

# RESIDENTIAL CARE HOME LICENSING REGULATIONS

Agency of Human Services  
Department of Aging and Disabilities  
Ladd Hall, 103 South Main Street  
Waterbury, Vermont 05671-2306

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## **I. General Provisions**

### 1.1 Introduction

The State regulates residential care homes for the dual purposes of protecting the welfare and rights of residents and assuring they receive an appropriate quality of care. Residential care homes provide care to persons unable to live wholly independently but not in need of the level of care and services provided in a nursing home. Toward that end, these regulations are designed to foster personal independence on the part of residents and a home-like environment in the homes.

Residential care homes are licensed as either Level IV or Level III. Both levels must provide room and board, assistance with personal care, general supervision and/or medication management. Level III homes also must provide the additional service of nursing overview.

The intention of the Department of Aging and Disabilities is to assist residential care home providers to attain and maintain compliance with these regulations.

### 1.2 Statutory Authority

Residential care homes are subject to the provisions of 33 V.S.A. Chapter 71. The Agency of Human Services has designated the Department of Aging and Disabilities, Division of Licensing and Protection, as the licensing and regulatory agency for residential care homes. That statute and the provisions of these regulations guide them in their work.

### 1.3 Statement of Intent

Upon the effective date of these regulations, all residential care homes in Vermont will be required to adhere to the regulations as adopted.

### 1.4 Exception and Severability

If any provision of these regulations, or the application of any provision of these regulations, is determined to be invalid, the determination of invalidity will not affect any other provision of these regulations or the application of any other provision of these regulations.

### 1.5 Taxes

The applicant and licensee shall be in good standing with the Vermont Department of Taxes, pursuant to 32 V.S.A. §3113. Failure to do so shall result in denial or revocation of license.

### 1.6 Material Misstatements

Any applicant or licensee who makes a material misstatement relating to the law or these regulations may be subject to denial of license, monetary fine, suspension and/or revocation of license.

## 1.7 Appeals

A person aggrieved by a decision of the licensing agency may file a request for a fair hearing with the Human Services Board as provided in 3 V.S.A. §3091.

## II. Definitions

### 2.1 General Definitions

For the purposes of these regulations, words and phrases are given their normal meanings unless otherwise specifically defined.

### 2.2 Specific Definitions

The following words and phrases, as used in these regulations, have the following meanings unless otherwise provided:

- a. "Activities of daily living (ADLs)" means dressing and undressing, bathing, toileting, taking medication, grooming, eating, transferring and ambulation.
- b. "Administration of medication" means the act of giving a resident the resident's prescribed medication when the resident is incapable of managing his or her medication.
- c. "Assistance with medication" means helping a resident, who is capable of self-administration, to use or ingest, store and monitor medications.
- d. "Assistive community care services" means the Medicaid State Plan service that pays for the cost of a bundle of health care services delivered to Medicaid beneficiaries who live in participating Level III residential care homes. The service bundle includes case management, assistance with the performance of activities of daily living, medication assistance, monitoring and administration, 24 hour on-site assistive therapy, restorative nursing, nursing assessment, health monitoring, and routine nursing tasks.
- e. "Assistive therapy" means activities, techniques and methods designed to maintain or improve ADLs, cognitive status or behavior.
- f. "Capable of self-preservation" means able to evacuate the home in the event of an emergency. Resident capability is further described in the National Fire Protection Association Code.
- g. "Capable of self-administration" means a resident is able to direct the administration of medication by being able to at least identify the resident's medication and describe how, why and when a medication is to be administered; choose whether to take the medication or not; and communicate to the staff if the medication has had the desired effect or unintended side effects.

h. "Case management" means to assist residents in gaining access to needed medical, social and other services. In addition to the coordination of activities required in the resident's plan of care, it includes consultation with providers and support person(s).

i. "Chemical restraint" means any drug that is used for discipline or convenience and not required to treat medical symptoms.

j. "Day of service" means a day when an eligible resident is living in the home and is provided with the resident's ACCS services. A day of service does not include any day in which a resident is absent from the home for the entire 24 hours of the calendar day and any day on which a resident is discharged or transferred from the home to another care setting (hospital, nursing home, etc.).

k. "Delegation of nursing tasks" means the formal process approved by the Vermont Board of Nursing which permits professional nurses to assign nursing tasks to other individuals as long as the registered nurse provides proper training, supervision and monitoring, and for which the registered nurse retains responsibility.

l. "Discharge" means movement of a resident out of the home without expectation that the resident will return.

m. "Home" means a licensed residential care home.

n. "Inspection" means an on-site visit to or survey of the home by staff of the Division of Licensing and Protection or fire safety inspectors from the Department of Labor and Industry to evaluate care and services and determine if the home is in compliance with the regulations.

o. "Investigation" means any gathering of facts, in the home or elsewhere, in response to a complaint or to an allegation that the home is not in compliance with regulations in order to determine if a home is in compliance with the regulations.

p. "Legal representative" means an individual empowered under state or federal law or regulation to make decisions for or transact business for a resident of a home. Legal representatives include, but are not limited to, court appointed guardians, an attorney in fact appointed pursuant to a power of attorney and representative payees. A resident's legal representative may make only those decisions for a resident for which the legal representative has been given authority.

q. "Level III" means a residential care home licensed and required to provide room, board, personal care, general supervision, medication management and nursing overview as defined by these regulations.

r. "Level IV" means a residential care home licensed and required to provide room, board, personal care, general supervision and medication management as defined by these regulations.

s. "License certificate" means a document issued by the licensing agency which signifies that a home is entitled to operate.

t. "Licensed capacity" is the maximum number of residents which the residential care home is licensed to have at one time.

u. "Licensed home" is a residential care home possessing a valid license to operate from the licensing agency.

v. "Licensee" means an individual, group of individuals, or corporation in whose name the license is issued and upon whom rests the legal responsibility for maintaining compliance with the regulations.

w. "Licensing agency" means the Department of Aging and Disabilities, Division of Licensing and Protection.

x. "Manager" means the staff person who has been appointed by the home licensee or owner as responsible for the daily management of a home, including supervision of employees and residents.

y. "Mechanical restraint" means any equipment, material or device that may be applied to a resident or the resident's environment for the purpose of restricting the resident's activity. Mechanical restraints include, but are not limited to, full bed rails, gates, half doors, geri chairs, roll bars, dignity aprons, wrist and ankle restraints, vests and pelvic restraints. The use of mechanical restraint is a treatment procedure that requires nursing overview.

z. "Medication management" means a formal process of (1) assisting residents to self administer their medications or (2) administering medications, under the supervision and delegation by registered nurses, to designated residents by designated staff of the home. It includes procuring and storing medications, assessing the effects of medications, documentation, and collaborating with the residents' personal physicians.

aa. "Nurse" means a licensed practical nurse or registered nurse currently licensed by the Vermont Board of Nursing to practice nursing.

bb. "Nursing care" means the performance of services necessary to care for the sick or injured and which require specialized knowledge, judgment and skill and meets the standards of the nursing regimen or the medical regimen, or both, as defined in 26 V.S.A. §1572(4) and (5).

cc. "Nursing overview" means a process in which a nurse assures that the health and psychosocial needs of the resident are met. The process includes observation, assessment, goal setting, education of staff, and the development, implementation, and evaluation of a written, individualized treatment plan to maintain the resident's well-being.

dd. "Personal care" means assistance with meals, dressing, movement, bathing, grooming, medication, or other personal needs, and/or the general supervision of physical or mental well-being.

ee. "Plan of care" means a written description of the steps that will be taken to meet the psychiatric, social, nursing and medical needs of a resident.

ff. "Plan of correction" means a specific, time-limited plan of action, approved by the licensing agency, which states how and when a violation will be corrected.

gg. "PRN medication" means medication ordered by the physician that is not to be administered routinely but is prescribed to be taken only as needed and as indicated by the resident's condition.

hh. "Psychoactive drug" means a drug that is used to alter mood or behavior, including antipsychotic, anti-anxiety agents and sedatives, as well as antidepressants or anticonvulsants when used for behavior control.

ii. "Psychosocial care" means care necessary to address an identified psychiatric, psychological, behavioral or emotional problem, including problems related to adjustment to the residential care home, bereavement and conflict with other residents.

jj. "Registered nurse" means an individual licensed as a registered nurse by the Vermont Board of Nursing.

kk. "Resident" means any individual, unrelated to the operator, who is admitted to a home in order to receive room, board, personal care, general supervision, medication management, or nursing overview as defined by these regulations. For the purposes of these regulations, "resident" also means the individual legally authorized to act on the resident's behalf when the resident is no longer able to exercise any or all of his or her rights.

ll. "Residential care home" means a place, however named, excluding a licensed foster home, which provides for profit or otherwise, room, board and personal care to three or more residents unrelated to the licensee.

mm. "Restorative nursing" means services to promote and maintain function as defined in the resident's service plan of care.

nn. "Staff" means any individual other than a resident who is either the licensee or is an agent or employee of the licensee, and who performs any service or carries out any duties at the home which are subject to these regulations.

oo. "Supervision" means providing a structured environment to ensure the resident's needs for food, shelter, medical care, socialization and safety are met. If the home, or staff of the home, provide or are responsible for providing such structure, then the home is providing supervision. Examples of such structure include, but are not limited to, arranging medical appointments, procuring medications, shopping, assigning rooms, providing transportation.

pp. "Therapeutic diet" means a physician-ordered diet to manage problematic health conditions. Examples include: calorie specific, low-salt, low-fat, no added sugar, supplements.

qq. "Transfer" means the movement of a resident to another bed within the home or to another health care setting with return to the home anticipated.

rr. "Unlicensed home" means a place, however named, which meets the definition of a residential care home and which does not possess a license to operate.

ss. "Unrelated to the operator" means anyone other than the licensee's spouse (including an individual who has entered into a civil union, mother, father, grandparent, child, grandchild, uncle, aunt, sibling, or mother-, father-, sister-, brother-in-law or domestic partner).

tt. "Variance" means a written determination from the licensing agency, based upon the written request of a licensee, which temporarily and, in limited, defined circumstances, waives compliance with a specific regulation.

uu. "Violation" means a condition or practice in the home which is out of compliance with the regulations.

