

Arch A. Moore, Jr.
Governor



David K. Heydinger, M.D.
Director

State of West Virginia

DEPARTMENT OF HEALTH
CHARLESTON 25305

NOTICE OF AGENCY APPROVAL

LEGISLATIVE RULE: Adult Group Home Licensure, West Virginia Board of Health Legislative Rules, Chapter 16-5H, Series 49, 1986. The attached legislative rule constitutes the official rule approved by the Board of Health on the 15th day of November, 1985 and filed pursuant to law with the West Virginia Secretary of State and the Legislative Rule-Making Review Committee.

REC'D DEC 17 1985
FRI 11 AM
Department of Health

David K. Heydinger, M.D.
David K. Heydinger, M.D.
Director of Health

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Adult Group Home Licensure

Type of Rule: Legislative Interpretive Procedural

Agency Health Department

Address 1800 Washington St., E.

Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$ 42,835	\$ 45,660
Personal Services				27,300	29,350
Current Expense				15,535	16,310
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates. These costs include: surveyor on-site and travel time for routine surveys, complaint investigation and follow-up visits; clerical and administrative staff time; and current expense, including travel. Estimated costs assume 65 adult group homes.

3. Objectives of these rules:
Licensure of adult group homes.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

The adult group home rule will be funded from the general revenue account. The Department of Human Services anticipates providing support for some individuals in licensed group homes, at a cost of approximately \$72,600 per year.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

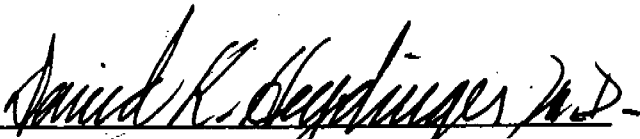
There are no adult group homes licensed at the present time; therefore it is difficult to determine costs of compliance with this rule. Preliminary circulation of drafts of the proposed rule among potential providers of adult group home services indicated that this rule will not cause inordinate costs.

C. Economic Impact on Citizens/Public at Large.

Licensure of this type of residential facility will provide alternatives to institutional care such as personal care homes and state institutions.

Date November 26, 1985

Signature of Agency Head or Authorized Representative



David K. Heydinger, M.D.
Director of Health

DATE: December 17, 1985

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Health Department

LEGISLATIVE RULE TITLE: Adult Group Home Licensure

1. Authorizing statute(s) citation Chapter 16, Article 5H

2. a. Date filed in State Register with Notice of Hearing:

December 19, 1984

b. What other notice, including advertising, did you give of the hearing? Notice and copies of the rule were mailed to known interested providers of adult group homes, the State Mental Health Association, West Virginia Advocates for the Developmentally Disabled, other professional organizations, Department of Human Services, other concerned state agencies, and county health departments.

c. Date of hearing (s): January 18, 1985

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received _____

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

December 17, 1985

f. Name and phone number of agency person to contact for additional information:

Joan Rutledge - 348-3223

John J. Jarrell -- 348-0050

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing: N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached N/A

PROPOSED RULE ABSTRACT
WEST VIRGINIA BOARD OF HEALTH

FILED

1985 DEC 17 PM 2:36

SECRETARY OF STATE

TITLE: Adult Group Home Licensure

TYPE: Legislative Rule

NUMBER: Chapter 16-5H, Series 49, 1986

AUTHORITY: Chapter 16, Article 5H, Section

RELATED: Chapter 16, Article 5H, Section 1, et seq.

ABSTRACT: This proposed new rule implements Article 5H, Chapter 16 of the West Virginia Code, established by the 1984 Legislature. This law requires the licensure of adult group homes, which are, generally, residences which provide accommodations, personal assistance and supervision to four to ten adults who do not require nursing or personal care home services and who are capable of self-preservation. The rule distinguishes between family and non-family adult group homes; establishes state licensure program administrative procedures; and sets standards for: resident rights, services provided and the physical facility.

CONTACT PERSON: Joan Rutledge, Regulatory Services Division, 348-3223

RESPONSIBLE DIVISION: Health Facilities Evaluation Division, 348-0050
John J. Jarrell, Director

[PROPOSED]

WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

Adult Group Home Licensure

Chapter 16-5H
Series 49
1986

For Filing With the
Legislative Rule-Making Review Committee

[PROPOSED]

WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

Adult Group Home Licensure

Chapter 16-5H
Series 49
1986

INDEX

	Page
Section 1. General	1
Section 2. Supersession and Repeal of Former Rules	1
Section 3. Application and Enforcement	1
Section 4. Definitions	1
Section 5. State Administrative Procedures	4
Section 6. Management and Personnel	8
Section 7. Policies and Procedures	11
Section 8. Residents' Rights	13
Section 9. Services	14
Section 10. Resident Records	19
Section 11. Physical Requirements	21
Section 12. Fire and Emergency Protection	28
Section 13. Penalties	28
Section 14. Administrative Due Process	29
Section 15. Severability	29

[PROPOSED]

WEST VIRGINIA LEGISLATIVE RULES
Board of Health

Chapter 16-5H
Series 49
1986

TITLE: Adult Group Home Licensure

Section 1. General

1.1. Scope - This legislative rule establishes general standards and procedures for the licensure of adult group homes. The purpose of this rule is to: 1) promote the development of residential facilities providing family style living quarters and a home type atmosphere for adults who require some degree of personal assistance and supervision, and who are capable of self-preservation in emergency situations involving imminent danger, but who do not require those services provided by personal care or nursing homes; and 2) to provide for the health, safety and welfare of residents of adult group homes. The rule applies to and distinguishes between two types of adult group homes: a single group home operated by a family which resides in the home or one or more adult group homes maintained or operated by owners who do not live in the group home.

1.2. Authority - This rule is issued under the authority of and is related to Chapter 16, Article 5H of the West Virginia Code.

1.3. Filing Date -

1.4. Effective Date -

Section 2. Supersession and Repeal of Former Regulations - [Reserved]

Section 3. Application and Enforcement

3.1. Application

3.1.1. This rule shall apply to whoever establishes, maintains or operates, or is engaged in establishing, maintaining or operating an adult group home as defined in §16-5H-1(a) of the West Virginia Code and this rule.

3.1.2. This rule shall not apply to a facility which provides behavioral health services to adults in a twenty-four hour residential facility.

3.2. Enforcement - This rule shall be enforced by the director of the West Virginia department of health or his or her lawful designee.

Section 4. Definitions

4.1. Accommodations - The provision of room and meals.

4.2. Activities of Daily Living - The range of activities that individuals generally perform regularly in the course of maintaining their existence, such as: eating, dressing, walking, personal grooming, getting in and out of bed,

laundry, managing money, cleaning their room, shopping, using public transportation, writing letters, making telephone calls, participating in recreational and leisure activities, and other similar activities.

4.3. Adult - An individual eighteen years or older.

4.4. Adult Group Home - Any residence or any part or unit thereof, however named, which is advertised, offered, maintained or operated by the ownership or management, whether for a consideration or not, for the express or implied purpose of providing accommodations, personal assistance and supervision, for a period of more than twenty-four hours, to four to ten persons who are dependent upon the services of others by reason of physical or mental impairment, but who do not require nursing care or personal care home services and who are capable of self-preservation. The term "adult group home" includes both family and non-family adult group homes.

4.5. Applicant - The person, persons, corporation or whoever submits an application for an initial or renewal license to establish, maintain or operate an adult group home.

4.6. Behavioral Health Services - Those services intended to help individuals with emotional or mental disorders, alcohol or drug abuse problems, and mental retardation or other developmental disabilities gain or regain the capacity to function adaptively in their environment, to care for themselves and their families, and to be accepted by society.

4.7. Boarding Home - An establishment which is held forth to the public as providing, or which is operated to provide, only room and board to persons not in need of medical or nursing treatment or personal supervision. A boarding home does not provide personal assistance in eating, dressing, ambulation, or any other daily living activities, any type of medical or nursing care, or any degree of personal supervision.

4.8. Capable of Self-preservation - Capable, at least, of removing one's physical self from situations involving imminent danger, such as fire.

4.9. Department - West Virginia department of health.

4.10. Director - The director of the West Virginia department of health or his or her lawful designee.

4.11. Family - A person or group of persons who regularly maintain a household together at the same address and in the same house. The family may consist of persons related by ties of blood and marriage or may include persons who regularly live together in the same house. If the family does not consist of persons related by ties of blood and marriage, the director shall have the authority to assess the stability and suitability of the potential family adult group home through the use of character references, evidence of stability of the living arrangements, assessments by a case management agency such as the State department of human services or the local licensed behavioral health center and any other information deemed relevant.

4.12. Family Adult Group Home - An adult group home which is operated by a family which also maintains its residence in the home.

4.13. Home - Adult group home.

4.14. Household member - A member of the family operating an adult group home who lives in the home.

4.15. Imminent Danger - As applied to a violation of this rule, a danger which could reasonably be expected to cause death or serious physical harm or illness to participants or staff immediately or before the imminence of such danger can be eliminated through the procedures of Section 5.8. of this rule; and, as applied in the definition of "capable of self-preservation," a danger which could reasonably be expected to cause death or serious physical harm quickly.

4.16. Legal Representative - For purposes of this rule, a committee appointed pursuant to the West Virginia Code §27-11-1 et seq., a guardian appointed pursuant to the West Virginia Code §44-10A-1 et seq. or other provision of law, a power of attorney, or any other entity or individual, lawfully appointed or designated, which has been granted general or limited authority to act on behalf of a person who is, becomes or has been a resident in an adult group home.

4.17. License - The document issued by the director which indicates approval for the operation of an adult group home facility.

4.18. Licensee - An adult group home duly licensed by the department of health.

4.19. Non-family Adult Group Home - An adult group home which is maintained and operated by an owner or owners who do not reside in the adult group home. This shall include any adult group home whose owner or operator does not live in the home and any adult group home which is one of a group of two or more such homes under the same ownership. The ownership may be any person, partnership, any corporation, whether for profit or not, or any local government or unit thereof.

4.20. Nursing Care - Those procedures commonly employed in providing for the physical, emotional and rehabilitational needs of the ill or otherwise incapacitated which require technical skills and knowledge beyond that which the untrained person possesses. These skills include but are not limited to, such procedures as: irrigations; catheterization; application of dressings; supervision of special diets; objective observation of changes in patient condition as a means of analyzing and determining nursing care required and the need for further medical diagnosis and treatment; special procedures contributing to rehabilitation; administration of medication by any route ordered by a physician, such as parenterally, rectally, or orally; and carrying out other treatments prescribed by a physician which involve a like level of complexity and skill in administration.

4.21. Nursing Home - A facility holding a nursing home license.

4.22. Owner - A person, partnership, organization, corporation or whomever is legally responsible for the overall operation of an adult group home.

4.23. Owner-operator - A term used to indicate the person who owns and operates a family adult group home.

4.24. Personal Assistance - For purposes of this rule, services provided to help and assist residents to perform activities of daily living for themselves, in contrast with the personal assistance provided in personal care homes, as defined in Chapter 16, Article 5C.

4.25. Personal Care Home - A facility licensed as a personal care home.

4.26. Resident - An adult person receiving services from an adult group home.

4.27. Supervision - The assumption of varying degrees of responsibility for the safety and well-being of residents including, but not limited to, such activities as the guidance of an individual; being aware of the individual's general whereabouts, although he or she may travel independently in the community; monitoring, through observation, the activities of the resident while on the premises of the home to ensure his or her health, safety and well-being; reminding the resident to carry out the activities of daily living; reminding the resident of any important activities, including appointments; and other similar activities.

Section 5. State Administrative Procedures

5.1. General Licensing Provisions

5.1.1. No adult group home shall be established, maintained or operated within the state of West Virginia unless a license therefor has been obtained from the director of health.

5.1.2. Application for an initial or renewal license to conduct, maintain or operate an adult group home shall be made to the director on forms supplied by him or her together with a nonrefundable fee of ten dollars (\$10.00) payable to the director.

5.1.3. A license shall state:

- (a) the name, address and owner of the adult group home to which it applies;
- (b) the type of adult group home, either family or non-family;
- (c) the date of issuance;
- (d) the number of beds for residents;
- (e) the types of physical disability for which the home is equipped; and

(f) the expiration date.

5.1.4. A license shall be valid only for the specific location and persons named and described in the application and shall not be transferable or assignable.

5.1.5. If an adult group home moves to a new location, the adult group home shall apply for a new license sixty days in advance of the move.

5.1.6. A license shall immediately become void and shall be returned to the director forthwith when the operation of the adult group home is discontinued.

5.1.7. A license, unless sooner suspended or revoked, shall be valid for a period of one year from its issuance and may be renewed from year to year subject to receipt of a completed application for renewal and compliance with the requirements of this rule.

5.1.8. The license shall not be posted, but shall be kept in the home and shall be readily available and shown on request.

5.1.9. The provisions of Section 5.1.10 through and including Section 5.1.12 shall apply only to non-family adult group homes.

5.1.10. If the ownership of an adult group with a valid unexpired license changes, the new owner shall apply for a new license; the application of the new owner for a license shall have the effect of a valid license for three months from the date the application is received by the director.

