personnel with communicable diseases;
- 8.3.1.6 Surveillance techniques to minimize sources and transmission of infection;
- 8.3.1.7 Disinfection, cleaning and care practices and techniques used in the facility including, but not limited to the following:
 - 8.3.1.7.1 Care of utensils, instruments, solutions, dressings, articles and surfaces;
 - 8.3.1.7.2 Selection, storage, use and disposition of disposable and non-disposable resident care item;
 - 8.3.1.7.3 Methods to ensure that sterilized materials are packaged and labeled to maintain sterility and to permit identification of expiration dates;
 - 8.3.1.7.4 Procedures for care of equipment and other devices that provide a portal of entry for pathogenic micro-organisms;
 - 8.3.1.7.5 Techniques to be used during each resident contact including hand washing before and after caring for a resident;
 - 8.3.1.7.6 Criteria and procedures for isolation of residents.
 - 8.3.1.7.7 All personnel shall receive orientation at the time of employment and annual in-service education regarding the infection prevention and control program

8.3.2 Infectious Disease and Waste Removal

The facility shall establish and implement policies and procedures for the collection, storage, handling and disposition of all pathological and infectious wastes within the facility, and for the collection, storage, handling and disposition of all pathological and infectious wastes to be removed from the facility, including, but not limited to the following:

- 8.3.2.1 Needles and syringes and other solid, sharp, or rigid items shall be placed in a puncture resistant container and incinerated or compacted prior to disposal.
- 8.3.2.2 Needles and syringes shall be destroyed or disposed of in a safe and proper manner by an infectious waste hauler approved by the Department of Natural Resources and Environmental Control.
- 8.3.2.3 Non-rigid items, such as blood tubing and disposable equipment and supplies, shall be incinerated or placed in double, heavy duty, impervious plastic bags and disposed of by an infectious waste hauler approved by the Department of Natural Resources and Environmental Control.
- 8.3.2.4 Fecal matter and liquid waste, such as blood and blood products, shall be flushed into, the sewage system or otherwise disposed of in accordance with federal, state and local standards or regulations.
- 8.3.2.5 All pathology specimens, tissue and waste, including gross and microscopic tissue removed surgically or by any other procedure and products of conception must be disposed of in compliance with OSHA (Occupational Safety and Health Administration), EPA (Environmental Protection Agency), DNREC (Department of Natural Resources and Environmental Control) and other state and local standards covering the treatment of medical waste.
- 8.3.2.6 Collection, storage, handling and disposition procedures of all pathological and infectious wastes within the facility shall meet the of all state and federal codes.

8.3.3 Specific Requirements for COVID-19

- 8.3.3.1 Before their start date, all new staff, vendors and volunteers must be tested for COVID-19 in accordance with Division of Public Health guidance.
- 8.3.3.2 All staff, vendors and volunteers must be tested for COVID-19 in a manner consistent with Division of Public Health guidance.
- 8.3.3.3 The facility must follow recommendations of the Centers for Disease Control and Prevention and the Division of Public Health regarding the provision of care or services to residents by staff, vendor or volunteer found to be positive for COVID-19 in an infectious stage.

8.3.4 The facility shall amend their policies and procedures to include:

- 8.3.4.1 Work exclusion and return to work protocols for staff tested positive for COVID-19;
- 8.3.4.2 Staff refusals to participate in COVID-19 testing;

- 8.3.4.3 Staff refusals to authorize release of testing results or vaccination status to the facility;
- 8.3.4.4 Procedures to obtain staff authorizations for release of laboratory test results to the facility to inform infection control and prevention strategies; and
- 8.3.4.5 Plans to address staffing shortages and facility demands should a COVID-19 outbreak occur.