### **III. Variances**

3.1. Variances from these regulations may be granted upon a determination by the licensing agency that:

3.1.a Strict compliance would impose a substantial hardship on the licensee or the resident; and

3.1.b The licensee will otherwise meet the goal of the statutory provision or rule; and

3.1.c A variance will not result in less protection of the health, safety and welfare of the residents.

3.2 A variance shall not be granted from a statute or regulation pertaining to residents' rights.

3.3 A home requesting a variance must contact the licensing agency in writing describing how the variance request meets the criteria in 3.1 above.

3.4 Variances are subject to review and termination at any time.

3.5 A request for a variance from section 5.1.a to retain or admit a resident whose needs exceed that for which the home is licensed to provide must include:

3.5.a A current assessment, with a description of the resident's care needs and how the home will meet those needs;

3.5.b A written statement from the resident or the resident's legal representative stating the resident's fully informed choice to remain in the home; and that they have been informed the resident will have to leave if the variance is terminated.

3.5.c A written statement from the resident's physician giving the resident's prognosis and recommending retention at or admission to the home.

#### **IV. Licensing Procedures**

4.1 Application

4.1.a Any person desiring to operate or establish a residential care home shall submit two copies of plans and specifications for review, prior to beginning construction or operation, to:

Department of Aging and Disabilities  
Division of Licensing and Protection  
Ladd Hall, 103 South Main Street  
Waterbury, Vermont 05671-2306

In addition, such person shall:

4.1.b Provide written evidence to the licensing agency of compliance with local zoning codes, or a statement signed by the city, town or village clerk that such a code has not been adopted in the community.

4.1.c Submit a license application to the licensing agency.

4.1.d At least ninety (90) days prior to the projected opening date, request inspections by all entities referenced in subsection 2, a, b, and c below to which plans and specifications were submitted. Modifications shall be made as required by these agencies to achieve full code compliance.

4.1.e Provide the licensing agency with at least three references from unrelated persons able to attest to the applicant's abilities to run a residential care home and to the applicant's character.

#### 4.2 Review Process

The application will be reviewed by the following entities for compliance with applicable rules:

4.2.a Licensing and Protection requires the applicant to submit blueprints for new construction or floor plans to the licensing agency for review by an architect and engineer.

4.2.b Labor and Industry requires all building plans to be submitted to Labor and Industry for compliance with the fire safety code and accessibility.

4.2.c Environmental Conservation requires applications to be reviewed with regard to water and sewage systems.

If the applicant requests, the Department of Aging and Disabilities shall attempt to convene a meeting of the relevant agencies with the applicant to discuss the review and facilitate a timely completion of the review process.

#### 4.3 Assistive Community Care Services

4.3.a To participate as an Assistive Community Care Services (ACCS) Medicaid provider, a home must be:

- (1) Licensed as a Level III home;
- (2) Maintained in compliance with the Residential Care Home Licensing Regulations; and
- (3) Enrolled as a Medicaid provider.

4.3.b A home must submit a letter requesting ACCS status to the licensing agency that includes:

- (1) A brief statement of interest in the program;
- (2) A date when the home proposes to begin participation in the program; and
- (3) Whether any residents eligible for the program currently reside in the home.
- (4) A proposed amended resident agreement reflecting program participation terms consistent with these regulations;
- (5) Proposed amended policies and procedures reflecting participation in the ACCS program.

(6) A statement that all of the services required in the ACCS definition found at 2.2.d of the regulations are available and will be provided to meet the assessed needs of each resident.

4.3.c The licensing agency will review the request and issue a response in writing within fourteen days. The response will include the licensing agency's decision, the reasons for the decision, and if the decision is to approve the effective date.

4.3.d Upon receiving approval to enroll in the program, the home must give a 30 day notice of related rate and resident agreement changes to all affected residents of the home and enter into the standard agreement with the State as a Medicaid provider in the program.

4.3.e A home shall give 90 days advance notice to the licensing agency and to its residents of a decision to withdraw from the ACCS program in the time and manner required for closure of a home pursuant to 5.3(h) of these regulations.

4.3.f The licensing agency shall investigate and take action regarding any omissions, failures, and complaints associated with a home's performance in the ACCS program pursuant to relevant regulatory requirements.

#### 4.4 Denial of Application

4.4.a An applicant may be denied a license for anyone of the following:

- (1) Conviction of a crime, in Vermont or elsewhere, for conduct which demonstrates unfitness to operate a home;
- (2) Substantiated complaint of abuse, neglect or exploitation;
- (3) Conviction, in Vermont or elsewhere, for an offense related to bodily injury, theft or misuse of funds or property;
- (4) Conduct, in Vermont or elsewhere, inimical to the public health, morals, welfare and safety;
- (5) Financial incapacity, including capitalization, to provide adequate care and services; or
- (6) An act or omission which would constitute a violation of any of these regulations.

4.4.b When an applicant is denied for any of the aforementioned reasons, the licensing agency may determine the applicant has overcome the prohibition if presented with evidence of expungement or suitability sufficient to ensure the safety of residents.

4.4.c Failure to provide complete, truthful and accurate information within the required time during the application or re-application

process shall be grounds for automatic denial or revocation of a license.

#### 4.5 Re-application

4.5.a Application forms will be mailed to the applicant approximately sixty (60) days before the end of the licensing year. The completed application form must be returned to the licensing agency not less than forty-five (45) days before the expiration date. Upon receipt of a properly completed application, a license will be renewed assuming all other conditions for licensure are met.

4.5.b Licenses shall be issued for a period of one (1) year, unless the licensing agency determines that a home's lack of compliance with these regulations indicates the home should be given a license for a shorter period of time.

4.5.c Requests for continued participation in the ACCS Medicaid program must be submitted on an annual basis with the license re-application.

#### 4.6 Expiration

A license expires on the date indicated on the licensure certification. However, if the licensee has made complete and accurate application to the licensing agency but the agency has failed to act on the license application, the current license remains in effect until the agency completes the renewal process.

#### 4.7 Change in Licensed Capacity

4.7.a A home shall not provide care to more residents than the capacity for which it is licensed. Requests for a change in licensed capacity shall be made in writing to the licensing agency. A proper staffing pattern to cover an increase in capacity shall be submitted when requested.

4.7.b A home may provide other related services, such as acting as a senior meals program meal site or adult day care, provided the home:

- (1) Has adequate space, staff, and equipment to appropriately provide the service;
- (2) Has fully informed residents on admission, or upon addition of a new service, about the additional services;
- (3) Ensures residents of the home will not be inconvenienced by the service; and
- (4) Has received approval from the licensing agency in advance.

4.7.c The offered service must meet accepted standards of practice and general requirements for that service. For adult day care, the provider must meet the standards for adult day care adopted by the Department of

Aging and Disabilities. For meal sites, the provider must meet the standards adopted for the senior meals program through the Department of Aging and Disabilities.

4.7.d If a residential care home becomes a meal site, the home cannot charge a resident of the home for a meal at the meal site unless that meal is in addition to the meal the home is required to provide to the resident.

#### 4.8 Temporary License

A temporary license may be issued permitting operation for such period or periods, and subject to such express conditions, as the licensing agency deems proper. Such license may be issued for a period not to exceed one year and renewals of such license shall not exceed thirty-six months.

#### 4.9 Change in Status

When a change of ownership or location is planned, the licensee or prospective licensee is required to file a new application for license at least ninety (90) days prior to the proposed date of the change. The new licensee shall provide each resident with a written agreement that describes all rates and charges as defined in 5.2.a.

#### 4.10 Separate License

A separate license is required for each home that is owned and operated by the same management.

#### 4.11 Transfer Prohibited

A license shall be issued only for the person(s) and premises named in the application and is not transferable or assignable.

#### 4.12 License Certificate

The home's current license certificate shall be protected and appropriately displayed in such a place and manner as to be readily viewable by persons entering the home. Any conditions which affect the license in any way shall be posted adjacent to the license certificate.

#### 4.13 Responsibility and Authority

4.13.a Each home shall be organized and administered under one authority, which may be an individual, corporation, partnership, association, state, subdivision or agency of the state, or any other entity.

4.13.b Whenever the authority is vested in the governing board of a firm, partnership, corporation, company, association or joint stock association, there shall be appointed a duly authorized qualified manager, however named, who will be in charge of the daily management

and business affairs of the home, who shall be fully authorized and empowered to carry out the provisions of these regulations, and who shall be charged with the responsibility of doing so. The manager of the home shall be present in the home an average of 32 hours per week. The 32 hours shall include time providing services, such as transporting, or attendance at educational seminars. Vacations and sick time shall be taken into account for the 32-hour requirement. In the event of extended absences, an interim manager must be appointed.

4.13.c The manager shall not leave the premises without delegating necessary authority to a competent staff person who is at least eighteen (18) years of age. Staff left in charge shall be qualified by experience to carry out the day to day responsibilities of the manager, including being sufficiently familiar with the needs of the residents to ensure that their care and personal needs are met in a safe environment. Staff left in charge shall be fully authorized to take necessary action to meet those needs or shall be able to contact the manager immediately if necessary.

4.13.d The qualifications for the manager of a home are, at a minimum:

- (1) Completion of a State approved certification course or
- (2) One of the following:
  - i. At least an Associates Degree in the area of human services and two (2) years of administrative experience in adult residential care; or
  - ii. Three (3) years of general experience in residential care, including one year in management, supervisory or administrative capacity; or
  - iii. A current Vermont license as a nurse or nursing home administrator; or
  - iv. Other professional qualifications and experience related to the provision of healthcare services or management of healthcare facilities including, but not limited to, a licensed or certified social worker.