5.1.11. If the name of a licensed adult group home is changed, the director shall be notified within fifteen days and the new name shall be shown on the next license issued.

5.1.12. A separate license shall be required for each adult group home maintained or operated under the same ownership or management.

5.2. Inspections

5.2.1. The director shall make or cause to be made such inspections by duly authorized representatives as deemed necessary by the director to carry out the intent of the licensing law and this rule.

5.2.2. The director or any duly authorized representative of the director shall have the right to enter upon the premises of an adult group home without prior notice to conduct such inspections.

5.2.3. The director or any duly authorized representative of the director shall have the right to enter upon the premises of any building for which reason exists to believe it is being operated or maintained as an adult group home without a license.

5.2.4. An unannounced onsite inspection of every adult group home shall

be conducted no less frequently than once every year to determine compliance with the licensing law and the requirements of this rule.

5.2.5. All reports and records of the home shall be made available for inspection by the director or his or her representative upon request.

5.2.6. A report of any inspection made pursuant to this rule shall be made by the director, in writing, and a copy mailed to the owner or administrator, as applicable, specifically listing any violations of the licensing law or deficiencies in compliance with this rule.

5.3. Complaint Investigation

5.3.1. Any person may register a complaint with the director alleging violation of applicable laws or this rule by an adult group home. A complaint shall state the substance of the complaint and the adult group home by name or by address.

5.3.2. The director shall initiate an investigation of the complaint within thirty days if it is not an alleged life-threatening situation and within five days if it is an alleged life-threatening situation.

5.3.3. The director shall have the authority to conduct unannounced inspections of the adult group home location or locations involved in the complaint and any other investigation necessary to determine the validity of the complaint.

5.3.4. The director shall notify the adult group home owner or the administrator, or the person in charge of the home, of the substance of the complaint at the time of the completion of the investigation.

5.3.5. No later than fifteen working days after the completion of the investigation, the director shall prepare a written report of the investigation and shall notify the complainant and the adult group home in writing of the results of the investigation.

5.3.6. A description of any corrective action the adult group home will be required to take and of any disciplinary action to be taken by the director shall be sent to the complainant on request.

5.3.7. The name of a complainant or of any resident named in the complaint shall be kept confidential and shall not be disclosed without the written authorization of the individual. Before any information is disclosed to the public regarding a complaint and its investigation, any information in the complaint or the report of investigation which could reasonably identify the complainant or any resident shall be deleted, unless the public interest by clear and convincing evidence requires disclosure in the particular instance.

5.3.8. If a complaint becomes the subject of a judicial proceeding, nothing in this subsection shall be construed to prohibit the disclosure of information which would otherwise be disclosed in a judicial proceeding.

5.3.9. Adult group homes shall be prohibited from discharging or discriminating in any way against any resident by whom or on whose behalf a complaint has been submitted to the director or who has participated in a complaint investigation process for reason of such submission. Adult group homes shall be prohibited from discharging or discriminating against any employee who has submitted a complaint or who has assisted the director or any other legal authority in a complaint-related investigation for reason of such submission or assistance.

5.4. Plans of Correction

5.4.1. An adult group home found on the basis of inspection or other investigation to have deficiencies in compliance with requirements of this rule shall develop a plan for correction of the deficiencies and shall submit such plan to the director within fifteen days of receipt of the report of the inspection or other investigation.

5.4.2. The director may require an immediate correction in the case of a deficiency causing imminent danger to the health or safety of a resident or employee.

5.4.3. The plan of correction shall specify:

(a) The deficiencies to be corrected;

(b) Action taken or proposed to correct the deficiencies and procedures to prevent their recurrence; and

(c) A calendar date by which the deficiency will be corrected, which date shall allow the shortest possible time within which the adult group home may reasonably be expected to correct the deficiencies.

5.4.4. The plan of correction shall be approved, modified or rejected in whole or in part by the director in writing within fifteen working days of receipt.

5.4.5. In accepting, modifying or rejecting the plan for correction, the director shall consider:

(a) The adequacy of the actions and procedures taken or proposed to correct the deficiencies;

(b) The seriousness of the deficiencies;

(c) The time proposed for implementing the correction; and

(d) Any other relevant factors.

5.4.6. In modifying or rejecting a proposed plan of correction, the director shall state the reasons for the modification or rejection.

5.4.7. When the director rejects a plan of correction, a reasonable

amount of time, but no more than fifteen days shall be allowed for submission of a revised plan.

5.4.8. The director shall conduct such procedures as are reasonable and necessary to verify the correction of any deficiencies identified during a routine licensure inspection or any other investigation.

5.5. Availability of Reports and Records

5.5.1. The director shall make available for public inspection and, upon request, provide at a nominal cost copies of the following documents: (a) applications and exhibits; (b) inspection reports; (c) reports of investigations conducted in response to complaints; and (d) any other reports filed with or issued by the director pertaining to the compliance of an adult group home with applicable laws and regulations.

5.5.2. The director may provide copies of records and reports free of charge to nonprofit community organizations and indigent individuals upon written request.

5.5.3. The director shall treat a report of inspection of an adult group home as public information from the time an acceptable written plan of correction is submitted.

5.5.4. If the adult group home does not submit a written plan of correction within the time specified by the director, reports pertaining to the adult group home shall be made public at the expiration of the specified time.

5.5.5. Other records and reports shall be treated as public information from the time they are submitted to or issued by the director.

5.5.6. Nothing contained in this Section shall be construed to require or permit the public disclosure of confidential medical, social, personal or financial records of any resident. Before releasing a report or record deemed public information the director shall delete any confidential information regarding a resident which would reasonably permit identification of the resident.

Section 6. Management and Personnel

6.1. A non-family adult group home shall have an administrator.

6.1.1. The administrator or owner-operator shall: (a) be at least eighteen (18) years of age; (b) have completed high school or shall have a general educational development (GED) certificate.

6.1.2. The administrator or owner-operator shall have one year of experience in one of the following types of residential care facilities: (a) an adult family care home participating in the adult family care program of the West Virginia department of human services; (b) a licensed twenty-four hour behavioral health group residential facility; (c) a state-operated behavioral health or long-term care facility; (d) a licensed medical day care center for

adults; or (e) other residential care facility providing training and experience deemed applicable by the director. The experience shall involve at least twenty hours per week. Special training in the residential care of adults may be substituted upon the approval of the director as specified in Section 6.1.3.

6.1.3. Acceptable training for the purposes of Section 6.1.2 shall include: (a) adult family care training sponsored by the department of human services or by a licensed community behavioral health center; (b) a college degree or a license in a health care or human service field such as: (i) nursing; (ii) social work; (iii) psychology; (iv) community behavioral health, (v) recreational therapy; or (vi) other field deemed relevant by the director by virtue of its general subject content. In the instance of Section 6.1.3.(a), a certificate of completion shall be required.

6.1.4. A favorable evaluation of the owner-operator of a proposed adult group home by the West Virginia department of human services may be substituted for both the educational and experience requirements of Sections 6.1.2 and 6.1.3, if available.

6.2. The administrator or owner-operator shall be responsible for:

- (a) the general operation of the home;
- (b) the care of residents;
- (c) the maintenance of buildings and grounds;
- (d) record keeping;
- (e) the employment, training and supervision of family members and any employees of the home; and
- (f) being familiar with and assuring compliance with the requirements of this rule.

6.3. The administrator or the owner-operator, as applicable, shall be regularly on duty on the premises at least thirty hours per week.

6.4. There shall be adequate adult family members or employees to assure compliance with the provisions of this rule. This number shall be determined by the:

- (a) number of residents;
- (b) physical and mental condition of the residents;
- (c) services to be provided;
- (d) size and layout of the home; and
- (e) capabilities and training of the employees. The minimum number shall be two for four to six residents and three for seven to ten residents,

except as provided in Subsection 6.5. The director shall have the authority to require personnel above the minimum levels if needed to assure the health and safety of residents.

6.5. Two persons may be approved for seven to ten residents in a family adult group home provided that: (a) arrangements are made for the care-takers to have at least two weeks vacation per year; and (b) the degree and type of personal assistance and supervision needed by individual residents is minimal. Such approval of two persons and seven to ten residents may be conditioned upon a recommendation from a case management agency as listed in Section 7.7 and 7.8 that two persons be approved for seven to ten residents.

6.6. A responsible adult, other than a resident, shall be in the home at all times that residents are present, except when all present in the home are capable of self-preservation for the period of time in question, and shall be responsible for the care and supervision of the residents. This individual shall be able to read and write and shall be experienced in adult group home or adult family care.

6.7. All family members and all employees shall at a minimum be trained in:

(a) procedures for obtaining emergency care for residents of the adult group home and procedures to be followed in the event of fire or other emergency, including giving basic first aid and evacuating residents when applicable;

(b) knowledge of the confidential treatment of personal information;

(c) the care of aged, infirm or disabled adults with consideration for those persons' individual capabilities and needs; and

(d) their responsibilities toward the residents.

6.8. If a family adult group home has employees who will have contact with or personal assistance and supervision responsibilities for residents, the owner-operator shall be responsible for providing and documenting orientation, training and instruction relevant to their assigned tasks and responsibilities or for providing documented evidence of relevant training and experience received in other settings.

6.9. All employees in a non-family adult group home shall be qualified by training and experience to carry out their assigned responsibilities. These qualifications shall be documented by detailed statements of experience and training, references and any other material related to training and experience.

6.10. A non-family adult group home shall maintain a confidential personnel record for each employee which shall contain a record of employment, education, other training, and, when applicable, evidence of compliance with state licensure, certification or registration requirements or other documentation required by this rule.

6.11. The non-family adult group home shall develop and implement staff development policies and procedures which update and expand employee skills. A record of participation in staff development and training activities shall be maintained.

6.12. The non-family adult group home shall provide orientation for all new employees to make them aware of the purpose of the home, the services provided and daily routines.

6.13. When volunteers are utilized in an adult group home, the home shall establish written policies and procedures concerning their assignments, training, duties and responsibilities. At least one employee shall be present in the non-family adult group home with volunteers.

6.14. The home shall not discriminate in any matter of employment on the basis of race, national origin, ancestry, religion, age, or sex and shall abide by any applicable portions of local, state or federal laws and regulations governing employment.

Section 7. Policies and Procedures

7.1. An adult group home shall have a written admission policy which shall be kept on the premises and be immediately available upon request by the public. The policy shall be consistent with this rule and shall state at a minimum:

- (a) eligibility requirements for admission, including degree and type of physical disability;
- (b) the resident capacity of the home;
- (c) services to be offered and a full disclosure of fees for services; and
- (d) rules and responsibilities for residents.

7.2. All residents admitted shall be eighteen years of age or older and only those persons whose needs can be met and who are capable of self-preservation shall be admitted.

7.3. There shall be an assessment signed and dated by a licensed physician indicating that he or she has seen the resident not more than forty-five days prior to the individual's admission, or within no less than seventy-two hours after admission, if there is a clear and pressing need for admission on an emergency basis. The assessment shall specify that the resident is able to administer his or her own medication with or without assistance, and shall also indicate the level of needed personal assistance and supervision by the resident, any mobility impairment or restrictions against physical activity, any dietary restrictions, and any known allergies or allergic reactions to medication. The assessment shall also specify that the individual is free from communicable disease, or, in the event that the individual has or is a carrier of a communicable disease, the assessment shall identify the disease. If the home proposes to accept an individual who has or is a carrier of a communicable

**Board of Health
Legislative Rule 16-5H
Series 49, 1986**

disease, the home shall contact the referring agency or individual concerning appropriate precautions and procedures to be taken to prevent the spread of the disease in the home.

7.4. There shall be on file in the home written documentation that each resident is capable of self-preservation in the event of imminent danger, such as fire. This documentation shall consist of certification by a physician or psychologist that the resident is capable of following directions and removing his or her physical self from imminent danger, such as fire.

7.5. No person who is in need of nursing or convalescent care or personal care home services shall be admitted.

7.6. No person who is bedfast shall be admitted and no resident who becomes bedfast or requires bedrest or bedcare shall remain in the home except for temporary illness or disability. If an individual requires bed care for a period longer than two weeks, physician certification that the resident can be safely cared for in the home shall be required. In no case shall a resident who requires bed care longer than four weeks remain in the home while being cared for in bed.

7.7. When an adult group home accepts a referral from a state facility or behavioral health center, or from the department of human services there shall be a written agreement between the home and the existing case management or case worker agency specifying responsibility for at least the following: (a) diagnostic, evaluation and referral services necessary to identify and meet the needs of the residents; (b) treatment and emergency mental health services, and (c) appropriate support services.

7.8. Other residents of a family adult group home who require case management services shall have available an identified case management system through: (a) behavioral health centers; (b) the department of human services; (c) the commission on aging and its affiliates; or (d) other suitable, such as home health agency.

7.9. In non-family adult group homes, case management may be by an agency identified in Section 7.7 or 7.8 or may be assumed by the home or by the parent agency of the home, provided that services made available include at least the following: (1) assessing individually an individual's situation and identifying services necessary to meet those needs; (2) developing a general contingency written service plan; (3) arranging for the implementation of the service plan; (4) monitoring and evaluating the impact of services on the individual; and (5) providing for the continuity of services and care.