8.4 Medications:

- 8.4.1 All medication administered to residents shall be ordered in writing, dated and signed by the attending physician. All prescription medications shall be properly labeled in accordance with 24 **Del.C.** Ch. 25 and the regulations of the Delaware Board of Pharmacy. The label shall contain the following information:
 - 8.4.1.1 The prescription number;
 - 8.4.1.2 The date such drugs were originally dispensed to the resident;
 - 8.4.1.3 The resident's full name;
 - 8.4.1.4 The brand or established name and strength of the drug to the extent that it can be measured;
 - 8.4.1.5 The physician's directions as found on the prescription;
 - 8.4.1.6 The physician's name;
 - 8.4.1.7 The name and address of the dispensing pharmacy or physician.
- 8.4.2 Medications may be self-administered or administered in accordance with the Nurse Practice Act. Those residents who, upon admission, are incapable of self-administration or who become incapable of self-administration will have the medications administered according to the Nurse Practice Act.
- 8.4.3 The group home provider licensee shall maintain a record of all medication provided to a resident indicating time of day, type of medication, dose, route of self-administration/administration, by whom given and any reactions noted.
- 8.4.4 Medication Storage
 - 8.4.4.1 Provisions for the locked storage of medications shall be provided. Medication storage area shall contain a work counter, refrigerator and hand sink. The key to the medication storage must be in the possession of or accessible only to personnel responsible for the distribution for self-administration/administration of medications. If secure storage of medications is provided in resident rooms for those residents capable of self-administration the key to the medication storage must be in the possession of the resident.
 - 8.4.4.1.1 No stock supplies of drugs except those approved for the emergency drug kit and those commonly available without prescription (non-legend drugs), e.g., antacids, aspirin, laxatives, shall be kept in the facility.
 - 8.4.4.1.2 Prescription medication not requiring refrigeration shall be kept in the original container stored in a locked cabinet or drawer, and clearly labeled for the specific resident. These medications shall be stored within the U.S.P. recommended temperature range of 59 - 86°F unless the manufacturer's labeling suggests otherwise.
 - 8.4.4.1.3 Prescription medication requiring refrigeration shall be stored in a separate and secure locked container within the refrigerator. The temperature range must be maintained within U.S.P. requirements.
 - 8.4.4.1.4 Schedule II substances/prescriptions shall be kept in separately locked, securely fixed boxes or drawers in the locked medication cabinet; hence, under two (2) locks.
 - Schedule II substances shall be handled in the manner outlined by the State and Federal laws and regulations. AD unused Schedule 11 substances shall be returned to the pharmacist for disposition.
 - 8.4.4.1.5 Internal medications shall be stored separately from external medications.
- 8.4.4.2 The group home provider shall insure that prescription medication is not used by other than the resident for whom the medication was prescribed.
- 8.4.4.3 The group home provider is responsible for maintaining an adequate supply of medication at all times.
- 8.4.4.4 Prescription medication which is no longer needed by a resident shall be disposed of by a physician, pharmacist or other designee who must be a licensed medical professional in accordance with Delaware Board of Pharmacy Regulations. All unused portions of any resident's discontinued or expired prescriptions shall be immediately isolated and destroyed or returned to the pharmacist or provider pharmacy supplying pharmaceutical services within 72 hours. The appropriate notation of such return or destruction, providing a quantity, description and date on the resident's medical administration record shall be provided. The person performing the return or destruction shall initial this document.

- 8.4.4.5 The facility may keep on the premises an emergency drug kit with quantities of medications approved by the Board of Pharmacy. These medications shall only be used by licensed physicians or licensed nurses in an emergency situation. Stocking of this kit shall be arranged with a pharmacist who checks the contents after use and/or periodically.

8.5 Food Service:

- 8.5.1 A minimum of three (3) meals or equivalent shall be served in each twenty-four (24) hour period. Meals shall be served at regular times comparable to normal mealtimes in the community. There must not be more than a fourteen (14) hour span between the evening meal and breakfast.
- 8.5.2 Meals shall provide nutrients and calories for each resident based upon compliance with current recommended dietary allowances of the Food and Nutrition Board of the National Academy of Sciences, National Research Council, except as ordered by a physician.
- 8.5.3 Food preparation methods that conserve nutrients shall be utilized. Excessive exposure to light, prolonged storage, and prolonged cooking in a large quantity of water shall be avoided.
- 8.5.4 Food shall be prepared so that it will have an appetizing aroma and appearance. Food shall be held and served at proper temperatures in accordance with the current Delaware Food Code.
- 8.5.5 Food shall be prepared in a form designated to meet individual needs.
- 8.5.6 When residents refuse food served, substitutes of similar nutritive value shall be offered.
- 8.5.7 Bedtime snacks shall be offered routinely to all residents to the extent medical orders permit.
- 8.5.8 Diets and nutritional supplements shall be saved as prescribed by the physician. Meal and supplement intake shall be monitored by nursing service personnel and recorded in each resident's clinical record.
- 8.5.9 A copy of a recent diet manual shall be available for planning therapeutic menus and as a resource.
- 8.5.10 Menus shall be planned in advance and a copy of the current week's menus shall be posted in the kitchen and in a public area.
 - 8.5.10.1 Portion sizes shall be listed on a menu in the food service area.
 - 8.5.10.2 The names of fruit, vegetables or starch shall be specified on the menu (for example: orange juice, green beans, rice).
 - 8.5.10.3 All menus, both regular and therapeutic, shall be approved by the dietitian.
- 8.5.11 Menus showing food actually served each day shall be kept on file for at least one (1) month. When changes in the menu are necessary, substitutions of similar nutritive value shall be provided.
- 8.5.12 A three (3) day supply of food shall be kept on the premises at all times.
- 8.5.13 A suspected occurrence of food poisoning shall be reported immediately, by telephone, to the County Public Health Administrator.