4.14 Survey/Investigation

4.14.a The licensing agency shall inspect a home prior to issuing a license and may inspect a home any other time it considers an inspection necessary to determine if a home is in compliance with these regulations.

- (1) Authorized staff of the licensing agency shall have access to the home at all times, with or without notice.
- (2) The living quarters of the manager of a home may be subject to inspection only where the inspector has reason to believe the

licensed capacity of the home has been exceeded and only for the purpose of determining if such a violation exists. The inspector shall permit the manager to accompany him or her on such an inspection.

(3) If an authorized inspector is refused access to a home or the living quarters of the manager, the licensing agency may, pursuant to 18 V.S.A. §121, seek a search warrant authorizing the inspection of such premises.

(4) If, as a result of an investigation or survey, the licensing agency determines that a home is unlicensed and meets the definition of a residential care home, written notice of the violation shall be prepared pursuant to Title 33, §2008 (b) and §4.14 of these regulations.

4.14.b The licensing agency shall investigate whenever it has reason to believe a violation of the law or regulations has occurred. Investigations may be conducted by the licensing agency or its agents and may be conducted at any place or include any person the licensing agency believes possesses information relevant to its regulatory responsibility and authority.

4.14.c After each inspection, survey or investigation, an exit conference will be held with the manager or designee. The exit conference shall include an oral summary of the licensing agency's findings and if regulatory violations were found, notice that the home must develop and submit an acceptable plan of correction. Residents who wish to participate in the exit conference have the right to do so. Representatives of the Office of the State Long Term Care Ombudsman may also attend the exit conference.

4.14.d A written report shall be submitted to the licensee at the conclusion of an investigation. The report will contain the results of the investigation, any conclusions reached and any final determinations made by the licensing agency.

4.14.e The licensing agency may, within the limits of the resources available to it, provide technical assistance to the home to enable it to comply with the law and the regulations. The licensing agency shall respond in writing to reasonable written requests for clarification of the regulations.

4.14.f The home shall make written reports resulting from inspections readily available to residents and to the public in a place readily accessible to residents where individuals wishing to examine the results do not have to ask to see them. The home must post a notice of the availability of such written reports. If a copy is requested and the home does not have a copy machine, the home must inform the resident or member of the public that they may request a copy from the licensing agency and provide the address and telephone number of the licensing agency.

#### 4.15 Violations: Notice Procedure

4.15.a If, as a result of survey or investigation, the licensing agency finds a violation of a law or regulation, it shall provide a written notice of violation to the home within 10 days. The notice shall include the following:

- (1) A description of each condition that constitutes violation;
- (2) Each rule or statutory provision alleged to have been violated;
- (3) The date by which the home must return a plan of correction for the alleged violations;
- (4) The date by which each violation must be corrected;
- (5) Sanctions the licensing agency may impose for failure to correct the violation or failure to provide proof of correction by the date specified;
- (6) The right to apply for a variance as provided for in Section III of these regulations;
- (7) The right to an informal review by the licensing agency; and
- (8) The right to appeal the licensing agency determination of violation, with said appeal being made to the Commissioner within fifteen (15) days of the mailing of the notice of violation.

4.15.b The licensing agency shall provide a copy of the survey results and any enforcement action as defined in 4.16 to the State Long Term Care Ombudsman.

4.15.c If the licensee fails either to return a plan of corrective action or to correct any violation in accordance with the notice of violation, the licensing agency shall provide written notice to the licensee of its intention to impose specific sanctions, and the right of the licensee to appeal.

4.15.d The licensing agency shall mail its decision to the licensee within ten (10) days of the conclusion of the review or, if no review was requested, within twenty-five (25) days of the mailing of the notice of proposed sanctions. The written notice shall include the licensee's right to appeal the decision to the Commissioner within fifteen (15) days of the mailing of the decision by the licensing agency.

4.15.e Nothing in these regulations shall preclude the licensing agency from taking immediate enforcement action to eliminate a condition which can reasonably be expected to cause death or serious physical or mental harm to residents or staff. If the licensing agency takes immediate enforcement action, it shall explain the actions and the reasons for it in the notice of violation. At the time immediate enforcement action is

proposed, the licensee shall be given an opportunity to request and appeal to the Commissioner. If immediate enforcement action is taken, the licensee also shall be informed of the right to appeal the Department's action to the Human Services Board.

#### 4.16 Enforcement

The purpose of enforcement actions is to protect residents. Enforcement actions by the licensing agency against a home may include the following:

4.16.a Administrative penalties against a home for failure to correct a violation or failure to comply with a plan of corrective action for such violation as follows:

- (1) Up to \$5.00 per resident or \$50.00, whichever is greater, for each day a violation remains uncorrected if the rule or provision violated was adopted primarily for the administrative purposes of the licensing agency;
- (2) Up to \$8.00 per resident or \$80.00, whichever is greater, for each day a violation remains uncorrected if the rule or provision violated was adopted primarily to protect the welfare or the rights of residents;
- (3) Up to \$10.00 per resident or \$100.00, whichever is greater, for each day a violation remains uncorrected if the rule or provision violated was adopted primarily to protect the health or safety of residents.
- (4) For purposes of imposing administrative penalties under this subsection, a violation shall be deemed to have first occurred as of the date of the notice of violation.

4.16.b Suspension, revocation, modification or refusal to renew a license upon any of the following grounds:

- (1) Violation by the licensee of any of the provisions of the law or regulations;
- (2) Conviction of a crime for conduct which demonstrates that the licensee or the principal owner is unfit to operate a home;
- (3) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Vermont in the maintenance and operation of the premises for which a license is issued;
- (4) Financial incapacity of the licensee to provide adequate care and services; or
- (5) Failure to comply with a final decision or action of the licensing agency.

4.16.c Suspension of admissions to a home, or transfer of residents from a home to an alternative placement, for a violation which may directly impair the health, safety or rights of residents, or for operating without a license. Residents subject to transfer shall have the procedural rights provided in Section 6.14.

4.16.d The licensing agency, the attorney general, or a resident may bring an action for injunctive relief against a home in accordance with the Rules of Civil Procedure to enjoin any act or omission which constitutes a violation of the law or regulation. Notice of such action shall be given to the State Long Term Care Ombudsman.

4.16.e The licensing agency, the attorney general, or a resident may bring an action in accordance with the Rules of Civil Procedure for appointment of a receiver for a home, if there are grounds to support suspension, revocation, modification or refusal to renew the home's license and alternative placements for the residents are not readily available. Notice of such action shall be given to the State Long Term Care Ombudsman.

4.16.f The licensing agency may enforce a final order by filing a civil action in the superior court in the county in which the home is located, or in Washington Superior Court.

4.16.g The remedies provided for violations of the law or regulations are cumulative.

#### 4.17 Identification of Unlicensed Homes

With regard to residential care homes operating without a license, but required by law to be licensed, the following regulations shall apply:

4.17.a No physician, surgeon, osteopath, chiropractor, physician's assistant (licensed, certified or registered under the provisions of Title 26), resident physician, intern, hospital administrator in any hospital in this state, registered nurse, licensed practical nurse, medical examiner, psychologist, mental health professional, social worker, probation officer, police officer, nursing home administrator or employee, or owner, manager, or employee of a home shall knowingly place, refer or recommend placement of a person to such a home if that home is operating without a license.

4.17.b Any individual listed in 4.17.a who is licensed or certified by the State of Vermont or who is employed by the state or a municipality and who knows or has reason to believe that a home is operating without the license required under this chapter shall report the home and address of the home to the licensing agency.

4.17.c Violation of the above sections may result in a criminal penalty of up to \$500 and/or a prison sentence of up to six months pursuant to 18 V.S.A. §2013.

4.17.d The licensing agency shall investigate any report filed by an individual listed above.

4.17.e The licensing agency shall investigate any report filed by any person other than one listed in 4.17 a, unless it reasonably believes that the complaint is without merit.

## **V. Resident Care and Home Services**

### 5.1 Eligibility

5.1.a The licensee shall not accept or retain as a resident any individual who meets level of care eligibility for nursing home admission, or who otherwise has care needs which exceed what the home is able to safely and appropriately provide.

5.1.b A person with a serious, acute illness requiring the medical, surgical or nursing care of a general or special hospital shall not be admitted to or retained as a resident in a residential care home.

5.1.c A person under eighteen (18) years of age shall not be admitted to a residential care home except by permission of the licensing agency.

### 5.2 Admission

5.2.a Prior to or at the time of admission, each resident, and the resident's legal representative if any, shall be provided with a written admission agreement which describes the daily, weekly, or monthly rate to be charged, a description of the services that are covered in the rate, and all other applicable financial issues, including an explanation of the home's policy regarding discharge or transfer when a resident's financial status changes from privately paying to paying with SSI or ACCS benefits. This admission agreement shall specify at least how the following services will be provided, and what additional charges there will be, if any: all personal care services; nursing services; medication management; laundry; transportation; toiletries; and any additional services provided under ACCS or a Medicaid Waiver program. If applicable, the agreement must specify the amount and purpose of any deposit. This agreement must also specify the resident's transfer and discharge rights, including provisions for refunds, and must include a description of the home's personal needs allowance policy.

(1) In addition to general resident agreement requirements, agreements for all ACCS participants shall include: the ACCS services, the specific room and board rate, the amount of personal needs allowance and the provider's agreement to accept room and board and Medicaid as sole payment.

(2) No home may require that a resident purchase optional services as a condition of serving the resident in the ACCS program. Medicaid regulations prohibit homes from requiring deposits for ACCS covered services.

(3) The admission agreement shall inform the resident whether the home will accept SSI or ACCS payments and allow a privately-paying resident to continue residing in the home when the resident is no longer able to continue privately paying the home's periodic rate. Alternatively, the admission agreement shall inform the resident that the home is not required to accept SSI or ACCS payments, that the home reserves the right to make this decision on a case-by-case basis, and that the resident may be transferred or discharged from the home in the event that the resident's financial status changes and the resident is no longer able to continue privately paying the home's periodic rate.