7.10. If the owner of an adult group home does not own the dwelling in which the adult group home is located, the owner shall develop a general contingency plan for relocation of residents in conjunction with a case management agency identified in Section 7.7 or 7.8.

7.11. The home shall not discriminate among residents or prospective residents on the basis of race, national origin, ancestry, religion, age or sex.

Section 8. Residents' Rights

- 8.1. Residents shall be treated with dignity and with a respectful attitude.
- 8.2. The privacy of residents shall be fully respected.
- 8.3. Residents shall be allowed privacy for social or business interviews, including those with representatives of private or public agencies.
- 8.4. Residents shall not be abused, exploited, punished, coerced, or threatened in any way by the owner, management, any employee or any other person who may be in the home.
- 8.5. At no time shall a resident be confined in a room with a door secured in such a manner that he or she cannot open.
- 8.6. Residents shall have reasonable access to a telephone on the premises.
- 8.7. Residents are to be encouraged to exercise their rights as residents and citizens and shall be permitted to make complaints and suggestions without fear of coercion or retaliation.
- 8.8. Residents shall be free to participate by choice in accessible community activities and in social, political, medical and religious resources and to have the freedom to refuse such participation.
- 8.9. The adult group home shall notify the resident, his or her family, any legal representative and any agency responsible for placing the resident in the home or any other concerned party in writing, at least thirty days in advance of the change of residence, discharge, transfer, or removal of the resident from the home. A resident may be discharged or removed with less than thirty days notice, if circumstances pose a threat to the health, safety, or well-being of himself or herself or others.
- 8.10. The resident shall participate in plans for his or her change of residence, discharge, transfer or removal insofar as he or she is able. A record shall be maintained indicating the attempt to include the resident in such planning, the degree of involvement and any refusal to participate by the resident.
- 8.11. Residents shall be permitted to select a physician of their choice.
- 8.12. A resident shall have access at reasonable times to his or her service record maintained by the adult group home and may authorize in writing the release to any other individual of his or her choice of his or her service record.
- 8.13. If a legal representative has been appointed for or designated by any resident, with authority to exercise on behalf of the client one or more of the individual rights specified in this rule, the home shall afford such legal

representative full opportunity for the exercise of such individual rights. A legal representative so appointed or designated shall exercise his or her authority in a manner consistent with all applicable State and federal laws and regulations.

8.14. Nothing in this rule shall be construed to diminish or deprive any individual of rights recognized and established under other laws and rules of the state of West Virginia or of the United States.

8.15. A resident shall have the right to manage his or her financial affairs. If the adult group home handles a resident's money or other assets and financial transactions, written authorization is required and the home shall maintain a current and complete individual record of all receipts and disbursements, including the date, source and amount of monies received, goods or services purchased and the cost. This record shall be readily available to the resident. The resident shall be given an accounting at least monthly.

Section 9. Services

9.1. Daily Living

9.1.1. The resident shall be assisted and encouraged to maintain his or her highest level of independence.

9.1.2. The resident shall be encouraged to participate in plans for his or her assistance and supervision and to assume responsibility for his or her performance of the activities of daily living.

9.1.3. Supervision and assistance shall be given only as needed to residents to assist them in keeping themselves well-groomed, seasonably clothed and clean and in performing other activities of daily living with which they have difficulty.

9.1.4. The home shall have routine schedules that approximate normal living situations for sleeping and eating.

9.2. Routine Health Services and Emergencies

9.2.1. When a resident is in need of specialized professional care such as mental health counseling or health care, including care of teeth, feet, eyes, and ears, he or she shall be assisted by the home in making appropriate arrangements for the needed care.

9.2.2. When the resident is unable to participate in making appropriate arrangements, the resident's family or legal representative, and the case management agency shall be notified of the need.

9.2.3. Medical attention shall be secured immediately when a resident suffers a serious accident or illness.

9.2.4. The resident's next of kin, and any legal representative shall be notified immediately of any serious accident or illness and within twenty-four

hours of any non-routine health care needs. The case management agency shall be notified on the closest working day.

9.2.5. Residents shall be encouraged to have an annual medical examination. Assessment shall include a complete blood count (CBC), a tuberculin skin test (if indicated by exposure or prevalence), urinalysis, venereal disease screening, hepatitis screening, and immunizations, when necessary. When an individual does not receive a physical examination prior to admission, the individual's record must indicate the circumstances for not receiving the examination and plans for obtaining the examination.

9.2.6. The home shall ensure access to health care in accordance with the age and general health of the resident.

9.2.7. The home shall take all necessary precautions to ensure an accident-free environment for the residents.

9.2.8. Neither an employee nor a resident shall associate with other residents while affected with any infection or communicable disease or condition when there is a likelihood of transmitting the infection, disease or condition to other residents. Precautions shall be taken to protect other residents and employees. Although a common cold, or other disease such as flu or a viral infection or a lice infestation is not grounds for discharging or transferring a resident, when there is doubt about the seriousness of the disease or condition, a physician should be consulted.

9.2.9. In the event of an outbreak of a highly infectious disease, a residence shall, upon the orders of the director, be immediately closed to the public.

9.2.10. A standard American Red Cross first aid kit, or the equivalent shall be readily available at all times in the home.

9.2.11. Swimming pools and bathing beaches which are part of a residential facility shall be constructed, maintained and operated in compliance with the applicable provisions of swimming pool and bathing beach rules of the West Virginia board of health.

9.2.12. If a resident becomes disturbed and unmanageable, the attending physician, next of kin or lawfully responsible party shall be notified promptly.

9.2.13. In an emergency situation where there is imminent danger that the resident will injure himself or herself or others, methods used to prevent harm shall be those which restrict or limit the resident's activity to the minimum level necessary for protection of himself or herself or others. Supervision shall be provided to meet the physical and emotional needs of all residents during the emergency. The home shall seek assistance and arrange for prompt transfer of the resident to a care facility capable of meeting his or her needs, if needed.

9.3. Medications

9.3.1. Residents shall be permitted to self-administer their medications. However, staff may remind, assist or supervise, as necessary, in the self-administration of medication according to the order of the physician and the instruction of the pharmacist as indicated on the individual container of drug or medication. This may include the following and similar activities: opening a bottle cap for an individual, reading the medication label to an individual, observing individuals while they take medication, checking the self-administered dosage against the label of the container, reassuring individuals that they have obtained and are taking the correct dosage.

9.3.2. Staff assisting residents with medications shall become familiar with the effects of the medications.

9.3.3. If the home provides regular assistance or supervision as described in Section 9.3.2, daily records shall be kept showing the date, time and dosage. This record shall be signed by the person providing the assistance and shall be made a part of the resident's record. Initials may be used, provided that on each page on which the initials appear, there shall be a complete signature.

9.3.4. All residents shall be routinely observed for visible effects, side-effects and adverse reactions of medication. If the home is providing assistance and supervision, side effects shall be reported to the physician, unless otherwise instructed in writing by the physician. Adverse reactions shall be reported immediately. If the home is not providing assistance and supervision, side-effects and possible actions shall be discussed with the resident. A written record of such discussion shall be kept on file in the home.

9.3.5. No prescription drugs shall be kept in the home unless they have been legally dispensed and labeled by a licensed pharmacist.

9.3.6. A locked medicine cabinet, container or compartment shall be available for the storage of medications prescribed for residents. If refrigeration is needed, the home shall provide a locked refrigerator or a locked box within a refrigerator for storage. Refrigerators used for medication storage shall maintain temperatures required for safe storage of the medication and shall have a thermometer for temperature monitoring.

9.3.7. All medications and drugs must be kept in their original labeled containers.

9.3.8. A resident may be permitted to keep his or her own medication in his or her room if the physician's report has indicated that the resident is capable of self-administering medication or there is documented evidence that the resident has received a training program in self-medication and storage is provided to meet the specifications of Section 9.3.9.

9.3.9. Medications kept by the home shall be stored under lock and key at all times, except when required to be kept by an individual due to need of frequent or emergency use. Proximate danger of misuse may require that medication stored in an individual's room also be under lock and key with

duplicate keys available to the owner-operator or administrator.

9.3.10. Medications requiring stop orders and injectables, except for insulin, shall be administered by a physician, a registered nurse, a licensed practical nurse or other individual having such authority under state law. Other medications may be administered by a responsible person approved in writing by a physician for the administration of specific drugs.

9.3.11. Provisions shall be made for the disposal of any prescription drugs no longer needed as follows:

(a) The medications shall be given to the resident for disposal, if feasible;

(b) If return to the resident is not feasible and if the drugs are not scheduled drugs under the provisions of Chapter 60A of the West Virginia Code, they may be given to the resident's family or legal representative; or

(c) If the drugs in question are scheduled drugs as identified herein and return to the resident is not feasible, the drugs shall be destroyed. A record shall be kept of such destruction for two years which shall contain the residents' name, the date, the name and amount of drug destroyed, and the signature of the individual accomplishing the destruction. The resident's record shall reflect the date, name and amount of any returned medication.

9.4. Nutrition

9.4.1. At least three nutritionally balanced meals per day shall be served with not more than a fifteen hour span between the evening meal and breakfast. Between meal snacks shall be available for residents except when conflicting with special diets.

9.4.2. Each resident shall have access to the quality and quantity of food necessary to provide daily dietary recommendations of the Food and Nutrition Board of National Academy of Sciences, National Research Council or as follows:

(a) Meat Group: Two or more servings of lean meat, fish, poultry, eggs or cheese with dried beans, other legumes or peanut butter as occasional alternatives. Eggs shall be served at least two times per week.

(b) Milk: Two or more cups of milk or its equivalent. Cheese, cottage cheese, yogurt or ice cream may be used to meet part of the milk requirement.

(c) Vegetables: Two or more servings each day, at least one of which shall be a citrus fruit or other good source of Vitamin C.

(d) Fruit: Two or more servings each day, at least one of which shall be a citrus fruit or other good source of Vitamin C.

(e) Whole Grain or Enriched Bread and Cereal Products: One or more servings each meal with at least four servings each day.

(f) Other foods to round out meals and snacks to provide additional calories.

9.4.3. Food preferences of residents shall be considered when menus are planned.

9.4.4. Records of meals served shall be kept for thirty days.

9.4.5. The use of home canned food is prohibited.

9.4.6. Fresh or frozen home grown foods may be used.

9.4.7. The home shall encourage and assist the residents to develop and maintain good nutrition habits.

9.4.8. Residents shall be permitted to dine together and with family members in a family adult group home or with employees in a non-family group home.

9.5. Activities and Recreation

9.5.1. An adult group home shall have available areas and equipment for a variety of recreational activities such as television, cards, indoor games, hobbies.

9.5.2. An adult group home shall provide access to a variety of recreational and social activities outside the home as available within the community such as religious services, activities sponsored by religious organizations, activities and programs sponsored by other community groups, political activities, use of library services.

9.5.3. The adult group home shall provide opportunity for physical activities and exercise such as walking, outdoor games and sports.

9.5.4. All activities shall be varied and planned in consideration of the abilities, physical conditions, needs and interests of the residents.

9.5.5. Residents shall be encouraged but not forced to participate in recreational activities.

9.5.6. Daily visitors to residents in the home shall be permitted and residents shall not be prohibited from making reasonable visits away from the home except where there are written instructions by a physician or a psychologist to the contrary. Such instructions shall be time-limited and shall be renewed no less than every three months.

9.6. Mail

9.6.1. Residents shall be encouraged and assisted, if necessary, to correspond by mail with close relatives and friends.

9.6.2. Incoming and outgoing mail shall not be censored.

9.6.3. Incoming mail shall be delivered promptly and not opened by staff except upon written request of the resident.

9.7. Transportation - The home shall provide or arrange for residents' transportation to necessary resources and activities, including transportation to the nearest appropriate health and mental health facilities, social service agencies, shopping and recreational facilities, and religious activities of residents' choice.

Section 10. Resident Records

10.1. The adult group home shall maintain required records and shall protect record confidentiality.

10.2. Records shall be released as authorized in Section 8.12 of this rule or when necessary for the care of the resident.

10.3. Records shall be in ink and legible.

10.4. When a resident is admitted to an adult group home, a permanent individual record shall be established and shall subsequently be kept current. Records for residents receiving only room and board need to include only the resident's name and a notation that no other services are provided by the home, although the resident and the home may agree for the home to have other information on file.

10.5. The resident's record shall contain the following basic information:

- (a) name;
- (b) social security number;
- (c) birthday;
- (d) sex;
- (e) marital status;
- (f) religious preference and affiliation, if any; and
- (g) with the resident's permission, a picture or snapshot of the resident sufficiently current for identification purposes.

10.6. The resident's record shall contain names, addresses and telephone numbers for the following relevant persons:

- (a) physician;
- (b) dentist;
- (c) legal representative, if any;

**Board of Health
Legislative Rule 16-5H
Series 49, 1986**

(d) person, organization or agency responsible for payments for and support of the resident, if applicable;

(e) next of kin or concerned relatives;

(f) persons to be notified in case of an emergency, accident, serious illness or death;

(g) any case management agency or organization if different from (d); and

(h) any day care or other programs in which the resident participates.