8.6 Nutrition Services

- 8.6.1 The facility must employ a dietitian directly or through contractual arrangements, either full time, part time or on a consultant basis, and provide on-site services to residents as needed.
- 8.6.2 The immediate nutritional needs of residents shall be addressed upon admission with consultation by the dietitian as needed. A comprehensive nutritional assessment which includes height and weight and an evaluation of calories, protein and fluid requirements shall be completed by the dietitian and updated and reviewed as indicated by the resident's condition.
- 8.6.3 The facility shall obtain residents' weights monthly or more often as needed.
- 8.6.4 Weight changes of 5 pounds or 5% of body weight in one month shall be reported to the physician and dietitian.

8.7 Records and Reports:

- 8.7.1 There shall be a separate clinical record maintained at the group home on each resident which shall be a chronological history of the resident's stay in the group home. Each resident's records shall contain:
 - 8.7.1.1 Admission record: Including resident's name, birth date, home address prior to entering the facility, identification numbers, such as social security, Medicaid, Medicare, date of admission, physician's name, address and phone number, admitting diagnosis, next of kin (relationship, name, address and phone number).
 - 8.7.1.2 History and physical examination: Prepared by physician within seven (7) days of the resident's admission. A summary and history which was prepared at the hospital and the resident's physician examination which was performed at the hospital, if performed within seven (7) days prior to admission to the home, may be substituted. Additionally, a record of an annual medical evaluation performed by a physician must be contained in each resident's file.
 - 8.7.1.3 Statement of complete diagnosis and prognosis.

- 8.7.1.4 Physician's orders shall include:
 - 8.7.1.4.1 Complete list of medications, medication name, dosage, frequency and route of administration, indication for usage;
 - 8.7.1.4.2 If "as needed" medications are ordered, the reason why the resident takes the medication and the maximum dose in a 24 hour period;
 - 8.7.1.4.3 Treatments, diets and level of permitted activity.
- 8.7.1.5 Physician's progress notes with each on-site visit. If medical services are obtained in the physician's office a summary including diagnosis and prognosis, changes in medication mid therapy and necessary follow-up will be provided.
- 8.7.1.6 Nursing notes, shall be recorded by each person providing professional nursing services to the resident, indicating date, time, scope of service provided and signed by the provider of the service.
- 8.7.1.7 Medication sheets: Including medication, name, dosage, frequency and route of administration, space for the resident to record his/her initials if medication is self-administered or for recording the initials of the medical professional authorized and responsible for administration of the medication.
- 8.7.1.8 Inventory of personal effects both upon admission and at time of transfer and/or discharge.
- 8.7.1.9 For discharged or transferred residents, the records shall contain the following:
 - 8.7.1.9.1 A discharge summary containing the:
 - 8.7.1.9.1.1 Date and time of discharge,
 - 8.7.1.9.1.2 Place to which the resident was discharged;
 - 8.7.1.9.1.3 Condition of resident at time of discharge.
 - 8.7.1.9.2 The resident's written consent for discharge or discharge order from the resident's physician.
 - 8.7.1.9.3 Copies of the name of the resident's guardian, powers of attorney and advance directives, if applicable.
- 8.7.1.10 Special service notes: e.g., social services and activities, results of special consultations, requested by the physician such as physical therapy, dental and podiatry if services are provided in the group home.
- 8.7.1.11 Nutrition progress notes.
- 8.7.1.12 Copy of an interagency transfer form if the resident was admitted from an acute care facility or any other long term care facility or transferred to an acute care or other type of health care facility.
- 8.7.1.13 Documentation of the percentage of intake for each meal.
- 8.7.1.14 Recording of weights obtained including the date the weight was obtained.
- 8.7.1.15 Laboratory work, special tests, and x-rays ordered by the physician.
- 8.7.2 Records shall be available at all times to legally authorized persons; otherwise, such records shall be held confidential.
- 8.7.3 Clinical records shall be retained for five (5) years from the date of discharge.
- 8.7.4 Should the facility cease operation, all resident records shall be transferred with the resident to another home or facility, with written receipt acknowledging the transfer which shall be signed by the resident and the new administrator.
- 8.7.5 If a facility ceases operation, arrangements, shall be made to retain discharge records for five (5) years following closure.
- 8.7.6 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; phone number: 1-877-453-0012; fax number: 1-877-264-8516.