(4) If the home agrees to accept SSI or ACCS payments and allows the resident to remain in the home when the resident's financial status changes, the home must provide the resident with a new admission agreement as provided to all ACCS participants.

(5) If a resident loses SSI or ACCS benefits and the loss of such benefits will result in discharge from the home, the home shall provide a thirty (30) day notice prior to discharge or transfer as required in 5.3.a.

(6) If an ACCS resident resides in a home under a variance, the home may accept one of the following amounts in addition to the resident's required payment and the ACCS daily rate:

i. A payment from a Medicaid Waiver program, if applicable;  
or

ii. A payment from another source. In such cases, the amount accepted shall be clearly stated in the resident agreement, and the home shall state whether the resident shall be eligible to remain in the home at the ACCS rate alone if the resident no longer meets the applicable guideline for a higher level of care.

5.2.b On admission, the home must also determine if the resident has any form of advance directive and explain the resident's right under state law to formulate, or not to formulate, an advance directive. Any change of rate or services shall be preceded by a thirty (30) day written notice to the resident and the resident's legal representative, if any.

5.2.c The home must provide each resident with information regarding how to contact the Long Term Care Ombudsman, Vermont Protection and Advocacy, Inc. or the Vermont Senior Citizen's Law Project.

5.2.d On admission each resident shall be accompanied by a physician's statement, which shall include: medical diagnosis, including psychiatric diagnosis if applicable.

### 5.3 Discharge and Transfer Requirements

#### 5.3.a Involuntary Discharge or Transfer of Residents

(1) An involuntary discharge of a resident is the removal of the resident from a residential care home when the resident or the resident's legal representative has not requested or consented in advance to the removal. A transfer is the removal of the resident from the room the resident currently occupies to another room in the home or to another facility with an anticipated return to the home. An involuntary discharge or transfer may occur only when:

- i. The resident's care needs exceed those which the home is licensed or approved through a variance to provide; or
- ii. The home is unable to meet the resident's assessed needs; or
- iii. The resident presents a threat to the resident's self or the welfare of other residents or staff; or
- iv. The discharge or transfer is ordered by a court; or
- v. The resident has failed to pay monthly charges for room, board and care in accordance with the admission agreement.

(2) In the case of an involuntary discharge or transfer, the manager shall:

- i. Notify the resident, and if known, a family member and/or legal representative of the resident, of the discharge or transfer and the specific reasons for the move in writing and in a language and manner the resident understands at least 72 hours before a transfer within the home and thirty (30) days before discharge from the home. If the resident does not have a family member or legal representative and requests assistance, the notice shall be sent to the Long Term Care Ombudsman, Vermont Protection and Advocacy or Vermont Senior Citizens Law Project.
- ii. Use the form prescribed by the licensing agency for giving written notice of discharge or transfer and include a statement in large print that the resident has the right to appeal the home's decision to transfer or discharge with the appropriate information regarding how to do so.
- iii. Include a statement in the written notice that the resident may remain in the room or home during the appeal.
- iv. Place a copy of the notice in the resident's clinical record.

(3) A resident has the right to appeal the decision by the home to discharge or transfer. The process for appeal is as follows:

- i. To appeal the decision to transfer or discharge, the resident must notify the administrator of the home or the director of the licensing agency. Upon receipt of an appeal, the administrator must immediately notify the director of the licensing agency.
- ii. The request to appeal the decision may be oral or written and must be made within 10 business days of the receipt of the notice by the resident.
- iii. Both the home and the resident shall provide all the materials deemed relevant to the decision to transfer or discharge to the director of the licensing agency as soon as the notice of appeal is filed. The resident may submit orally if unable to submit in writing. Copies of all materials submitted to the licensing agency will be available to the resident upon request.
- iv. The director of the licensing agency will render a decision within eight business days of receipt of the notice of appeal.
- v. The notice of decision from the director will be sent to the resident and to the home, will state that the decision may be appealed to the Human Services Board, and will include information on how to do so.
- vi. The resident or the home will have 10 business days to file a request for an appeal with the Human Services Board by writing to the Board. The Human Services Board will conduct a de novo evidentiary hearing in accordance with 3 V.S.A. §3091.

#### 5.3.b Emergency Discharge or Transfer of Residents

(1) An emergency discharge or transfer may be made with less than thirty (30) days notice under the following circumstances:

- i. The resident's attending physician documents in the resident's record that the discharge or transfer is an emergency measure necessary for the health and safety of the resident or other residents; or
- ii. A natural disaster or emergency necessitates the evacuation of residents from the home; or
- iii. The resident presents an immediate threat to the health or safety of self or others. In that case, the licensee shall request permission from the licensing agency to discharge or transfer the resident immediately. Permission

from the licensing agency is not necessary when the immediate threat requires intervention of the police, mental health crisis personnel, or emergency medical services personnel who render the professional judgement that discharge or transfer must occur immediately. In such cases, the licensing agency shall be notified on the next business day; or

iv. When ordered or permitted by a court.

5.3.c If the resident agrees to a discharge or transfer, the discharge or transfer may occur prior to the effective date of notice.

5.3.d A home must provide sufficient preparation and orientation to residents to ensure a safe and orderly transfer or discharge from the home.

5.3.e A home may not initiate an involuntary discharge of a resident whose care is provided and paid for under the ACCS program because of voluntary temporary, leaves from the home.

5.3.f A home is responsible for any charges associated with disconnecting, relocating or reconnecting telephones, cable television, air-conditioning or other similar costs resulting from a home's decision to transfer the resident.

5.3.g A licensee who intends to discontinue all or part of the operation, or to change the admission or retention policy, ownership, or location of the home in such a way as to necessitate the discharge or transfer of residents shall notify the licensing agency and residents at least ninety (90) days prior to the proposed date of change. The licensee is responsible for ensuring that all residents are discharged or transferred in a safe and orderly manner. When such change in status does not necessitate the discharge or transfer of residents, the licensee shall give the licensing agency and residents at least thirty (30) days prior written notice.

5.3.h The home may include language in its admission agreement requiring residents to provide thirty (30) days notice when the resident intends to voluntarily leave the home.

#### 5.4 Refunds

5.4.a When a resident is discharged, the resident shall receive a refund, within 15 days of discharge, for any funds paid in advance for each day care was not provided. In the case of a discharge to a hospital or other temporary placement, the effective date for this provision shall be the day the home is notified the resident will not be returning. For the purposes of providing refunds, "day of discharge" shall be considered the day the resident's room is empty of the resident's belongings, if those belongings are too large or difficult for the home to store temporarily. The facility shall temporarily store small items such as clothing and other personal items if necessary.

5.4.b The home shall document in the resident's record the date of notification that the resident would not return, and from whom notice was received.

5.4.c A home may not seek to recover for lost income from ACCS residents for care on days that are not days of service. A home may not require, induce or accept payment for care for residents in the ACCS program for days of residence that are not days of service.

In the case of ACCS residents and homes, the refund shall be based on any funds paid in advance by the resident for care and services. A home shall not offset all or any part of the refund by charging the resident for covered or optional services for any day that does not meet the definition of a day of service.

## 5.5 General Care

5.5.a Upon a resident's admission to a residential care home, necessary services shall be provided or arranged to meet the resident's personal, psychosocial, nursing and medical care needs.

5.5.b Staff shall provide care that respects each resident's dignity and each resident's accomplishments and abilities. Residents shall be encouraged to participate in their own activities of daily living. Families shall be encouraged to participate in care and care planning according to their ability and interest and with the permission of the resident.

5.5.c Each resident's medication, treatment, and dietary services shall be consistent with the physician's orders.

5.5.d A home certified to provide assistive community care services (ACCS) shall designate a staff person responsible for case management, who shall provide at least the following case management services: maintenance and implementation of a current assessment and plan of care, and coordination of available community services.

## 5.6 Special Care Units

5.6.a The home must obtain approval from the licensing agency prior to establishing and operating a special care unit. Approval will be based on a demonstration that the unit will provide specialized services to a specific population.

5.6.b A request for approval must include all of the following:

- (1) A statement outlining the philosophy, purpose and scope of services to be provided;
- (2) A definition of the categories of residents to be served;

- (3) A description of the organizational structure of the unit consistent with the unit's philosophy, purpose and scope of services;
- (4) A description and identification of the physical environment;
- (5) The criteria for admission, continued stay and discharge; and
- (6) A description of unit staffing, to include:
  - i. Staff qualifications;
  - ii. Orientation;
  - iii. In-service education and specialized training; and
  - iv. Medical management and credentialing as necessary.

5.6.c A home that has received approval to operate a special care unit must comply with the specifications contained in the request for approval. The home will be surveyed to determine if the special care unit is providing the services, staffing, training and physical environment that was outlined in the request for approval.

5.6.d The requirements of sections 5.2 and 5.3 above shall apply to all residential care home residents including those in special care units.

## 5.7 Assessment

5.7.a An assessment shall be completed for each resident within 14 days of admission, consistent with the physician's diagnosis and orders, using an assessment instrument provided by the licensing agency. The resident's abilities regarding medication management shall be assessed within 24 hours and nursing delegation implemented, if necessary.

5.7.b If a resident requires nursing overview or nursing care, the resident shall be assessed by a licensed nurse within fourteen days of admission to the home or the commencement of nursing services, using an assessment instrument provided by the licensing agency.

5.7.c Each resident shall also be reassessed annually and at any point in which there is a change in the resident's physical or mental condition.

## 5.8 Physician Services

5.8.a All residents shall be under the continuing general supervision of a physician of their choosing, and shall receive assistance, if needed, in scheduling medical appointments.

5.8.b A resident has the right to refuse all medical care for religious reasons or other reasons of conviction, but in such cases, the home must

assess its ability to properly care for the resident and document the refusal and the reasons for it in the resident's record.