10.7. The record shall include a current inventory of personal property of the resident for which the home may be held accountable in order to protect both the resident and the home. This inventory shall be signed by both the resident and a representative of the home. The inventory shall include personal furniture, appliances and valuables.

10.8. The record shall contain information relevant for the supervision and assistance to be provided to the resident by the home, including, but not limited to:

(a) physician orders, including special diets;

(b) relevant parts of the resident's treatment and care plan as determined by the case manager;

(c) the physician assessment required by Subsection 7.3;

(d) a record of the examination required by Subsection 9.2.5;

(e) medication assistance information as required by Section 9.3; and

(f) any other information relevant for personal assistance in the home, including, but not limited to, such information as: specific illnesses and denture identification;

(g) the dates of physician, dentist and other health and behavioral health care taker appointments and visits, except: The physician assessment of (c) and the examination record of (d) may be kept by the physician or the case manager, provided that there shall be in the resident's record a statement that such examination and assessment have been performed signed and dated by the physician and that the adult group home has been provided with written information relevant for the residents stay in the home, which information shall be part of the resident's record.

10.9. Whenever a resident refuses care or treatment, a record of such refusal shall be made. The home shall make reasonable efforts to secure professional consultation, or assistance from the family, a physician, a registered nurse, caseworker, or other appropriate individual in order to ensure that residents receive necessary services.

10.10. When a resident moves away from the home or is transferred to another care setting, the following shall be noted in the record:

- (a) the date of the last day of residence;
- (b) the circumstances of the relocation;
- (c) the type of living situation to which the resident is moving; and
- (d) the address of the new location if the resident is moving to a non-independent living setting.

10.11. If an individual dies in the home or while maintaining a residence in the home, the record shall indicate the date and location of death, the attending physician, and persons notified. If the home makes burial arrangements, the record shall show relevant details.

10.12. Reports of incidents and accidents occurring to residents in the home shall be prepared and filed which shall indicate the date and time, the extent of the injury and treatment. The resident shall be examined and treated by a physician, if necessary. If, in the opinion of the owner-operator or administrator, or person in charge, the incident is not serious enough to call an examining physician, a report should still be prepared and the owner-operator or the administrator shall review, date and sign the report within twenty-four hours. The report shall indicate discussions with relevant persons and future preventive action, if applicable.

10.13. If examination and treatment by a physician is necessary as a result of an incident the home shall notify the nearest relative, caseworker or legal representative according to the provisions of Section 9.2.4.

10.14. Each adult group home shall maintain a permanent resident register in chronological order according to date of admission. Such register shall include date of admission, name of resident, and date of last day in the residence.

10.15. All residents' records shall be kept for at least two years after the last date of the individual's stay in the home. In the event a home ceases to operate, the home shall submit written plans to the director for continued maintenance of the records.

10.16. Provisions shall be made for the safe storage of all records. All records shall be filed in a manner that permits easy retrieval of the record when needed.

Section 11. Physical Requirements

11.1. Construction

11.1.1. It is recommended that a family adult group home submit plans for new construction or remodeling to the director before contracts are signed or work begins in order to permit review and approval. It is required that

non-family adult group homes submit such plans for review and approval.

11.1.2. If the home accepts residents with physical disabilities, the home shall provide accommodations suitable for the particular condition of the disabled resident. These accommodations shall include safety devices such as grab bars in toilet and bathing facilities, hand rails in hallways and stairs, hallways and doors of adequate width to allow the passage of wheel chairs, and ramps.

11.2. Accessibility - The home shall be easily accessible by automobile by a road which is maintained and passable at all times of the year.

11.3. Water

11.3.1. The home shall have a water supply which:

(a) is from a public water supply which complies with rules and design standards of the State board of health; or

(b) meets board of health standards regarding bacteriological contamination of water as contained in regulation. If the water supply is from a well which is not in compliance with State board of health design standards for water wells, the director shall have the authority to require modification of the well to the degree necessary to meet minimum safety standard portions of the aforementioned water well design standards.

11.3.2. The home shall have hot and cold running water adequate to meet the needs of the residents, family members and employees.

11.3.3. Hot water temperature shall not be higher than 120 degrees Fahrenheit at outlets used by residents.

11.4. Sewage

11.4.1. Sewage disposal shall be in accordance with State board of health rules and design standards.

11.4.2. Sewage systems shall be kept in good repair and shall be properly operated and maintained.

11.5. Electricity - The home shall have electric power.

11.6. Telephone - The home shall have telephone service.

11.7. Heating and Cooling

11.7.1. The home shall have a central heating system or an electrical individual room system..

11.7.2. The heating system shall be capable of maintaining a temperature in rooms used by residents of at least 72 degrees Fahrenheit during cold weather.

11.7.3. Adequate heat shall be supplied to all rooms used by residents.

11.7.4. Supplemental heating devices are permitted.

11.7.5. The heating system and any supplemental heating devices used shall be in compliance with rules promulgated by the State fire commission.

11.7.6. Cooling devices or systems shall be provided for the use of residents when inside temperatures exceed eighty degrees Fahrenheit. Acceptable cooling devices include but are not limited to air conditioners, heat pumps, and electric fans.

11.7.7. Electric fans shall be screened and shall be placed to maximize resident safety and to minimize drafts.

11.8. Doors and Windows

11.8.1. Doors shall open and close readily and effectively.

11.8.2. Doors and windows which are used for ventilation shall be screened.

11.8.3. Windows used for ventilation or which may be used as emergency exits shall open and close readily and effectively and shall not require the use of special tools.

11.9. Lighting - All areas of the home shall be suitably lighted at all times for maximum safety, comfort, sanitation and efficiency of operation.

11.10. Sleeping Facilities

11.10.1. Bedrooms shall provide no less than seventy (70) square feet of space per resident for single occupancy rooms and no less than sixty (60) square feet per resident for double occupancy.

11.10.2. No bedroom may be routinely occupied by more than two persons, except: the director may approve bedroom occupancy by three residents under the following additional conditions:

(a) bunk beds are not used;

(b) the room has at least two windows and has at least six square feet of window space per occupant; and

(c) the home can document the compatibility and willingness of the persons who will share the bedroom. Such approval shall be limited to specific residents and shall be renewed for each new group of three residents. No home may have more than one bedroom with more than two occupants.

11.10.3. Each resident shall be provided with a bed at least the width of a standard adult single bed (thirty-six inches) which is substantially constructed and in good repair. Folding beds or cots, rollaway beds and youth

**Board of Health
Legislative Rule 16-5H
Series 49, 1986**

beds are prohibited. Bunk or double decker beds may be approved, provided that: (a) they may not be used for older or disabled residents and (b) the requirements for square feet per occupant are met. Double beds are permitted for married couples, provided that: (a) the square footage per occupant requirements are met, and (b) there are not medical contraindications. The director shall have the authority to require written physician approval regarding the use of bunk or double decker beds or the sharing of a double bed by residents.

11.10.4. Bedroom ceilings shall be at least seven and one-half feet in height, except that: in older homes and homes of unusual construction, ceilings of lower height may be approved if the unoccupied floor space permits the free upright movement of the occupants.

11.10.5. There shall be at least three feet of space separating beds (sides and ends), except by resident preference. This requirement shall not preclude the use of bunk beds.

11.10.6. Each resident's bedroom shall have direct access to a corridor without passing through a bathroom or another resident's bedroom.

11.10.7. Beds shall be placed only in bedrooms and shall not be placed in corridors, living rooms, kitchens, dining rooms, basements, attics, or any area not commonly used as a bedroom or in any area accessible only by a ladder or folding stairs or through a trapdoor.

11.10.8. Household members and employees may not share bedrooms with residents and may not use resident bedrooms for any purpose.

11.10.9. There shall be at least eight square feet of window area in a room housing one person and at least six square feet of window area per person in rooms occupied by two or more persons. Windows shall have curtains, shades or blinds which may be opened and closed and are kept clean and in good repair.

11.10.10. Each resident shall be provided with reasonable closet, locker or wardrobe space drawer space for the storage of clothing and personal items which shall be located in or immediately adjacent to the bedroom.

11.10.11. Each bed shall be provided with substantial springs and a clean, comfortable mattress which fits the bed.

11.10.12. Each bed shall have a clean, comfortable pillow of at least average size, with a protective cover and pillow case, a protective cover on the mattress and two sheets and a bed spread or other type covering such as a quilt or comfort.

11.10.13. Bed covering shall be available to keep residents comfortable. This shall include at a minimum the following: (a) two quilts; or (b) a comforter; or (c) one or two blankets, depending on the material, weight and construction of the blankets.

11.10.14. Electric blankets may be permitted, provided that: (a) they meet U.L. Inc., AGA, American National Standards Institute or other nationally accepted standards; (b) they are in good repair; (c) are not used for residents who might be easily susceptible to injury by their misuse. The director shall have the authority to require physician approval. Bed covering shall be available to meet minimum standards even when electric blankets are used.

11.10.15. Beds shall be placed so that no resident will experience discomfort because of proximity to heat sources or exposure to drafts.

11.10.16. Bedrooms occupied by mentally or physically disabled residents who may require assistance at nighttime or in emergencies shall be within easy call of an adult family member or a live-in staff member who is trained and able to provide needed assistance.

11.10.17. Each resident of each bedroom shall be provided with:

- (a) a table or its equivalent accessible to the bed;
- (b) a bed lamp or bedside light suitable for reading which is accessible from the bed;
- (c) a chair suitable for relaxation;
- (d) a mirror; and
- (e) a desk or table for writing (which may also serve as the bedside table if the size accomodates both bedside furnishings and writing space).

11.10.18. Bedroom furnishings shall be in good repair and shall be of a nature to suggest a private home setting. Furnishings shall be reasonably attractive and comfortable; however, individual tastes of the residents shall be taken into consideration.

11.10.19. The home shall have at least two sets of sheets and pillow cases for regular use by each resident and shall have a sufficient supply of clean sheets, pillow cases, blankets, and water-proof mattress covers to be able to meet emergency needs.

11.10.20. Clean and freshly laundered bed and bath linens shall be provided for each resident at least once a week and more often, if needed.

11.10.21. Bedrooms shall be easily accessible to residents; shall not be more than one flight of stairs above entry level; and shall not be entirely below ground level.

11.11. Toilets, handwashing and bathing facilities

11.11.1 In determining the number of toilets, washbasins, bathtubs or showers required, the total number of persons residing on the premises shall be considered. Unless there are separate facilities for household members or

live-in staff, they shall be counted in determining the required number of fixtures.

11.11.2. There shall be indoor flush toilets equipped with handwashing facilities at a ratio of a least one flush toilet for each six users. There shall be a mirror over each sink. Flush toilets shall be located indoors, be in good repair, be ventilated to the outside and be maintained in a sanitary condition. There shall be at least one flush toilet with handwashing facilities on each floor used by residents. Grab-bars for toilets, showers and tubs shall be provided if needed for the safety of residents.

11.11.3. There shall be bathing facilities at a ratio of one per six (6) users. There shall be at least one bathtub. Tubs and showers shall be equipped with non-slip mats or surfaces.

11.11.4. Bathing and toilet facilities shall be readily and easily accessible to residents and shall ensure privacy and safety.

11.11.5. The home shall have an adequate supply of toilet tissue and soap.

11.12. Housekeeping - The interior of the home, including its furnishings and equipment, shall be maintained in good repair and in a clean and sanitary condition.

11.13. Building and Grounds - The exterior of the home, the yard or grounds, and any structures, buildings and equipment shall be maintained in good repair and in a safe, clean and sanitary condition.

11.14. Solid Waste

11.14.1. All garbage and refuse shall be stored in approved leak-proof and vermin-proof containers, and such containers shall be kept clean and free of accumulations of residue.

11.14.2. Solid waste containers shall be provided in sufficient number and capacity to properly store all solid waste.

11.14.3. Solid waste, including garbage and refuse, shall be removed from the premises weekly, or more often, if necessary.

11.14.4. A concrete platform or a metal rack shall be required for outside storage of solid waste containers.

11.14.5. When approved municipal or private garbage and refuse disposal service is not available, the home shall dispose of the garbage and refuse in accordance with the applicable provisions of the state and local law and regulations governing the management of garbage and refuse.

11.15. Food Preparation

11.15.1. The kitchen shall provide sufficient space to carry out sanitary

food preparation and dishwashing operations.

11.15.2. Food shall be protected from contamination during storage, preparation and service.

11.15.3. Food contact utensils and equipment shall be of material which are easily cleanable, well-constructed and in good repair.

11.15.4. Refrigeration equipment shall assure safe maintenance of potentially hazardous food.

11.15.5. Dishwashing facilities and methods shall be employed to effectively remove food soil and soaps or detergents.

11.15.6. Cleaned dishes, utensils and equipment shall be stored in a clean dry area protected from contamination.

11.15.7. Dishes and eating utensils used by residents with a communicable illness shall be cleaned and stored separately and shall be sanitized by a health department approved method before use by others.

11.15.8. At least three day's supply of staple foods shall be on hand to meet individual daily requirements of residents in case of an emergency.

11.15.9. Table coverings and napkins shall be clean at all times. The use of disposable coverings and napkins is permitted.

11.16. Laundry

11.16.1. Laundry, if done in the home, shall be done in a separate area or room designed for that particular purpose including space for sorting soiled and clean linen and clothing. No laundry shall be done in any food preparation or dishwashing area.