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

9.0 Waiver of Standards

- 9.1 Specific standards may be waived by the Division provided that each of the following conditions are met:
 - 9.1.1 Strict enforcement of the standard would result in unreasonable hardship on the group home.
 - 9.1.2 The waiver is in accordance with the particular needs of any resident of the group home.

- 9.1.3 A waiver must not adversely affect the health, safety, welfare, or rights of any resident of the group home.
- 9.1.4 The request for a waiver must be made to the Division in writing by the group home with substantial detail justifying the request.
- 9.1.5 Prior to filing a request for a waiver, the facility shall provide written notice of the request to each resident, each court-appointed guardian of any resident, each person appointed in the durable power of attorney of any resident, each person appointed to be any resident's health care agent under the Death with Dignity Act and each spouse and adult child of any resident. Prior to filing a request for a waiver, the facility shall also provide written notice of the request to the Office of Long Term Care Ombudsman. The notice shall state that the recipient has the right to object to the waiver request in writing to the Division.
- 9.1.6 A waiver granted by the Division is not transferable to another group home in the event of a change of ownership.
- 9.1.7 A waiver shall be granted for a period up to the term of the license.

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

**PART II
APPENDIX A
Notifiable Diseases**

Acquired Immune Deficiency Syndrome (S)

Anthrax (T)

Botulism (T)

Brucellosis

Campylobacteriosis

Chancroid (S)

Cholera

Cryptosporidiosis

Cyclosporidiosis

Diphtheria (T)

E. Coli 0157:H7 infection (T)

Encephalitis

Ehrlichiosis

Foodborne Disease Outbreaks (T)

Giardiasis

Gonococcal infections (S)

Granuloma Inguinale (S)

Hansen's Disease (Leprosy)

Hantavirus infection (T)

Hemolytic uremic syndrome (HUS)

Hepatitis A (T)

Hepatitis B (S)

Hepatitis C & unspecified

Herpes (congenital) (S)

Herpes (genital) (N)

Histoplasmosis

Human Immunodeficiency Virus (HIV) (N)

Human papillomavirus (genital warts) (N)

Influenza (N)

Lead Poisoning

Legionnaires Disease

Leptospirosis

Lyme Disease

Lymphogranuloma Venereum (S)

Malaria

Measles

Meningitis (all types other than meningoccal)

Meningococcal infections (all types) (T)

Mumps (T)

Pelvic Inflammatory Disease (resulting from Chlamydia trachomatis infections (S) gonococcal and/or chlamydial infections) (S)

Pertussis (T)
Plague (T)
Poliomyelitis (T)
Psittacosis
Rabies (man, animal) (T)
Reye's Syndrome
Rocky Mountain Spotted Fever
Rubella (T)
Rubella (congenital)(T)
Salmonellosis
Shigellosis
Smallpox (T)
Streptococcal disease (invasive group A)
Streptococcal toxic shock syndrome
(STSS)
Syphilis (S)
Syphilis (congenital) (T)
Tetanus
Toxic Shock Syndrome
Trichinosis
Tuberculosis
Tularemia
Typhoid Fever (T)
Vaccine Adverse Reactions
Varicella
Waterborne Disease Outbreaks (T)
Yellow Fever (T)

(T) report by rapid means

(N) report in number only when so requested

For all diseases not marked by (T) or (N):

(S) - sexually transmitted disease, report
required in 1 day

Others - report required in 2 days

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

APPENDIX B

Drug Resistant Organisms Required to be Reported

Staphylococcus aureus intermediate or resistance to Vancomycin (MIC > 8 ug/ml)

Streptococcus pneumoniae drug resistant, invasive disease

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

25 DE Reg. 762 (02/01/22) (Final)