5.8.c Any refusal of medical care and the reasons for the refusal must be documented in the resident's record. If the resident has an attending physician, the physician shall be notified.

5.8.d All physicians' orders obtained via telephone shall be countersigned by the physician/licensed practitioner within 15 days of the date the order was given.

## 5.9 Level of Care and Nursing Services

5.9.a Residents who require more than nursing overview or medication management shall not be retained in a residential care home unless the provisions of the following subsections (1)-(5) are all met:

(1) The nursing services required are either:

i. Provided fewer than three times per week; or

ii. Provided for up to seven days a week for no more than 60 days and the resident's condition is improving during that time and the nursing service provided is limited in nature; or

iii. Provided by a Medicare-certified Hospice program; and

(2) The home has a registered nurse on staff, or a written agreement with a registered nurse or home health agency, to provide the necessary nursing services and to delegate related appropriate nursing care to qualified staff; and

(3) The home is able to meet the resident's needs without detracting from services to other residents; and

(4) The home has a written policy, explained to prospective residents before or at the time of admission, which explains what nursing care the home provides or arranges for, how it is paid for and under what circumstances the resident will be required to move to another level of care; and

(5) Residents receiving such care are fully informed of their options and agree to such care in the residential care home.

5.9.b The following services are not permitted in a residential care home except under a variance granted by the licensing agency: intravenous therapy; ventilators or respirators; daily catheter irrigation; feeding tubes; care of stage III or IV decubitus; suctioning; sterile dressings.

5.9.c For each resident requiring nursing overview, administration of medication, or nursing care, the nurse shall:

- (1) Complete an assessment of the resident in accordance with section 5.7;
- (2) Oversee development of a written plan of care for each resident that is based on abilities and needs as identified in the resident assessment. A plan of care must describe the care and services necessary to assist the resident to maintain independence and well-being;
- (3) Provide instruction and supervision to all direct care personnel regarding each resident's health care needs and nutritional needs and delegate nursing tasks as appropriate;
- (4) Maintain a current list for review by staff and physician of all residents' medications. The list shall include: resident's name; medications; date medication ordered; dosage and frequency of administration; and likely side effects to monitor;
- (5) Assure that residents' medications are reviewed periodically and that all resident medications have either a supporting medical diagnosis or problem;
- (6) Maintain a current list of all treatments for each resident that shall include: the name, date treatment ordered, treatment and frequency prescribed and documentation to reflect that treatment was carried out;
- (7) Assure that symptoms or signs of illness or accident are recorded at the time of occurrence, along with action taken;
- (8) Ensure that the resident's record documents any changes in a resident's condition;
- (9) Review all therapeutic diets and food allergies with dietary staff as needed to assure nutritional standards are met and are consistent with physician orders;
- (10) Monitor stability of each resident's weight;
- (11) Implement assistive therapy as necessary to maintain or improve the resident's functional status, with consultation from a licensed professional as needed; and
- (12) Assume responsibility for staff performance in the administration of or assistance with resident medication in accordance with the home's policies.

5.9.d Residents of Level III or Level IV may receive home health services on a resident-specific basis to provide care the home cannot readily provide, including skilled nursing, speech therapy, physical therapy and occupational therapy on an intermittent basis (less than three times per week) or more intensively for short term (up to seven

days a week for no more than 60 days) to the extent agreed upon by the service provider and the resident if all other provisions of these regulations are met.

(1) Level III homes may utilize home health agency services to provide nursing overview or medication management provided such services are provided on a contractual basis to the home and the cost for such a service is not charged to Medicare or the resident. Level IV homes may utilize home health agency services to provide nursing overview or medication management on a resident specific basis without a special contractual arrangement.

(2) If a resident requires skilled nursing services from a home health agency because the home cannot provide the services and the services will continue for more than sixty (60) days, the home must request a variance in writing from the licensing agency to retain the resident.

(3) Home health agencies shall not provide personal care services, such as bathing, for residents in residential care homes except with the permission of the licensing agency. Personal care by home health agencies associated with hospice care is permitted as long as the home meets all other requirements.

#### 5.10 Medication Management

5.10.a Each residential care home must have written policies and procedures describing the home's medication management practices. The policies must cover at least the following:

(1) Level III homes must provide medication management under the supervision of a licensed nurse. Level IV homes must determine whether the home is capable of and willing to provide assistance with medications and/or administration of medications as provided under these regulations. Residents must be fully informed of the home's policy prior to admission.

(2) Who provides the professional nursing delegation if the home administers medications to residents unable to self-administer and how the process of delegation is to be carried out in the home.

(3) Qualifications of the staff who will be managing medications or administering medications and the home's process for nursing supervision of the staff.

(4) How medications shall be obtained for residents including choices of pharmacies.

(5) Procedures for documentation of medication administration.

(6) Procedures for disposing of outdated or unused medication, including designation of a person or persons with responsibility for disposal.

(7) Procedures for monitoring side effects of psychoactive medications.

5.10.b The manager of the home is responsible for ensuring that all medications are handled according to the home's policies and that designated staff are fully trained in the policies and procedures.

5.10.c Staff will not assist with or administer any medication, prescription or over-the-counter medications for which there is not a physician's written, signed order and supporting diagnosis or problem statement in the resident's record.

5.10.d If a resident requires medication administration, unlicensed staff may administer medications under the following conditions:

(1) A registered nurse must conduct an assessment consistent with the physician's diagnosis and orders of the resident's care needs as required in section 5.7.c.

(2) A registered nurse must delegate the responsibility for the administration of specific medications to designated staff for designated residents.

(3) The registered nurse must accept responsibility for the proper administration of medications, and is responsible for:

i. Teaching designated staff proper techniques for medication administration and providing appropriate information about the resident's condition, relevant medications, and potential side effects;

ii. Establishing a process for routine communication with designated staff about the resident's condition and the effect of medications, as well as changes in medications;

iii. Assessing the resident's condition and the need for any changes in medications; and

iv. Monitoring and evaluating the designated staff performance in carrying out the nurse's instructions.

(4) All medications must be administered by the person who prepared the doses unless the nurse responsible for delegation approves of an alternative method of preparation and administration of the medications.

(5) Staff other than a nurse may administer PRN psychoactive medications only when the home has a written plan for the use of the PRN medication which: describes the specific behaviors the medication is intended to correct or address; specifies the circumstances that indicate the use of the medication; educates the staff about what desired effects or undesired side effects the

staff must monitor for; and documents the time of, reason for and specific results of the medication use.

(6) Insulin. Staff other than a nurse may administer insulin injections only when:

i. The diabetic resident's condition and medication regimen is considered stable by the registered nurse who is responsible for delegating the administration; and

ii. The designated staff to administer insulin to the resident have received additional training in the administration of insulin, including return demonstration, and the registered nurse has deemed them competent and documented that assessment; and

iii. The registered nurse monitors the resident's condition regularly and is available when changes in condition or medication might occur.

5.10.e Staff responsible for assisting residents with medications must receive training in the following areas before assisting with any medications from the licensed nurse:

(1) The basis for determining "assistance" versus "administration".

(2) The resident's right to direct the resident's own care, including the right to refuse medications.

(3) Proper techniques for assisting with medications, including hand washing and checking the medication for the right resident, medication, dose, time, route.

(4) Signs, symptoms and likely side effects to be aware of for any medication a resident receives.

(5) The home's policies and procedures for assistance with medications.

5.10.f Residents who are capable of self-administration have the right to purchase and self administer over-the-counter medications. However, the home must make every reasonable effort to be aware of such medications in order to monitor for and educate the residents about possible adverse reactions or interactions with other medications without violating the resident's rights to direct the resident's own care. If a resident's over-the-counter medications use poses a significant threat to the resident's health, staff must notify the physician.

5.10.g Homes must establish procedures for documentation sufficient to indicate to the physician, registered nurse, certified manager or

representatives of the licensing agency that the medication regimen as ordered is appropriate and effective. At a minimum, this shall include:

- (1) Documentation that medications were administered as ordered;
- (2) All instances of refusal of medications, including the reason why and the actions taken by the home;
- (3) All PRN medications administered, including the date, time, reason for giving the medication, and the effect;
- (4) A current list of who is administering medications to residents, including staff to whom a nurse has delegated administration; and
- (5) For residents receiving psychoactive medications, a record of monitoring for side effects.
- (6) All incidents of medication errors.

5.10.h All medicines and chemicals used in the home must be labeled in accordance with currently accepted professional standards of practice. Medication shall be used only for the resident identified on the pharmacy label.

- (1) Resident medications that the home manages must be stored in locked compartments under proper temperature controls. Only authorized personnel shall have access to the keys.
- (2) Medications requiring refrigeration shall be stored in a separate, locked container impervious to water and air if kept in the same refrigerator used for storage of food.
- (3) Residents who are capable of self-administration may choose to store their own medications provided that the home is able to provide the resident with a secure storage space to prevent unauthorized access to the resident's medications. Whether or not the home is able to provide such a secured space must be explained to the resident on or before admission.
- (4) Medications left after the death or discharge of a resident, or outdated medications, shall be promptly disposed of in accordance with the home's policy and applicable standards of practice.
- (5) Narcotics and other controlled drugs must be kept in a locked cabinet. Narcotics must be accounted for on a daily basis. Other controlled drugs shall be accounted for on at least a weekly basis.

## 5.11 Staff Services

5.11.a There shall be sufficient number of qualified personnel available at all times to provide necessary care, to maintain a safe and

healthy environment, and to assure prompt, appropriate action in cases of injury, illness, fire or other emergencies.

5.11.b The home must ensure that staff demonstrate competency in the skills and techniques they are expected to perform before providing any direct care to residents. There shall be at least twelve (12) hours of training each year for each staff person providing direct care to residents. The training must include, but is not limited to, the following:

- (1) Resident rights;
- (2) Fire safety and emergency evacuation;
- (3) Resident emergency response procedures, such as the Heimlich maneuver, accidents, police or ambulance contact and first aid;
- (4) Policies and procedures regarding mandatory reports of abuse, neglect and exploitation;
- (5) Respectful and effective interaction with residents;
- (6) Infection control measures, including but not limited to, handwashing, handling of linens, maintaining clean environments, blood borne pathogens and universal precautions; and
- (7) General supervision and care of residents.