11.16.2. Soiled laundry shall be stored in non-absorbent easily cleanable containers or disposable plastic bags.

11.16.3. Soiled and clean laundry shall not be stored or placed in the same container or on a common table or shelf.

11.16.4. Washing machines shall be installed so that no back-siphonage possibilities exist.

11.16.5. Common laundry (such as towels and washcloths, bed clothes, and mattress pads and covers) shall be mechanically dried in an electric or gas clothes dryer which is vented to the outside or a chemical sanitizer may be added to the rinse water and the laundry air-dried.

11.16.6. If a resident has a communicable infection, disease or condition other than the common cold, precautions shall be taken to protect other residents from infection by keeping the resident's laundry separate.

11.17. Storage - Storage facilities shall be provided for cleaning supplies, work materials, laundry supplies, insecticides and any other toxic materials which are separate from any food and drug storage.

11.18. Pets

11.18.1. Pets are permitted, provided that all residents agree to the arrangements.

11.18.2. Wild, dangerous or obviously ill animals are prohibited.

11.18.3. Animals and their quarters shall be kept in a clean condition at all times.

11.18.4. Dogs and cats kept in the home or on the grounds of the home shall have been properly vaccinated (for dogs this includes rabies, leptospirosis, distemper and parvo and for cats this includes rabies). Documentation of such vaccination and preventive measures shall be available in the home.

Section 12. Fire and Emergency Protection

12.1. An adult group home shall meet the requirements of rules and regulations of the West Virginia state fire commission.

12.2. The adult group home shall have a written procedure to be followed in the event of a fire. The local fire department or fire prevention bureau should be consulted in preparing such a plan, if possible.

12.3. The home shall have written plans for meeting other emergencies, including severe weather, loss of utilities, floods, missing residents or severe injury.

12.4. Telephone numbers for the fire department, rescue squad or ambulance, and police shall be posted by each telephone.

12.5. All family members, employees and residents shall be fully informed of the emergency plan for the home, including their duties, and evacuation plans, and the location and operation of nearby fire alarm boxes, if available. They shall know the telephone procedure for calling the fire department, ambulance or police.

12.6. A fire drill shall be held at least every three months. Fire drills shall be conducted during day-time and night-time hours. A record of the fire drills shall be kept which shall include the date, the hour, the number of family members and employees participating, the number of residents participating, the number of nonparticipating residents, and the time required to evacuate the home.

Section 13. Penalties

13.1. The director may suspend, revoke, or deny renewal of the license

of an adult group home for good cause after notice and hearing. Good cause shall include at least the following:

- (a) failure to submit a plan of correction;
- (b) failure to correct deficiencies within the time frame stated;
- (c) failure to cooperate with or interference with the director or a duly authorized representative in the inspection of the home;
- (d) substantial violation of this rule;
- (e) a violation of any provision of this rule which produces imminent danger to residents;
- (f) violation of the prohibitions of Section 5.3.9 against discharge of residents or employees for reason of complaints regarding the home; and
- (g) physical or mental abuse of residents.

13.2. The director may in his discretion bring legal action to enforce compliance with the licensing law for adult group homes or any rule, regulation or order as provided by Chapter 16, Article 5H of the West Virginia Code.

Section 14. Administrative Due Process

14.1. An applicant for a license or a licensee or any other person aggrieved by an order or other action by the director pursuant to this rule or Chapter 16, Article 5H of the West Virginia Code shall have the opportunity for a hearing by the director, upon written request to the director in the manner prescribed in and by the Rules of Procedure for Contested Case Hearings and Declaratory Rulings, West Virginia Board of Health Procedural Rules, Chapter 16-1, Series I (1983).

14.2. A hearing pursuant to this section shall be conducted in accordance with the pertinent provisions of Chapter 29A, Article 5 of the West Virginia Code and the aforementioned Rules of Procedure for Contested Case Hearings and Declaratory Rulings.

14.3. If the director revokes a license, the director may stay the effective date of revocation by no more than ninety days upon a showing that the stay is necessary to assure appropriate placement of residents in the facility.

14.4. The director's order shall be final unless vacated or modified either personally or by registered mail or by the licensee's or non-licensed operator's written notice of a demand for hearing pursuant to the aforementioned Rules of Procedure for Contested Case Hearings and Declaratory Rulings.

Section 15. Severability - The provisions of this rule are declared to be severable. If any provision of this rule shall be held invalid, the remaining provisions shall remain in effect.

Comments Received by Mail
Regarding Adult Group Home Licensure
for Public Hearing and Comment
January 18, 1985

West Virginia Advocates for the Developmentally
Disabled
1200 Quarrier St., Suite 27
Charleston, West Virginia 25301

West Virginia Women's Commission
WB-9 Capitol Complex
Charleston, West Virginia 25305

Department of Human Services

Roberta Saunders
P.O. Box 186
Prichard, West Virginia 25585

Beth Weegar and Ian Rudick, Houseparents
179 Hickman St.
Clarksburg, West Virginia 26301

PUBLIC HEARING

Adult Group Home License

January 18, 1985

NAME	ADDRESS	GROUP REPRESENTED (IF ANY)	DO YOU WISH TO COMMENT (YES/NO)
James Peuley	Rt 1 Box 551	Flora Valley Ape Assoc.	yes
Marion Haley	Rt 1 Box 202	Richardson Ape	yes
Roberta Sanders	Box 186	Richardson Ape	yes
Donna D Robertson	Rt 1 Box 246-8	Richardson Ape	No.
Ronald M. Nantz	210 Union St.	St. Albans, W. Va.	yes
Mattha J. Raaga	209 Jackson Dr.	Harrison, D.H.S.	No
Gail Shubert	1500 Quince St. S.W.	Jan 27, 1985	yes

WVADD

Advocates for the Developmentally Disabled

RECEIVED

FEB - 7 1985

REGULATORY SERVICES DIVISION

COMMENTS OF
WEST VIRGINIA ADVOCATES FOR THE DEVELOPMENTALLY DISABLED
ON PROPOSED LEGISLATIVE RULE, CHAPTER 16-5H, SERIES I (1985):

General Comments: Neither this rule nor the statute that the rule was designed to implement makes clear the distinction between an adult group home and a personal care home. A personal care home is defined in West Virginia code § 16-5C-2 as "any institution, residence or place, . . . operated . . . for the . . . purpose of providing accommodations and personal assistance, for a period of more than 24 hours, to six or more persons who are dependent on the services of others by reason of physical or mental impairment but who do not require nursing care; . . ." In the personal care statute, the term "personal assistance" is defined to mean "personal services, including, but not limited to, the following: help in walking, bathing, dressing, feeding, or getting in or out of bed, or supervision required because of physical or mental impairment of the patient;" (West Virginia code § 16-5C-2)(f).

Under this rule, and its concomitant statute, an adult group home is defined as "any residence . . . operated . . . for the . . . purpose of providing accommodations, personal assistance and supervision for a period of more than 24 hours to four or more persons who are dependent upon the services of others by reason of physical or mental impairment but who do not require nursing care or personal care home services and who are capable of self preservation." (West Virginia code § 16-5H-2) The rule also defines "personal assistance" to mean "personal services, including, but not limited to, the following: activities of daily living, such as eating, dressing, walking, personal grooming, getting in and out of bed, . . ." Supervision is defined at § 4.27 as "the assumption of varying degrees of responsibility for the safety and well-being of residents . . ." and includes reminding the resident to carry out the activities of daily living.

Other than the fact that a personal care home includes six or more persons and an adult group home includes four to ten persons, the only difference in the definitions of the two facilities are that the adult group home persons must be capable of self preservation. In all other respects, the services, whether called personal assistance or supervision including help with activities of daily living is substantially identical. I think this may cause a problem in determining what kind of entity a particular residence is under the licensing rules and regulations.

§ 4.4: As noted above, the definition is not really distinguishable from the definition of a personal care home unless the residence has facilities for only four or five persons. In general, ten persons is far too great a number

of residents to place in a facility where the residents are going to need some supervision. Moreover, establishment of group homes containing more than six behaviorally disordered or more than eight developmentally disabled persons violates the limits set by the Hartley court order. Ten person group homes are also likely to encounter opposition from the neighborhood, and homes of that size would not have any zoning protections, as they would exceed the size limits contained in the state zoning law definition of "group residential facility." See W. Va. Code, 27-17-1. Eight or less residents is acceptable, and six residents or fewer is really the most preferable model. Although the statute permits the licensing of adult group homes for up to ten persons, I would suggest that the Department of Health encourage the development of more smaller group homes and discourage the development of homes with eight or ten persons in them.

§ 4.8: The definition of "capable of self preservation" requires that the person have both the physical mobility and judgmental ability to take appropriate action in emergency situations involving imminent danger. The statute requires only that "a person is, at least, capable of removing his or her physical self from situations involving imminent danger, such as fire." West Virginia Code § 16-5H-1. To require that the person must have the judgmental capacity to take appropriate action will significantly restrict who may live in these group homes. A large number of severely or profoundly mentally retarded persons and severely physically disabled persons could get out of the home in an emergency situation with assistance, but some profoundly mentally retarded people would not have the judgmental ability to know when a situation did involve imminent danger. To the extent that § 4.8 adds additional restrictions as to who could be placed in adult group homes, this should be modified to track the language of the statute and to require only physical mobility and judgmental ability (if what is meant by judgmental ability is physical mobility).

§ 4.11: This is a definition of family.

Services to help severely disabled persons to perform the activities of daily living for themselves and to receive "personal assistance services" in their own homes. The problem with this is that the personal assistance definition in the personal care statute essentially covers the activities of daily living as the areas for which personal assistance services. Therefore, rather than there being a contrast between the two definitions, they are substantially the same.

§ 5.2.2: Good.

§ 5.2.4: Good.

§ 5.3.2: This paragraph should provide timelines within which the director must conduct the investigation of the complaint. Thirty days should be ample time for situations that do not involve life-threatening situations. Provisions should also be made for expediting the investigation of any complaints that involve life-threatening situations.

§ 5.3.7: The standard "unless the public interest by clear and convincing interest requires disclosure in the particular instance" is vague and meaningless. I would delete it entirely. It is too difficult for anybody to judge what is in the public interest.

§ 5.3.9: This is an excellent provision.

§ 5.5.1: This section should include a provision to waive the costs for obtaining copies of documents for persons who are indigent.

§ 5.5.2: Again, "in the best interest of the public", is too vague a standard. I would suggest that the first line be omitted and that the section be amended to read as follows: the director may provide copies of records and reports free of charge to non-profit community organizations or to indigent persons upon written request.

§ 5.5.3: The report of investigation should become a public document from the time that it is determined that a plan of correction is required. Making it a public document only after the plan of correction is submitted would prevent any community groups or other persons with specialized expertise from having any input into the correction of the situation.

§ 6.3: Requiring 40 hours is too stringent. Most state employees do not work that many hours in a week.

§ 6.1.4: Although this provision is a good idea, the "favorable evaluation" should be based on the standards set forth in the previous two sections and should evaluate the person's knowledge in the areas listed in § 6.1.2 and § 6.1.3.

§ 6.4: The staffing ratio set forth here is not adequate. Adult family care homes provide two staff persons for one to three residents. This would adopt the same ratio for as many as 30 persons. It would be more useful to establish minimum staff per shift based on the degree of disability of the residents.

§ 6.5: Good.

It would be more useful if all employees be trained in basic first aid.

§ 6.13: This provision should apply equally to family group homes.

§ 7.3: It is an excellent idea to require that there be an assessment signed and dated by a licensed physician indicating that the resident has been examined. It is not acceptable to limit admission to only those persons capable of self-medication. Such a requirement would limit the number of persons for whom a group home would be able to accept residents. Since some of the residents may need assistance in administering their own medication, this section should be modified to read as follows: "The assessment shall specify whether the resident is able to administer his or her own medication independently or whether he or she needs assistance in administering medication . . .". The statement of the physician should suggest that a person must be able to follow directions or be able to follow the order of a resident in an emergency. It should also be noted that the assessment of the resident

§ 7.4: This is a better definition of "capable of self-medication". That is, it requires only that the resident be capable of following directions rather than requiring that he or she be able to judge what constitutes imminent danger.

§ 7.5: As noted in the general comments, a person who is in need of personal care home services is no different from a person who is in need of adult group home services. Therefore, the language excluding persons in need of personal care home services should be deleted from this section.

§ 7.6: The provision that a person who requires bed care for longer than four weeks be excluded from a home seems a little harsh. It seems possible to envision cases of older persons who might require bed care for longer than four weeks, for example, for broken bones, and yet still be able to be cared for in the adult group home.

§ 7.8: Good.

§ 8.9: Good.

§ 8.12: There should be a provision for release of information in addition to access to information.

§ 8.15: The residents should be given an accounting of their money at least monthly, rather than quarterly. Even persons who are residing in state institutions have a right to a monthly report on their financial affairs.

§ 9.2.4: Good.

§ 9.2.5: The examination should be at the expense of the appropriate agency since many if not most residents will be indigent.

§ 9.2.7: Good.

§ 9.2.8: The management of crisis situations in a group home should be a specific responsibility.