5.11.c All training to meet the requirements of 5.11.b shall be documented. Training in direct care skills by a home's nurse may meet this requirement, provided the nurse documents the content and amount of training.

5.11.d The licensee shall not have on staff a person who has had a charge of abuse, neglect or exploitation substantiated against him or her, as defined in 33 V.S.A. Chapters 49 and 69, or one who has been convicted of an offense for actions related to bodily injury, theft or misuse of funds or property, or other crimes inimical to the public welfare, in any jurisdiction whether within or outside of the State of Vermont. This provision shall apply to the manager of the home as well, regardless of whether the manager is the licensee or not. The licensee shall take all reasonable steps to comply with this requirement, including, but not limited to, obtaining and checking personal and work references and contacting the Division of Licensing and Protection in accordance with 33 V.S.A. §6911 to see if prospective employees are on the abuse registry or have a record of convictions.

5.11.e Staff persons shall not perform any duties when their judgment or physical ability is impaired to the extent that they cannot perform duties adequately or be held accountable for their duties.

5.11.f There shall be at least one (1) staff member on duty and in charge at all times. In homes with more than fifteen (15) residents,

there shall be at least one (1) responsible staff member on duty and awake at all times. There shall be a record of the staff on duty, including names, titles, dates and hours on duty.

5.11.g The licensing agency may require a home to have specified staffing levels in order to meet the needs of residents.

#### 5.12 Records/Reports

5.12.a The licensee shall be responsible for maintaining, filing and submitting all records required by the licensing agency. Such records shall be kept current and available for review at any time by authorized representatives of the licensing agency.

5.12.b The following records shall be maintained and kept on file:

(1) A resident register including all discharges, transfers out of the home and admissions.

(2) A record for each resident which includes: resident's name; emergency notification numbers; name, address and telephone number of any legal representative or, if there is none, the next of kin; physician's name, address and telephone number; instructions in case of resident's death; the resident's assessment(s); progress notes regarding any accident or incident and subsequent follow-up; list of allergies; a signed admission agreement; a recent photograph of the resident, unless the resident objects; a copy of the resident's advance directives, if any completed; and a copy of the document giving legal authority to another, if any.

(3) For residents requiring nursing care, including nursing overview or medication management, the record shall also contain: initial assessment; annual reassessment; significant change assessment; physician's admission statement and current orders; staff progress notes including changes in the resident's condition and action taken; and reports of physician visits, signed telephone orders and treatment documentation; and resident plan of care.

(4) The results of the criminal record and adult abuse registry checks for all staff.

5.12.c A home must file the following reports with the licensing agency:

(1) When a fire occurs in the home, regardless of size or damage, the licensing agency and the Department of Labor and Industry must be notified within twenty-four (24) hours. A written report must be submitted to both departments within seventy-two (72) hours. A copy of the report shall be kept on file.

(2) A written report of any accident or illness shall be placed in the resident's record. Any untimely deaths shall be reported and a record kept on file.

(3) A report of any unexplained absence of a resident from a home for more than 12 hours shall be reported to the police, legal representative and family, if any. The incident shall be reported to the licensing agency within twenty-four (24) hours of disappearance followed by a written report within seventy-two (72) hours, a copy of which shall be maintained.

(4) A written report of any breakdown or cessation to the home's physical plant's major services (plumbing, heat, water supply, etc.) or supplied service, which disrupts the normal course of operation. The licensee shall notify the licensing agency immediately whenever such an incident occurs. A copy of the report shall be sent to the licensing agency within seventy-two (72) hours.

(5) A written report of any reports or incidents of abuse, neglect or exploitation reported to the licensing agency.

(6) A written report of resident injury or death following the use of mechanical or chemical restraint.

5.12.d Reports and records shall be filed and stored in an orderly manner so that they are readily available for reference. Resident records shall be kept on file at least seven (7) years after the date of either the discharge or death of the resident.

#### 5.13 First Aid Equipment and Supplies

Equipment and such supplies as are necessary for universal precautions, to meet resident needs and for care of minor cuts, wounds, abrasions, contusions, and similar sudden accidental injuries shall be readily available and in good repair.

#### 5.14 Restraints

5.14.a Mechanical restraints may be used only in an emergency to prevent injury to a resident or others and shall not be used as an on-going form of treatment. The use of a mechanical restraint shall constitute nursing care.

5.14.b When a temporary mechanical restraint is applied by the staff, a physician must be consulted immediately and written approval for continuation of the restraint obtained. The written order, signed by the physician, should contain the resident's name, date, time of order, and reason for restraint, means of restriction, and period of time the resident is to be restrained. A record shall be kept of every time the restraint is applied and removed during the day and night. Restraints must be removed at least every two (2) hours when in use so as to permit personal care to be given. A resident in a restraint shall be under continuous supervision by the staff of the home.

5.14.c A resident shall not be secluded in any room by locking or fastening a solid door from the outside. Half doors or gates may be employed only with the prior approval of both the physician and the licensing agency.

5.14.d The home shall notify the licensing agency and the resident representative within 24 hours when a restraint is used, and within 72 hours must complete a reassessment of the resident to determine if the resident's needs can be met within the residential care setting. The reassessment shall include consultation with the physician and the resident or the resident's representative.

5.14.e Residents shall have a right to be free from chemical restraints and unnecessary mechanical restraints. Residents shall be notified at the time a restraint is applied of their right to challenge the use of the restraint. A resident has the right to meet with and discuss the challenge with the following individuals:

- (1) The home manager;
- (2) The licensing agency;
- (3) The Commissioner of the licensing agency.

In the event that a resident does challenge the use of a restraint, the home operator shall inform the licensing agency at the time the challenge is raised.

5.14.f A home may not install a door security system which prevents residents from readily exiting the building without prior approval of the licensing agency.

#### 5.15 Policies and Procedures

Each home must have written policies and procedures that govern all services provided by the home. A copy shall be available at the home for review upon request.

#### 5.16 Transportation

5.16.a Each home must have a written policy about what transportation is available to residents of the home. The policy must be explained at the time of admission.

5.16.b Transportation for medical services and local community functions shall be provided up to twenty (20) miles, round-trip without charge, not to exceed four (4) round-trips per month. Residents may be charged, at a reasonable rate, for those miles in excess of twenty (20) miles round-trip and for any or all mileage for transportation not prescribed herein.

## 5.17 Death of a Resident

5.17.a In those deaths in which the law applies (such as an unexpected, untimely death), pursuant to 18 V.S.A. §5205 (a), the manager shall be responsible for immediately notifying the regional medical examiner.

5.17.b In those deaths in which the medical examiner need not be notified, the manager shall:

- (1) Follow the instructions of the deceased, legal representative, if any, next of kin, or other relative regarding funeral and other related arrangements.

- (2) In instances where the services of an undertaker are not immediately available, and the resident occupied a multi-bed room, the manager shall arrange for the immediate removal of the body of the deceased resident to a separate unoccupied room.

- (3) Remove a deceased resident's body from the home within four (4) hours.

5.17.c When a resident dies unexpectedly or within 48 hours of a fall or injury, in addition to notifying the medical examiner, the licensee shall send a report to the licensing agency with the following information:

- (1) Name of resident;

- (2) Circumstances of the death;

- (3) Circumstances of any recent injuries or falls; and

- (4) A list of all medications and treatments received by the resident during the two (2) weeks prior to the death.

## 5.18 Reporting of Abuse, Neglect or Exploitation

5.18.a The licensee and staff shall report any case of suspected abuse, neglect or exploitation to the Adult Protective Services (APS) as required by 33 V.S.A. §6903. APS may be contacted by calling toll-free 1-800-564-1612. Reports must be made to APS within 48 hours of learning of the suspected, reported or alleged incident.

5.18.b The licensee and staff are required to report suspected or reported incidents of abuse, neglect or exploitation. It is not the licensee's or staff's responsibility to determine if the alleged incident did occur or not; that is the responsibility of the licensing agency. A home may, and should, conduct its own investigation. However, that must not delay reporting of the alleged or suspected incident to Adult Protective Services.

5.18.c Incidents involving resident-to-resident abuse must be reported to the licensing agency if a resident alleges abuse, sexual abuse, or if

an injury requiring physician intervention results, or if there is a pattern of abusive behavior. All resident-to-resident incidents, even minor ones, must be recorded in the resident's record. Families or legal representatives must be notified and a plan must be developed to deal with the behaviors.

#### 5.19 Access by Ombudsman, Protection and Advocacy System

5.19.a The home shall permit representatives of Adult Protective Services, the Office of the Long Term Care Ombudsman and Vermont Protection and Advocacy, Inc. to have access to the home and its residents in order to: visit; talk with; and make personal, social and legal services available to all residents; inform residents of their rights and entitlements; assist residents in resolving problems and grievances.

5.19.b Any designated representative of the Office of the Long Term Care Ombudsman or Protection and Advocacy, Inc. shall have access to the home at any time in accordance with those programs' state and federal mandates and requirements. Those representatives shall also have access to the resident's records with the permission of the resident or as otherwise provided by state or federal law.

5.19.c Individual residents have the complete right to deny or terminate any visits by persons having access pursuant to this section.

5.19.d If a resident's room does not permit private consultation to occur, the resident may request, and the home must provide, an appropriate place for such a meeting.

## **VI. Residents' Rights**

6.1 Every resident shall be treated with consideration, respect and full recognition of the resident's dignity, individuality, and privacy. A home may not ask a resident to waive the resident's rights.

6.2 Each home shall establish and adhere to a written policy, consistent with these regulations, regarding the rights and responsibilities of residents, which shall be explained to residents at the time of admission.