§ 9.4.5: This provision is out of date.

§ 10.4: The basic purpose of the regulation is to ensure that, in addition to those conditions that are specifically mentioned, medical conditions that might arise or that require special attention, for example, diabetes, epilepsy, etc., should be described in the current information about each resident's medical condition.

§ 11.7.2: This section provides that the rooms used by the residents shall be capable of maintaining a temperature of at least 72 degrees during cold weather. It is missing from the regulation is the requirement that the rooms used by the residents shall be adequately heated.

§ 11.10: The maximum height of occupants should be limited.

§ 11.10.4: How will height of occupants be limited?— by this means like a silly requirement.

§ 11.10.11: This section requires that residents have substantial springs and clean comfortable mattresses. This standard is a little narrow in that there might be persons such as quadriplegics or paraplegics who would benefit medically from having other kinds of beds such as waterbeds, which can reduce the pressure on pressure sores. I would recommend that this section be modified to provide that alternative kinds of bedding may be used if a physician documents that such bedding would be appropriate.

Charlton
Staff Attorney, 2/1/80



WEST VIRGINIA
WOMEN'S COMMISSION
WB-9 CAPITOL COMPLEX
CHARLESTON, WV 25305
(304) 348-0070

RECEIVED

JAN 21 1985
REGULATORY SERVICES
DIVISION

January 18, 1985

Kay Howard
Regulatory Services Program
West Virginia Department of Health
P & G Building, Capitol Complex

Dear Ms. Howard:

The proposed regulations for Adult Group Home Licensure have been reviewed. We submit for your consideration the following comments:

- 5.4 - Plans for Correction - lines of responsibility do not seem clearly defined, especially in 5.4.3 where criteria seems to logically originate with the Director yet 5.4.4 is a reaction of the Director to a plan filed by the Administrator.
- 6.13 - Infers that volunteers can be utilized only in non-family group homes. Why not in family group homes also?
- 8.15 - "... at his or her request, be given an accounting ..."
Accounting of money handled by homes should be given routinely on a quarterly basis as a safeguard without request .
- 9.25 - Item 7.3 provides for a physician assessment within 72 hours after admission or within 45 days prior to admission. Is this substantially different from "a general physical exam" here? Is the 30 day period without exam in conflict? What provides initial screening to prevent spread of communicable disease?
- 9.3.10 - "stop order medications and injectables must be administered by licensed or registered medical personnel" - There is no requirement in Section 6 about having such a person on staff. How do they accomplish regular administration of these medicines?
- 10.12 - Suggest verification by another staff member in addition to the administrator for their safeguard.
- 11.3.3 - Minimum temperature of 100 degrees should also be required.

- 11.6 Telephones should be available to residents - not provided for in the regs.
- 11.10.10 Should define "reasonable" such as, "one closet and one chest for each resident".
- 11.11.2 Grab-bars "if needed for safety of residents" is vague - better to require installation of these if home accepts residents who have age or physical impairment requiring them.

There were some general considerations which also might be addressed in the regulations. It would be desirable for similarity of age to be considered in admission to homes where residents spend a great deal of time together. Also a anti-discrimination clause was included in other proposed licensure regulations but not in this one. Was this an oversight or is there a reason for not including it?

Except for the exceptions noted, resident rights seem to be taken into consideration and guidelines for owner/operators and administrators seem to protect without being excessively restrictive.

Thank you for the opportunity to review the proposed regulations.

Sincerely,



Barbara Matz
Executive Director

January 17, 1985
Prichard, W. Va.

Ms. Kay Howard
Regulatory Service Division
1800 Washington Street East
Charleston, W. Va. 25305

Dear Ms. Howard:

I am writing in regard to the proposed rules concerning the ~~Adult Group Home~~ Home Licenses. The two rules that concern me most are 9.2.12 and 9.2.13 page 23; both for the resident and the provider.

Being able to have all the health records that are available on the resident for the provider is really important and very helpful in order to do the best we can, but there are times that our best isn't good enough. If then this happens

and the resident becomes disturbed and unmanageable, it affects everyone in the home.

When a resident becomes violent and a danger to himself and others; we call our social worker or protective service worker, after we see we cannot talk to or reason with the resident.

We in Wayne County have excellent social workers; they know the provider and the resident and they provide us with all the help they can; but when we have a problem evenings and week-ends, we really have a problem. If we can't get the mental hygienist or the judge of the Circuit Court of which we have only one each; then that leaves us without any support system as far as getting them to a care facility in order to

find out just what the problem is. If the resident has been out of the State Hospital over 30 days, they will not readmit him for observation. Some of the problems could result from medication, maybe an adjustment or change could solve the problem, or other being some underlying physical problem or the resident might get disturbed because he felt he had been treated unfairly, with these problems we need the help and support of the professionals. The transporting of a disturbed resident is dangerous without help and on automobile with automatic door locks, they could cause an accident or jump out in traffic.

I would like to see a system worked out between the Dept. of Human Services, Law enforcement officials and The Dept. of Health that would expedite these situations.

4

I feel that any resident that is disturbed and unable to function to the best of his ability has the right to expect to have the ones that are in authority to do the best they can for him.

I doubt that a problem of this importance would happen three or four times within the year in the county but when it does, we need all the cooperation we can get.

Any help that you can give with these problems, will be very much appreciated. Thank you for consideration.

Your truly

Roberta Saunders

P.O. Box 184

Prechard St N 255

Ph 486-5071

January 11, 1985

179 Hickman St.
Clarksburg, WV 26301

Regulatory Services Program
WV Dept. of Health
1800 Washington St., East
Charleston, WV 25305

6

To whom it may concern;

As houseparents of a four bed group home for adults who are mentally retarded, we have several comments to make on the proposed adult group home licensure requirements.

First, in Section 12.1, Fire and Emergency Protection, we feel that the licensure procedures need to spell out exactly what the fire regulations are for group homes.

In our dealings with the state fire commission, we have found that the regulations for group homes do not exist as a separate category. Therefore, the regulations are very arbitrary, depending on who inspects the home and how he or she classifies the home. Each time a fire inspector came to our home, we were told something different. At this time we are still unsure of what is required of us and were anticipating final approval of licensure standards for clarification.

In section 6.6..." a responsible adult other than a resident" is required to be in the home to supervise residents. Part of the purpose of a group home is to train and treat mentally retarded persons as responsible adults. Our home houses mildly retarded adults, some of whom are preparing to move into unsupervised living situations.

We believe that this requirement should be qualified by functioning level of client as well as documentation of emergency procedure training which would indicate a resident's competence in unsupervised situations.

In section 9.38 a physician's assessment is required for a client to be able to self-medicate. A physician is not in close enough contact with a client to be able to evaluate an area of daily functioning such as self-medication. The role of a physician is to treat and prevent illness rather than evaluate and teach independent living skills.

A more reasonable approach would be to require documentation by group home staff of a training program in self-medication for a client or documentation that a client is self-medicating upon entrance into the home.

In section 4.4, adult group home is defined as serving 4-10 persons. We believe that 10 people should not be allowed in a group home, as it becomes more of an institution than a home. The fewer the people, the more likely the community will accept the home, and the more normal and home-like the environment will be. Six persons would be an ideal maximum.

Additionally, in section 11.102, the provision for 3 persons sharing a bedroom with approval by the director is made. This appears contradictory to section 8.2, which requires "the privacy of residents shall be fully respected." Having a private room is ideal. Two persons sharing a room is less than ideal. Three persons sharing a room smacks of warehousing.

Thank you for the opportunity to comment on these proposed regulations. We appreciate your effort in assuring a quality of service to persons living in group homes.

Sincerely,

Beth Weegar
Beth Weegar

Ian Rudick
Ian Rudick, Houseparents

Proposed Rules
Public Comments Received
Discussion and Response

FILED
1985 DEC 17 PM 2:35

Title, Type and Number: Adult Group Home Licensure, West Virginia Board of Health Legislative Rules, Chapter 16-5H, Series 49, 1986.

Date and Location: January 18, 1985 (10:00 a.m.), Conference Room, P & G Building, 2019 Washington Street, East, Charleston, West Virginia, 25311

The public hearing was attended by seven people, six of whom offered comments. An attendance record is attached. Six written comments were received through the mail and at the hearing. Copies of written comments are attached. A summary of the comments received, of the comments and any proposed changes suggested in response to the comments appears below. Proposed changes reflect comments received and discussion at the public hearing. The proposed changes do not change the intent of the rule and are, for the most part, either clarifications or minor adjustments to particular standards. The Department does not believe that an additional public hearing is indicated. Abbreviations are used to indicate the source of the comment as follows: WVADD, West Virginia Advocates for the Developmentally Disabled; and WVWC, West Virginia Women's Commission.

1. Comment (WVWC, Human Services): Several commentators expressed their pleasure at seeing regulations such as these being drafted. The regulations were seen to protect resident rights while not being unduly restrictive of the owner/operators and administrators. Adult group homes are seen as a welcome alternative to institutional placement. WVADD found the following sections particularly commendable: §§4.11, 5.2.2, 5.3.9, 6.6, 7.8, 8.9, 9.2.4, 9.2.7 and 9.2.

2. Comment (WVWC): A factor that should be considered in determining admission "to homes where residents spend a great deal of time together" is the similarity of ages of proposed patients.

Response: The intent of this rule is to promote residential living arrangements which are as close to family living and a home atmosphere as possible. Age similarity of residents (not patients) is not necessary or even always desirable in this type of facility.

Proposed: No change.

3. Comment (WVWC): There is a failure to include an antidiscrimination clause.

Response: This was an inadvertent oversight.

Proposed: §6.14. The home shall not discriminate in any matter of employment on the basis of race, national origin, ancestry, religion, age, or sex and shall abide by any applicable portions of local, state or federal laws and regulations governing employment.

§7.11. The home shall not discriminate among residents or prospective residents on the basis of race, national origin, ancestry, religion, age or sex.

4. Comment (Human Services): §10. There is a need for greater specificity regarding programs of care for the residents (e.g. is there to be an individual plan for each resident?) and activities available to the residents. There was a suggestion that a listing of all available activities be required to be prepared and distributed to all interested residents. The exact duties of the home (as opposed to those of the case manager) should be detailed.

Response: We believe that the major responsibility for development and maintenance of a care plan is the responsibility of the case management agency. The resident's record in the home needs only to specify the particular responsibilities of the home, as indicated in §§10.6 and 10.8.

Proposed: No change.

5. Comment (WVADD): Because of various requirements for "admission" to an adult group home (e.g. resident must be capable of self-preservation, free of communicable disease and not in need of nursing care), this type of placement will very often not be available to "Hartley" and "Medley" types of individuals. Although the commentator realized that the above were statutory requirements, she felt that the legislature could not have intended that this type of placement be unavailable to these type of individuals. The statute was merely trying to fill a gap in licensure requirements rather than to prohibit certain uses of adult group homes. The regulations should reflect this legislative intent.

Response: The rule must conform with the statute. It is not possible to change statutory provisions through rule promulgation. See also Item #6.

Proposed: No change specific to this comment.

6. The next comment engendered some general discussion among various participants in the hearing. These remarks and discussion are presented and responded to as a whole, rather than separately.

Comment (WVADD): Each type of home [adult group, personal care, group residential facility for the developmentally or behaviorally disabled] is being licensed under a different set of regulations. Owners and potential operators of homes are often at a loss to know under which regulations the home must be licensed. Confusion is the result of this approach to licensure. A better approach is to conceive a set of regulations covering the commonalities among all types of homes. One of the results of the adult group home regulations is that homes housing individuals requiring a relatively low level of care are being more thoroughly regulated than homes housing individuals requiring a higher level of care.

Comment (Human Services): This is not a piecemeal approach. Conceptually, only adult group homes, personal care homes and adult family care homes should be considered together. The individuals in these homes are not different; only the level of care required by the individuals in each of these three types of homes is different. The present statutory and regulatory framework is adequate to deal with this state of affairs.

Comment (WVADD): The definitional similarities between "adult group home" and "personal care home" make it difficult to determine the level of care envisioned for each. In light of this, several individuals expressed concern about the lack of conformity of resident requirements between the two types of homes (i.e. adult group homes have a minimum of 4 residents while personal care homes have a minimum of six residents.) Others were concerned that ten persons is far too great a number of residents to place in a facility where the residents are going to need some supervision. Moreover, establishment of group homes containing more than six behaviorally disordered or more than eight developmentally disabled persons violates the limits set by the Hartley court order. Ten person group homes are also likely to encounter opposition from the neighborhood, and homes of that size would not have any zoning protections, as they would exceed the size limits contained in the state zoning law definition of "group residential facility." See W. Va. Code, 27-17-1. Eight or less residents is acceptable, and six residents or fewer is really the most preferable model. Although the statute permits the licensing of adult group homes for up to ten persons, it was suggested that the Department of Health encourage the development of more small group homes and discourage the development of homes with eight or ten persons in them.

Comment (WVADD): The definition of personal assistance (§4.24) states that it includes services to assist residents to perform the activities of daily living for themselves "in contrast with" personal assistance provided in personal care homes. The problem with this is that the personal assistance definition in the personal care home statute essentially lists the activities of daily living as the areas for which personal assistance applies. Therefore, rather than there being a contrast between the two definitions, they are substantially the same.