6.3 Residents may retain personal clothing and possessions as space permits, unless to do so would infringe on the rights of others or would create a fire or safety hazard.

6.4 A resident shall not be required to perform work for the licensee. If a resident chooses to perform specific tasks for the licensee the resident shall receive reasonable compensation which shall be specified in a written agreement with the resident.

6.5 Each resident shall be allowed to associate, communicate and meet privately with persons of the resident's own choice. Homes shall allow

visiting hours from at least 8 a.m. to 8 p.m., or longer. Visiting hours shall be posted in a public place.

6.6 Each resident may send and receive personal mail unopened.

6.7 Residents have the right to reasonable access to a telephone for private conversations. Residents shall have reasonable access to the home's telephone except when restricted because of excessive unpaid toll charges or misuse. Restrictions as to telephone use shall be in writing. Any resident may, at the resident's own expense, maintain a personal telephone in his or her own room.

6.8 A resident may complain or voice a grievance without interference, coercion or reprisal. Each home shall establish a written grievance procedure for resolving residents' concerns or complaints that is explained to residents at the time of admission. The grievance procedure shall include at a minimum, time frames, a process for responding to residents in writing, and a method by which each resident filing a complaint will be made aware of the Office of the Long Term Care Ombudsman and Vermont Protection and Advocacy as an alternative or in addition to the home's grievance mechanism.

6.9 Residents may manage their own personal finances. The home or licensee shall not manage a resident's finances unless requested in writing by the resident and then in accordance with the resident's wishes. The home or licensee shall keep a record of all transactions and make the record available, upon request, to the resident or legal representative, and shall provide the resident with an accounting of all transactions at least quarterly. Resident funds must be kept separate from other accounts or funds of the home.

6.10 The resident's right to privacy extends to all records and personal information. Personal information about a resident shall not be discussed with anyone not directly involved in the resident's care. Release of any record, excerpts from or information contained in such records shall be subject to the resident's written approval, except as requested by representatives of the licensing agency to carry out its responsibilities or as otherwise provided by law.

6.11 The resident has the right to review the resident's medical or financial records upon request.

6.12 Residents shall be free from mental, verbal or physical abuse, neglect, and exploitation. Residents shall also be free from restraints as described in Section 5.14.

6.13 When a resident is adjudicated mentally disabled, such powers as have been delegated by the Probate or Family Court to the resident's guardian shall devolve to the guardian pursuant to applicable law.

6.14 Residents subject to transfer or discharge from the home, under Section 5.3 of these regulations, shall:

6.14.a Be allowed to participate in the decision-making process of the home concerning the selection of an alternative placement;

6.14.b Receive adequate notice of a pending transfer; and

6.14.c Be allowed to contest their transfer or discharge by filing a request for a fair hearing before the Human Services Board in accordance with the procedures in 3 V.S.A. §3091.

6.15 Residents have the right to refuse care to the extent allowed by law. This includes the right to discharge himself or herself from the home. The home must fully inform the resident of the consequences of refusing care. If the resident makes a fully informed decision to refuse care, the home must respect that decision and is absolved of further responsibility. If the refusal of care will result in a resident's needs increasing beyond what the home is licensed to provide, or will result in the home being in violation of these regulations, the home may issue the resident a thirty (30) day notice of discharge in accordance with section 5.3.a of these regulations.

6.16 Residents have the right to formulate advance directives as provided by state law and to have the home follow the residents' wishes.

6.17 ACCS residents have the right to be away from the home for voluntary leaves of more than 24 hours, unless a legally appointed guardian directs the home otherwise. ACCS residents have the right to make decisions about such voluntary leaves without influence from the home.

6.18 The enumeration of residents' rights shall not be construed to limit, modify, abridge or reduce in any way any rights that a resident otherwise enjoys as a human being or citizen. A summary of the obligations of the residential care home to its residents shall be written in clear language, large print, given to residents on admission, and posted conspicuously in a public place in the home. Such notice shall also summarize the home's grievance procedure and directions for contacting the Ombudsman Program and Vermont Protection and Advocacy, Inc.

## **VII. Nutrition and Food Services**

### **7.1 Food Services**

#### **7.1.a Menus and Nutritional Standards**

(1) Menus for regular and therapeutic diets shall be planned and written at least one (1) week in advance.

(2) The meals served each day must provide 100% of the Recommended Dietary Allowances (RDA) as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences and comply with the Dietary Guidelines for Americans.

- (3) The current week's regular and therapeutic menu shall be posted in a public place for residents and other interested parties.
- (4) The home must follow the written, posted menus. If a substitution must be made, the substitution shall be recorded on the written menu.
- (5) The home shall keep menus, including any substitutions, for the previous month on file and available for examination by the licensing agency.
- (6) There shall be a written physician's order in the resident's record for all therapeutic diets.
- (7) The home shall maintain sufficient food supplies at hand on the premises to meet the requirements of the planned weekly menus.
- (8) No more than 14 hours shall elapse between the end of an evening meal and the morning meal.

#### 7.1.b Meal Patterns

The following guide provides the basis for meal planning and will provide nearly 100% of the RDA for most residents. In cases of a resident's advanced age and very light activity, homes may consider each resident's needs with respect to portion size and frequency of eating but shall not compromise overall nutrient intake. In addition to the suggested food servings, particular emphasis must be given to fluid intake for residents.

<b>Food Group</b>	<b>Suggested Daily Servings</b>	<b>What Counts as a Serving</b>
Bread, Cereal, Rice, Pasta	6-11	1 slice bread, tortilla ½ bagel, English Muffin ½ hamburger/hot dog roll, pita ½ cup cooked cereal, rice, pasta 1 oz ready-to-eat cereal 3-4 small or 2 large crackers
Fruit	2-4	¾ cup 100% fruit juice 1 medium apple, banana or other fruit ½ cup fresh, cooked or canned fruit ¼ cup dried fruit

Vegetables	3-5	½ cup cooked or chopped raw vegetables 1 cup leafy, raw vegetables ¾ cup vegetable juice
Milk, Yogurt, Cheese	3 or more	1 cup milk, yogurt 1 ½ oz natural cheese
Meat, Poultry, Legumes, Eggs Nuts	2 (total of 4-5 oz/day)	2-3 oz cooked lean meat, poultry or fish ½ cup cooked legumes 1 egg 2 tablespoons peanut butter 1/3 cup nuts
Fluids	8 cups (8 fluid oz each)	Water, juice, herbal tea, non-caffeinated coffee, tea

- At least one serving of citrus fruit or other fruit or vegetable rich in vitamin C shall be served each day.
- At least one serving of fruit or vegetable rich in vitamin A shall be served at least every other day.

#### 7.1.c Meal Service

(1) Each home shall provide residents with three nutritionally balanced, attractive and satisfying meals in accordance with these regulations. Meals shall be served at appropriate temperature and at normal meal hours. Texture modifications will be accommodated as needed.

(2) Supplemental nourishment (snacks) shall be offered to residents before their hour of retiring and between meals.

(3) Residents shall be allowed an adequate amount of time to eat each meal at an unhurried pace.

(4) Residents shall be provided with alternatives to the planned meal upon request.

#### 7.2 Food Safety and Sanitation

7.2.a Each home must procure food from sources that comply with all laws relating to food and food labeling. Food must be safe for human consumption, free of spoilage, filth or other contamination. All milk products served and used in food preparation must be pasteurized. Cans with dents, swelling or leaks shall be rejected and kept separate until returned to the supplier.

7.2.b All perishable food and drink shall be labeled, dated and held at proper temperatures:

(1) At or below 40 degrees Fahrenheit.

(2) At or above 140 degrees Fahrenheit when served or heated prior to service.

7.2.c All work surfaces are cleaned and sanitized after each use. Equipment and utensils are cleaned and sanitized after each use and stored properly.

7.2.d The home shall assure that food handling and storage techniques are consistent with safe food handling practices.

7.2.e The use of outdated, unlabeled or damaged canned goods is prohibited and such goods shall not be maintained on the premises.

### 7.3 Food Storage and Equipment

7.3.a All food and drink shall be stored so as to protect from dust, insects, rodents, overhead leakage, unnecessary handling and all other sources of contamination.

7.3.b Areas of the home used for storage of food, drink, equipment or utensils shall be constructed to be easily cleaned and shall be kept clean.

7.3.c All food service equipment shall be kept clean and maintained according to manufacturer's guidelines.

7.3.d All equipment, utensils and dinnerware shall be in good repair. Cracked or badly chipped dishes and glassware shall not be used.

7.3.e Single service items, such as paper cups, plates and straws, shall be used only once. They shall be purchased and stored in sanitary packages or containers in a clean dry place and handled in a sanitary manner.

7.3.f Food service areas shall not be used to empty bed pans or urinals or as access to toilet and utility rooms. If soiled linen is transported through food service areas, the linen must be in an impervious container.

7.3.g Doors, windows and other openings to the outdoors shall be screened against insects, as required by seasonal conditions.

7.3.h All garbage shall be collected and stored to prevent the transmission of contagious diseases, creation of a nuisance, or the breeding of insects and rodents, and shall be disposed of at least weekly. Garbage or trash in the kitchen area must be placed in lined containers with covers.

7.3.i Poisonous compounds (such as cleaning products and insecticides) shall be labeled for easy identification and shall not be stored in the food storage area unless they are stored in a separate, locked compartment within the food storage area.

## **VIII. Laundry Services**

8.1 The home shall launder bed and bath linens used by the residents. The home shall launder and return the residents' personal clothing in order for residents to be clean, well-groomed and comfortable.

8.1.a The home shall make provisions for residents who choose to launder their own personal clothing.

8.1.b Clean and soiled laundry shall be separated at all times.

8.1.c All soiled laundry will be stored and transported in a closed impervious container.

8.1.d Each resident's personal laundry shall be identified by a distinctive marking or other method and shall be returned to the resident after laundering.