Response: We agree that the present statutory and regulatory framework for the licensure of various types of residential care facilities is somewhat awkward. The statutes and, therefore, the rules prescribe distinctions which are sometimes indistinct in the field, thus making rule construction forced and awkward, at least in part. We believe an over-all revision of several statutes would have the potential for more accurately reflecting and licensing a continuum of care facilities related to needs and characteristics of residents.

In the interim, however, this particular rule does fill a gap in the present system by permitting the licensure and control of facilities providing care for persons not in need of the degree of care provided in a typical personal care home. Adult group homes are for persons who are generally capable of taking care of themselves with relatively little assistance. The focus in an adult group home is to help the individual do things for themselves; in a personal care home, individuals are more in need of having things done for them. The activities of daily living are the same; the focus of the care provided and the functional level of the residents are in the aggregate different.

Proposed: No change.

7. Comment (WVADD) §4.8. The definition of "capable of self preservation" requires that the person have both the physical mobility and judgmental ability to take appropriate action in emergency situations involving imminent danger. The statute requires only that "a person is, at least, capable of moving his or her physical self from situations involving imminent

danger, such as fire." (West Virginia Code §16-5H-1.) To require that the person must have the judgmental capacity to take appropriate action will significantly restrict who may live in these group homes. A large number of severely or profoundly mentally retarded persons and severely physically disabled persons could get out of the home in an emergency situation with assistance, but some profoundly mentally retarded people would not have the judgmental ability to know when a situation did involve imminent danger. To the extent that §4.8 adds additional restrictions as to who could be placed in adult group homes, this should be modified to track the language of the statute and to omit the requirements of judgmental ability and physical mobility (if what is meant by that is unassisted physical mobility.) §7.4 is a better definition of "capable of self-preservation". That is, it requires only that the resident be capable of following directions rather than requiring that he or she be able to judge what constitutes imminent danger.

Response: We agree that the definition of §4.8 should conform with the statutory definition. Section 7.4 further defines the term.

Proposed: §4.8. Capable of Self-preservation - The physical mobility and judgmental ability of the individual to take appropriate action in emergency situations involving imminent danger, such as fire. Capable, at least, of removing one's physical self from situations involving imminent danger, such as fire.

8. Comment: §4.20. The definition of "nursing care" should conform with that of the nursing profession and with the legal definition of nursing in West Virginia.

Response: The definition of nursing care used in this proposed rule is taken from the Nursing and Personal Care Home Licensure Law (Chapter 16, Article 5C of the West Virginia Code). This definition was used in order to maintain consistency of definitions among Health Department licensure rules for various types of health care facilities. Additionally, we do not believe this definition to be inconsistent with the provisions of the Nursing Practice Act (Chapter 30, Article 7 of the Code), although we would agree that the language of the two statutes is certainly not identical.

Proposed: No change.

9. Comment (WVADD) §5.3.2. This paragraph should provide timelines within which the director must conduct the investigation of the complaint. Thirty days should be ample time for situations that do not involve life-threatening situations. Provisions should also be made for expediting the investigation of any complaints that involve life-threatening situations.

Response: Initiation of investigation of complaints involving life-threatening situations is routinely expedited; other complaint investigations are generally initiated within less than thirty days. Language has been added to reflect these normal procedures. It is not feasible to specify the time for completion of an investigation.

Proposed: §5.3.2. The director shall ~~conduct~~ initiate an investigation of the complaint within thirty days if it is not an alleged life-threatening situation and within five days if it is an alleged life-threatening situation.

10. Comment §5.3.7 (WVADD): The standard "unless the public interest by clear and convincing interest requires disclosure in the particular instance" is vague and meaningless. I would delete it entirely. It is too difficult for anybody to judge what is "in the public interest".

Response: This language is necessary to permit the Department some degree of discretion in matters involving the public's right to know and is taken from the State Freedom of Information statute (Chapter 29B, Code of West Virginia). There was a typographical error in the item which has been corrected.

Proposed: §5.3.7. The name of a complainant or of any resident named in the complaint shall be kept confidential and shall not be disclosed without the written authorization of the individual. Before any information is disclosed to the public regarding a complaint and its investigation, any information in the complaint or the report of investigation which could reasonably identify the complainant or any resident shall be deleted, unless the public interest by clear and convincing ~~interest~~ evidence requires disclosure in the particular instance.

11. Comment (WVWC). §5.4. Responsibilities should be more clearly placed with particular individuals. More especially, it should be made clear just who is responsible for drawing up a plan of correction.

Response: It is within the bounds of normal administrative procedures to permit the owner-operator or administrator to delegate this or other tasks.

Proposed: No change.

12. Comment (WVADD): §5.5.1. This section should include a provision to waive the costs for obtaining copies of documents for persons who are indigent. §5.5.2. "In the best interest of the public" is too vague a standard. The first line should be omitted and the section should be amended to read as follows: "the director may provide copies of records and reports free of charge to non-profit community organizations or to indigent persons upon written request.

Response: We agree.

Proposed: §5.5.2. ~~If the director determines it is in the best interests of the public,~~ The director may provide copies of records and reports free of charge to nonprofit community organizations and indigent individuals upon written request.

13. Comment (WVADD). §5.5.3. The report of investigation should become a public document from the time that it is determined that a plan of correction is required. Making it a public document only after the plan of correction is submitted would prevent any community groups or other persons with specialized expertise from having any input into the correction of the situation.

Response: Plans of correction are subject to review, revision and occasionally even an inspection report may be contested. In fairness to the provider, these reports should not become public until the review process is

complete. Additionally, responsibility for the licensure process lies with the Health Department, not various community agencies. If desirable or necessary in particular instances, community agencies or groups may be called upon by either the Department or the provider.

Proposed: No change.

14. Comment (WVADD). §6.3. Requiring 40 hours is too stringent. Most state employees do not work that many hours in a week.

Response: The Department and the Board believe that most adult group homes will be owned and operated by families, in which case 40 hours should pose no difficulty. We have, however, reduced the actual hours required to 30 hours and added the word "regularly" to make this standard more flexible.

Proposed: §6.3. The administrator or the owner-operator, as applicable, shall be regularly on duty on the premises at least ~~forty~~ thirty hours per week.

15. Comment (WVADD). §6.1.4. Although this provision is a good idea, the "favorable evaluation" should be based on the standards set forth in the previous two sections and should evaluate the person's knowledge in the areas listed in §6.1.2 and §6.1.3.

Response: The purpose of this provision is to allow flexibility in those few situations where an owner-operator may have less than the required year of experience, but has demonstrated the capability to operate an adult group home. The most likely situation, and the one for which this provision was included, is an instance where an individual has successfully participated in the Adult Family Care Program of the Department of Human Services for a period of less than one full year and wishes to expand over the three residents allowed in that program.

Proposed: No change.

16. Comment (WVADD). §6.4. The staffing ratio set forth here is not adequate. Adult family care homes provide two staff persons for one to three residents. This would adopt the same ratio for as many as ten persons. It would be more useful to establish minimum levels per shift based on the degree of disability of the residents.

Response: The reviewer's comments would be more appropriate for personal care homes or other more institutionalized setting. Adult group homes are intended to provide family-type living arrangements, not personal care.

Proposed: No change.

17. Comment (Human Services): §6.5. Seven to ten people are difficult to care for. Even with a case management agency's recommendation, at a minimum there should be two full-time and one part-time employees if seven to ten residents are being cared for. Furthermore, any recommendation should be required to come from the agency or agencies that will be providing the services.

Response: Such a ratio would be approved only rarely and only in situations where residents would require only very light supervision, as would be reflected in the admission policies of the home. Certainly recommendations would be accepted only from case management agencies providing services and specifically knowledgeable about the adult group home in question. Clarifying language has been added.

Proposed: §6.5. Two persons may be approved for seven to ten residents in a family adult group home provided that: (a) arrangements are made for the caretakers to have at least two weeks vacation per year; and (b) the degree and type of personal assistance and supervision needed by individual residents is ~~mild to moderate~~ minimal. Such approval of two persons and seven to ten residents may be conditioned upon a recommendation from a case management agency as listed in Sections 7.7 and 7.8 that two persons be approved for seven to ten residents.

18. Comment (Provider): §6.6. The requirement that a "responsible adult, other than a resident, . . . be in the home at all times that residents are present" should be dispensed with if the functioning level of resident and documentation of emergency procedure training indicate that residents are competent in unsupervised situations.

Response: We agree and have added an exception clause to make the provision consistent with the over-all philosophy of this rule.

Proposed: §6.6. A responsible adult, other than a resident, shall be in the home at all times that residents are present, except when all present in the home are capable of self-preservation for the period of time in question, and shall be responsible for the care and supervision of the residents. This individual shall be able to read and write and shall be experienced in adult group home or adult family care.

19. Comment (WVADD): §6.7. It would also be useful to require that all family members and all employees be trained in basic first aid procedures.

Response: First aid was assumed to be subsumed under the general category of emergency procedures; clarifying language has been added.

Proposed: §6.7. All family members and all employees shall at a minimum be trained in:

(a) procedures for obtaining emergency care for residents of the adult group home and procedures to be followed in the event of fire or other emergency, including giving basic first aid and evacuating residents when applicable;

(b) knowledge of the confidential treatment of personal information;

(c) the care of aged, infirm or disabled adults with consideration for those persons' individual capabilities and needs; and

(d) their responsibilities toward the residents.

20. Comment (WVADD): §6.13. By failing to mention family group

homes, does the section imply that volunteers may not be used in them? This provision should apply equally to family and non-family group homes.

Response: The meaning of the word "non-family" in the first sentence of this item was an error which has been corrected.

Proposed: §6.13. When volunteers are utilized in an ~~non-family~~ adult group home, the home shall establish written policies and procedures concerning their assignments, training, duties and responsibilities. At least one employee shall be present in the non-family adult group home with volunteers.

21. A number of comments were made concerning the provisions of the rule with respect to medication. These comments revolve around Sections 7.3 and 9.3. They are grouped here for convenience of discussion and specification of proposed changes. Generally, concern was expressed that the ability to administer one's own medication would unduly restrict admissions to adult group homes.

Additional comments about provisions concerning physical examinations and communicable disease involve some of the same or related items. These comments, discussion and proposed changes are also grouped here.

Comment (WVADD): §7.3. It is not acceptable to limit admissions to group homes to persons capable of self-medication. Such a requirement would exclude a large number of persons for whom a group home would be the most appropriate placement. Since some of the residents may need assistance in administering their own medication, this section should be modified to read as follows: "the assessment shall specify whether the resident is able to administer his or her own medication independently or whether he or she needs assistance in administering medication . . .". To the extent that the statement as it is written suggests that a person must be able to administer his or her own medication in order to be a resident in an adult group home, this does not reflect the purpose of the rule.

Comment (WVWC): §9.2.5. What is the relationship between §9.2.5 and §7.3.? Are the two provisions in conflict?

Comment (WVADD): §9.2.5. It is discriminatory to exclude individuals from an adult group home on the basis of the results of tests for certain communicable diseases. Rather, individuals with positive tests for these diseases should be admitted upon proof that appropriate precautions have been taken to prevent the spread of the disease with the home.

Comment (Human Services): §9.2.5. A physical examination should be required upon admission rather than on the thirty-first consecutive day after admission. Only a physician-verified report of an examination given in the three months before admission should be an acceptable substitute for an examination upon admission (or upon the thirty-first consecutive day following admission, if this is kept as an alternative). The three month period is in line with adult family care home regulations.

Comment (WVADD): §9.2.5. The examination should be at the expense of the appropriate agency since many if not most residents will be indigent.

Comment (WVADD, Provider): §9.3.2. Most individuals coming out of state hospitals need help taking medication over and above that permitted in §9.3.2. Should these individuals be excluded from adult group homes because of this? More generally, why may various types of clients (those capable of administering their own medication and those not so capable, for example) not be mixed in homes?

Comment (Provider): §9.3.8. Generally, a physician is in a poor position to determine whether a resident is capable of self-administering medication. Better methods of determination include: 1) documentation that a resident has passed a training program in self-medication and 2) documentation that a resident was capable of self-medication upon entrance to the home.

Comment (WVWC): §9.3.10. There is no requirement that a physician, a registered nurse, a licensed practical nurse, or any other registered medical personnel be employed as a member of the home's staff. How then is the regular administration of stop order medications and injectables to be accomplished?

Response: Clearly there is some controversy and was some confusion caused by provisions concerning medications, physical assessment and examination and communicable diseases.

The administration of medication is required to be carried out by state law by individuals qualified by virtue of their professional license (physicians, registered nurses). Since an adult group home is for individuals who do not require nursing care, either residents of such a facility must be capable of self-medication, although assistance as described in §9.3.1 (new number, see below), or a registered nurse or other individual authorized to administer medications is required. Non-licensed persons may assist with self-administration.

Initial medical screening of residents is necessary both for the particular resident and the other residents, staff and family members in the home. Annual physical examinations are desirable for some residents as part of a routine health care program. An indigent individual will be on SSI and will have a medical card.