8.1.e Laundering shall be done so that laundered items are clean and in good condition. Personal items damaged or lost by the home shall be replaced by the home.

## **IX. Physical Plant**

### 9.1 Environment

9.1.a The home must provide and maintain a safe, functional, sanitary, homelike and comfortable environment.

9.1.b All homes shall comply with all current applicable state and local rules, regulations, codes and ordinances. Where there is a difference between codes, the code with the higher standard shall apply.

### 9.2 Residents' Rooms

9.2.a Each bedroom shall have at least 100 square feet of useable floor space in single rooms and at least 80 square feet per bed in double-bed rooms, exclusive of toilets, closets, lockers, wardrobes, alcoves or vestibules. These specifications may be waived for beds licensed prior to the adoption of the 1987 regulations.

9.2.b Rooms shall be of dimensions that allow for the potential of not less than three (3) feet between beds and three feet between the bed and the side wall to facilitate cleaning and easy access.

9.2.c Each bedroom shall have an outside window.

(1) Windows shall be openable and screened except in construction containing approved mechanical air circulation and ventilation equipment.

(2) Window shades, venetian blinds or curtains shall be provided to control natural light and offer privacy.

9.2.d The door opening of each bedroom shall be fitted with a full-size door of solid core construction.

9.2.e Resident bedrooms shall be used only as the personal sleeping and living quarters of the residents assigned to them.

9.2.f A resident shall not have to pass through another bedroom or bathroom to reach the resident's own bedroom.

9.2.g Each resident shall be provided the resident's own bed that shall be a standard-size full or twin bed. Roll away beds, cots and folding beds shall not be used.

9.2.h Each bed shall be in good repair, with a clean, comfortable mattress that is at least 6 inches thick, and standard in size for the particular bed, a pillow, bedspread, and a minimum of one (1) blanket, two (2) sheets, and one (1) pillowcase.

9.2.i Each resident shall be provided adequate closet and drawer space to accommodate clothing and personal needs.

### 9.3 Toilet, Bathing and Lavatory Facilities

9.3.a Toilet, lavatories and bathing areas shall be equipped with grab bars for the safety of the residents. There shall be at least one (1) full bathroom that meets the requirements of the Americans with Disabilities Act of 1990 and state building accessibility requirements as enforced by the Department of Labor and Industry.

9.3.b There shall be a minimum of one (1) bath unit, toilet and lavatory sink, exclusively available to residents, per eight (8) licensed beds per floor. Licensed beds having private lavatory facilities are not included in this ratio.

9.3.c Each lavatory sink shall be at least of standard size and shall be equipped with hot and cold running water, soap, and, if used by multiple residents, paper towels.

9.3.d Each bathtub and shower shall be constructed and enclosed so as to ensure adequate space and privacy while in use.

9.3.e Resident lavatories and toilets shall not be used as utility rooms.

#### 9.4 Recreation and Dining Rooms

9.4.a All homes shall provide at least one (1) well-lighted and ventilated living or recreational room and dining room for the use of residents.

9.4.b Combination dining and recreational rooms are acceptable but must be large enough to serve a dual function.

9.4.c Dining rooms shall be of sufficient size to seat and serve all residents of the home at the same time.

9.4.d Smoking shall be permitted only in designated areas and the home must ensure that residents who object to smoke have "smoke free" dining or recreation space.

#### 9.5 Home Requirements for Persons with Physical Disabilities

9.5.a Each home shall be accessible to and functional for residents, personnel and members of the public with physical disabilities in compliance with the Americans with Disabilities Act.

9.5.b Blind or physically disabled residents shall not be housed above the first floor unless the home is in compliance with all applicable codes, regulations and laws as required by the Department of Labor and Industry.

#### 9.6 Plumbing

9.6.a All plumbing shall operate in such a manner as to prevent back-siphonage and cross-connections between potable and nonpotable water. All plumbing fixtures and any part of the water distribution or sewage disposal system shall operate properly and be maintained in good repair.

9.6.b Plumbing and drainage for the disposal of sewage, infectious discharge, household and institutional wastes shall comply with all State and Federal regulations.

9.6.c All plumbing fixtures shall be clean and free from cracks, breaks and leaks.

9.6.d Hot water temperatures shall not exceed 120 degrees Fahrenheit in resident areas.

#### 9.7 Water Supply

9.7.a Each home shall be connected to an approved public water supply when available and where said supply is in compliance with the Department of Health's public water system regulations.

9.7.b If a home uses a private water supply, said supply shall conform to the construction, operation and sanitation standards published by the

Department of Health. Private water supplies shall be tested annually for contamination, and copies of results shall be kept on premises.

9.7.c Water shall be distributed to conveniently located taps and fixtures throughout the building and shall be adequate in temperature, volume and pressure for all purposes, including fire fighting if there is a residential sprinkler system.

#### 9.8 Heating

9.8.a Each home shall be equipped with a heating system which is of sufficient size and capability to maintain all areas of the home used by residents and which complies with applicable fire and safety regulations.

9.8.b The minimum temperature shall be maintained at an ambient temperature of 70 degrees Fahrenheit in all areas of the home utilized by residents and staff during all weather conditions.

#### 9.9 Ventilation

9.9.a Homes shall be adequately ventilated to provide fresh air and shall be kept free from smoke and objectionable odors.

9.9.b Kitchens, laundries, toilet rooms, bathrooms, and utility rooms shall be ventilated to the outside by window or by ventilating duct and fan of sufficient size.

#### 9.10 Life Safety/Building Construction

All homes shall meet all of the applicable fire safety and building requirements of the Department of Labor and Industry, Division of Fire Prevention.

#### 9.11 Disaster and Emergency Preparedness

9.11.a The licensee or manager of each home shall maintain a written disaster preparedness plan. The plan shall outline procedures to be followed in the event of any emergency potentially necessitating the evacuation of residents, including but not limited to: fire, flood, loss of heat or power, or threat to the home.

9.11.b If the home is located within ten (10) miles of a nuclear power plant, the plan shall include specific measures for the protection, treatment and removal of residents in the event of a nuclear disaster.

9.11.c Each home shall have in effect, and available to staff and residents, written copies of a plan for the protection of all persons in the event of fire and for the evacuation of the building when necessary. All staff shall be instructed periodically and kept informed of their duties under the plan. Fire drills shall be conducted on at least a quarterly basis and shall rotate times of day among morning, afternoon,

evening, and night. The date and time of each drill and the names of participating staff members shall be documented.

9.11.d There shall be an operable telephone on each floor of the home, at all times. A list of emergency telephone numbers shall be posted by each telephone.

## **X. Pets**

10.1 Pets may visit the home providing the following conditions are met:

10.1.a The pet owner must provide evidence of current vaccinations.

10.1.b The pet must be clean, properly groomed and healthy.

10.1.c The pet owner is responsible for the pet's behavior and shall maintain control of the pet at all times.

10.2 Pets, owned by a resident or the home, may reside in the home providing the following conditions are met:

10.2 a The home shall ensure that the presence of a pet causes no discomfort to any resident.

10.2.b The home shall ensure that pet behavior poses no risk to residents, staff or visitors.

10.2.c The home must have procedures to ensure that pets are kept under control, fed, watered, exercised and kept clean and well-groomed and that they are cleaned up after.

10.2.d Pets must be free from disease including leukemia, heartworm, hepatitis, leptos psorisos, parvo, worms, fleas, ticks, ear mites, and skin disorders, and must be current at all times with rabies and distemper vaccinations.

10.2.e Pet health records shall be maintained by the home and made available to the public.

10.2.f The home shall maintain a separate area for feeding cats and dogs other than the kitchen or resident dining areas.

## **XI. Resident Funds and Property**

11.1 A resident's money and other valuables shall be in the control of the resident, except where there is a guardian, attorney in fact (power of attorney), or representative payee who requests otherwise. The home may manage the resident's finances only upon the written request of the resident. There shall be a written agreement stating the assistance requested, the terms of same, the funds or property and persons involved.

11.2 If the home manages the resident's finances, the home must keep a record of all transactions, provide the resident with a quarterly statement, and keep all resident funds separate from the home or licensee's funds.

11.3 The personal property of the resident shall be available for the resident's use and securely maintained when not in use.

11.4 The resident shall not be solicited for gifts or other consideration by persons connected with the home, in any way.

11.5 When it becomes apparent that a resident is no longer capable of managing funds and/or property, the licensee shall contact the resident's legal representative if any, or the next of kin. If there is no legal representative or next of kin, the licensee shall contact the licensing agency.

11.6 When a resident is absent without explanation for a period of thirty-one (31) days and there is no responsible person, the licensee shall hold the property for six (6) months. At the conclusion of this period, the property shall be transferred to the selectmen of the town.

11.7 Each home shall develop and implement a written policy regarding resident's personal needs. The policy shall be explained to the resident upon admission, with a copy provided to the resident at that time.

11.7.a The policy shall include a provision that recipients of Supplemental Security Income (SSI) shall retain from their monthly income an amount adequate to meet their personal needs exclusive of all other rates, fees or charges by the home. The amount shall be sufficient to meet such personal needs as clothing and incidental items, reading matter, small gifts, toiletries, occasional foods not provided by the home and other such items.

11.7.b For SSI or Medicaid recipients in homes participating in ACCS, the amount shall be at least as much as the personal needs allowance provided Medicaid recipients in nursing homes as set by federal and state law.

11.8 The licensee, the licensee's relative or any staff member shall not be the legal guardian, trustee or legal representative for any resident other than a relative. The licensee or any staff of the home are permitted to act as the resident's representative payee according to Social Security regulations provided the resident or the resident's legal representative agrees in writing to this arrangement and all other provisions of these regulations related to money management are met.

11.9 No licensee, staff or other employee of the home may solicit, offer or receive a gift, including money or gratuities, from a resident. Nominal gifts, such as candy or flowers that can be enjoyed by all staff, are permissible.