Proposed: §7.3. There shall be an assessment signed and dated by a licensed physician indicating that he or she has seen the resident not more than forty-five days prior to the individual's admission, or within no less than seventy-two hours after admission, if there is a clear and pressing need for admission on an emergency basis. The assessment shall specify that the resident is able to administer his or her own medication with or without assistance and is free of communicable disease, and shall also indicate the level of needed personal assistance and supervision by the resident, any mobility impairment or restrictions against physical activity, any dietary restrictions, and any known allergies or allergic reactions to medication. The assessment shall also specify that the individual is free from communicable disease, or, in the event that the individual has or is a carrier of a communicable disease, the assessment shall identify the disease. If the home proposes to accept an individual who has or is a carrier of a communicable disease, the home shall contact the referring agency or individual concerning appropriate precautions and procedures to be taken to prevent the spread of the disease in the home.

§9.2.5. Each resident remaining in the adult group home beyond thirty

consecutive days must receive a general physical examination by a physician or a nurse-practitioner working from physician approved protocols at the expense of the resident. If an individual has been examined in the past six months, this report is acceptable when verified by the physician. The examination Residents shall be encouraged to have an annual medical examination. Assessment shall include a complete blood count (CBC), a tuberculin skin test (if indicated by exposure or prevalence), urinalysis, venereal disease screening, hepatitis screening, and immunizations when necessary. When an individual does not receive a physical examination prior to admission, the individual's record must indicate the circumstances for not receiving the examination and plans for obtaining the examination.

§9.3.1. ~~The adult group home shall make provision for the accurate care and administration of medicine and drugs according to the order of the physician and the instruction of the pharmacist as indicated on the individual container of drug or medication.~~

§9.3.21. Residents shall be permitted to self-administer their medications. However, staff may remind, assist or supervise, as necessary, in the self-administration of medication according to the order of the physician and the instruction of the pharmacist as indicated on the individual container of drug or medication. This may include the following and similar activities; opening a bottle cap for an individual, reading the medication label to an individual, observing individuals while they take medication, checking the self-administered dosage against the label of the container, reassuring individuals that they have obtained and are taking the correct dosage.

§9.3.2. Staff assisting residents with medications shall become familiar with the effects of the medications.

§9.3.8. A resident may be permitted to keep his or her own medication in his or her room if the physician's report has indicated that the resident is capable of self-administering medication or there is documented evidence that the resident has received a training program in self-medication and storage is provided to meet the specifications of Section 9.3.9.

22. Comment (WVADD): §7.5. A person who is in need of personal care home services is no different from a person who is in need of adult group home services. The language excluding persons in need of personal care home services should be deleted from this section.

Response: This is a statutory requirement. As indicated in earlier discussion, adult group homes are not intended to be personal care homes.

Proposed: No change.

23. Comment: §7.6. The Department believes that the requirement for "bedfast" patients to be capable of self preservation requires clarification.

Proposed: §7.6. No person who is bedfast shall be admitted and no resident who becomes bedfast or requires bedrest or bedcare shall remain in the home except for temporary illness or disability. If an individual requires bed care for a period longer than two weeks, physician certification that the resident can be safely cared for in the home shall be required. In no case shall a resident who requires bed care longer than four weeks remain in the

home while being cared for in bed. ~~In no case shall residents whose illness would render them incapable of self-preservation be cared for in the home.~~

24. Comment: §7.7/7.8. The department believes the case management agreement should be clarified to indicate one per patient in a given system or one per system per adult group home.

Comment (Human Services): §7.8. What is a "case management agency" in relation to the Department of Human Services, where there are "case workers?" The terminology should be made uniform.

Response: While it is remotely possible that one agreement might suffice, in most instances individual residents will require individual agreements. Language has been added to clarify these provisions.

Proposed: §7.7. When an adult group home accepts ~~an individual a referral~~ from a state owned or private behavioral health care facility or behavioral health center, as a resident, or from the department of human services there shall be a written agreement between the home and the ~~local community mental health and mental retardation center, or similar facility, or other agent within the public or private sector which, as the case management agency-~~ has the ~~responsibility for making services available to such post-hospitalized residents who may need or desire such services.~~ This agreement should specify existing case management or case worker agency specifying responsibility for at least the following: (a) diagnostic, evaluation and referral services in order necessary to identify and meet the needs of the residents; (b) ~~out patient treatment and emergency mental health and mental retardation services,~~ and (c) appropriate support services. ~~to meet emergency mental health needs of the residents.~~

§7.8. ~~All~~ Other residents of a family adult group home who require case management services shall have available an identified case management system such as through: (a) ~~that identified in Section 7.7, behavioral health centers;~~ (b) a system of the department of human services; or (c) a system of the commission on aging and its affiliates; or (d) other suitable, such as a home health agency. ~~There shall be a written agreement between the adult group home and the case management agency which shall specify services to be provided by the case management service for each resident requiring them.~~

25. Comment (WVADD): §8.2. Is it possible for the privacy of residents to be fully respected in a 3-resident bedroom?

Response: (See comments for §11.10.2. #41).

26: Comment (WVADD): §8.12. There should be provision for release of information in addition to access to information.

Response: "Access" was presumed to include release; changes have been made for purposes of clarification.

Proposed: §8.12. A resident shall have access at reasonable times to his or her service record maintained by the adult group home ~~at reasonable-- times~~ and may authorize in writing the ~~access of release to~~ any other individual of his or her choice ~~to~~ of his or her service record.

27. Comment (Provider): §8.13. Under what circumstances are the

family members of a resident his or her legal representatives?

Response: Generally, absent power of attorney, or judicially appointed committee, family members do not have authority to make decisions for adult residents.

Proposed: No change.

28. Comment: §8.15. A quarterly accounting should be a matter of routine. A resident should not be required to request one (WVWC). The residents should be given an accounting of their monies at least monthly, rather than quarterly. Even persons who are residing in state institutions have a right to a monthly update on their financial status (WVADD).

Response: We agree that the above modifications are desirable and have also added a requirement for written authorization.

Proposed: §8.15. A resident shall have the right to manage his or her financial affairs. If the adult group home handles a resident's money or other assets and financial transactions, written authorization is required and the home shall maintain a current and complete individual record of all receipts and disbursements, including the date, source and amount of monies received, goods and services purchased and the cost. This record shall be readily available to the resident. The resident shall, at his or her request, be given an accounting at least ~~quarterly~~ monthly.

29. Comment: §9.2.8. The Department believes the wording of this section is awkward.

Response: Changes have been made to improve the understandability of the item.

Proposed: §9.2.8. Neither an employee nor a resident shall associate with other residents while affected with an infection or communicable disease or condition when there is a likelihood of transmitting the infection, disease or condition to other residents. Precautions shall be taken to protect other residents and employees. ~~While having~~ Although a common cold, or other disease such as flu or a viral infection or a lice infestation ~~would~~ is not be grounds for discharging or transferring a resident, when ~~in~~ there is doubt ~~of~~ about the seriousness of the disease of condition, a physician should be consulted.

30. Comment (Provider): §9.2.12. What are the minimum and maximum steps which must be taken to notify physician, next of kin, etc.?

Comment (Provider): §9.3.13. What are the minimum and maximum steps which must be taken to secure assistance in an emergency situation?

Response: This would depend on a number of factors. Specification of all possibilities would be prohibitive. Details may be worked out with the individual's case manager or others as relevant.

Proposed: No change.

31. Comment (WVADD): §9.2.12/9.2.13. If there are going to be methods used for behavior management or crisis intervention, the persons who are

operating the adult group home should receive training in safe methods of behavior management.

Response: Generally speaking the use of behavioral management techniques is more appropriate for a facility licensed as a group residential facility for the developmentally disabled or behaviorally disturbed. §§6.1.2 and 6.1.3 do, however, require appropriate training and experience.

Proposed: No change.

32. Comment (WVADD): §9.4.5. This provision is out of date and should be deleted.

Response: This provision is not out of date. Additionally, the risks associated with improperly canned food are sufficiently great to prohibit the use of this food preservation technique.

Proposed: No change.

33. Comment (WVADD): §10.6. The basic part of the resident's record should also contain, in addition to those items listed in this section, information on any kind of medical conditions that might arise or that might require emergency medication, for example, diabetes, epilepsy, etc. The record should also contain the current information about what medications are prescribed for any such conditions.

Response: This information is required in §10.8.

Proposed: No change.

34. Comment (WVWC): §10.12. The report of the administrator should be required to be verified by another staff member.

Response: This is simply not practical in a small adult group home.

Proposed: No change.

35. Comment (WVADD): §10.13. The time frames in this Section are inconsistent with those of §9.2.4.

Response: Correct. The item has been changed to agree with §9.2.4.

Proposed: §10.13. If examination and treatment by a physician is necessary as a result of an incident the home shall notify the nearest relative, caseworker or legal representative ~~within seventy two hours~~ according to the provisions of Section 9.2.4.

36. Comment (WVWC): §11.3.3. A minimum temperature of 100 degrees Fahrenheit should be required.

Response: The Department has historically not encountered problems with inadequately heated water and sees no need for this addition.

Proposed: No change.

37. Comment (WVWC): §11.6. The regulations should specifically state that telephone service shall be available to residents.

Response: §8.6 makes this requirement.

Proposed: No change.

38. Comment (WVADD): §11.7.2. This section provides that the heating system in the residence shall be capable of maintaining a temperature in rooms used by residents at least 72 degrees F. during cold weather. What is missing from the section is the requirement that the rooms used by the residents shall be adequately heated. This should be added here or at §11.7.3.

Response: We have added the word "adequately" to §11.7.3, to convey a general concept. In actual practice, this will be a matter of judgment and will require consideration of individual resident preferences. Precise specification of "adequate" will be difficult.

Proposed: §11.7.3. Adequate heat shall be supplied to all rooms used by residents.

39. Comment (Provider, WVADD): §11.10.2. Three persons in a room should under no circumstances be permitted. It is not in accordance with the privacy provisions of §8.2.

Response: There are some houses suitable for use as adult group homes which have one or more large bedrooms. Some residents may not want much or any privacy. Partial room dividers or other techniques may be used. Section 11.10.2(c) specifically requires documented compatibility and willingness to share the room. This section and the resident rights provisions are adequate to protect individual rights while allowing for flexibility of use of houses as adult group homes.

Proposed: No change.

40. Comment (WVADD): §11.10.4. How will height of occupants be limited? This seems like a silly requirement.

Response: We have deleted the language concerning setting height requirements as unnecessary and confusing. The first part of the standard is adequate to prevent the use of rooms which would limit the movement by virtue of low ceilings.

Proposed: Bedroom ceilings shall be at least seven and one-half feet in height, except that: in older homes and homes of unusual construction, ceilings of lower height may be approved if the unoccupied floor space permits the free upright movement of the occupants. ~~In the case of ceiling height less than seven and one-half feet, the director shall have the authority to increase the square footage requirements in order to compensate for the lost of head-space, to limit the height of occupants and to make any other requirements necessary to protect the health and safety of residents.~~

41. Comment (WVWC): §11.10.10. The amount of closet, locker and wardrobe space to be provided each resident should be described in more

objective terms.

Response: Describing and detailing the amount and types of closet, locker and wardrobe space to be provided would require what seems to be an inordinate amount of detail. We believe that surveyors can make a judgment as to what is reasonable, based on the needs of the home's residents. If abuses develop, it may be necessary to be more detailed at a later date, with an unavoidable loss of flexibility.

Proposed: No change.

42. Comment (WVADD): §11.10.11. This section requires that residents' beds must have substantial springs and clean comfortable mattresses. This standard is a little narrow in that there might be persons such as quadriplegics or paraplegics who would benefit medically from having other kinds of beds such as waterbeds, which can reduce the pressure on pressure sores. It was recommended that this section be modified to provide that alternative kinds of bedding may be used if a physician documents that such bedding would be appropriate.

Response: The provisions of §11.1.2 allow for flexibility in this regard as well as in providing for special safety measures as needed.

Proposed: No change.

43. Comment (WVWC): §11.11.2. The need for grab-bars for toilets, showers and tubs should be triggered by circumstances more specific than "if needed for the safety of residents." This language is vague.

Response: This language is designed to permit flexibility in accommodating homes to the needs of particular residents, most of whom are expected to be relatively long-term. The provision must also be read in parallel with §7.1, which requires specification of particular types of disability. We believe the standard adequate for the protection of residents. The Health Department can provide guidance regarding particulars.

Proposed: No change.

44. Comment: §11.16.5. Department staff noted that mechanical dryers should be required to be vented to the outside for general health considerations (lint, dust) and also for reasons of fire safety.

Response: The omission of this requirement has been corrected.

Proposed: §11.16.5. Common laundry (such as towels and washcloths, bed clothes, and mattress pads and covers) shall be mechanically dried in an electric or gas clothes dryer which is vented to the outside or a chemical sanitizer may be added to the rinse water and the laundry air-dried.

45. Comment (Provider): §12.1. The regulations should state specifically the fire regulations for adult group homes, especially since fire regulations for group homes apparently do not exist as a separate set of regulations of the state fire commission.

Response: The Health Department does not have the statutory

authority to specify which fire safety rules apply. This is the responsibility of the State Fire Commission and the Fire Marshal.

Proposed: No change.