

Arch A. Moore, Jr.
Governor



David K. Heydinger, M.D.
Director

State of West Virginia

DEPARTMENT OF HEALTH
CHARLESTON 25305

Notice of Adoption of a Legislative Rule Authorized by the Legislature

Legislative Rule: Adult Group Home Licensure, Chapter 16-5H, Series 49, 1986.

The Board of Health legislative rule Adult Group Home Licensure is being adopted by this agency and final filed with the Secretary of State. This rule was authorized by the Legislature in Senate Bill 434, Section 64-2-16(5h)(2), passed March 8, 1986, effective from passage.

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

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OFFICE OF THE SECRETARY OF STATE

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: West Virginia Board of Health

Subject: Proposed rules and regulations relating to adult
home licensure

PERTINENT DATES

Filed for public comment: December 19, 1984
Public Hearing held: January 18, 1985
Filed in Secretary of State office: December 17, 1985
Filed LRMRC: December 17, 1985
Filed as emergency rule:
FN: \$42,835 (1st year)

ABSTRACT

This proposed rule is new and would implement Article 5H, Chapter 16 of the West Virginia Code which was enacted by the Legislature during the 1984 Legislative Session.

Section 1 is a general section which provides the scope, authority, filing date and effective date. The scope of the proposed rule is the establishment of general standards and procedures for the licensure of adult group homes. It applies to and distinguishes between a single home operated by a family which resides in the home and one or more adult group homes maintained or operated by owners who do not live in the group home.

Section 2 is reserved for the future and will contain language relating to supersession and repeal of former regulations.

Section 3 relates to application and enforcement. The proposed rule applies to anyone who establishes, maintains or operates an adult group home but does not apply to a facility which provides behavioral health services to adults in a 24-hour residential facility. Enforcement of the proposed rule is vested in the Director of the Department of Health.

Section 4 is a definition section.

Section 5 concerns State administrative procedures.

Section 5.1 contains general licensing provisions. It requires that all adult group homes must be licensed and that applications for initial or renewal licensure must be accompanied by a nonrefundable fee of \$10. It also specifies the information which must be stated on the license. Licenses are valid for one year. Separate licenses are required for each adult group home maintained or operated under the same ownership or management.

Section 5.2 gives the Director or his duly authorized representative the right to enter the premises of an adult group home without prior notice to conduct inspections. He also has the right to enter 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. This section requires that an unannounced onsite inspection be conducted at least once every year. A written report must be made of each such inspection with a copy mailed to the owner or the administrator.

Section 5.3 provides the procedure whereby any person may register a complaint with the Director alleging a violation of the law or this rule by an adult group home. It requires the Director to initiate an investigation of the complaint within thirty days if an alleged life-threatening situation does not exist and within five days if there is an alleged life-threatening situation.

The Director must notify the owner, administrator or person in charge of the home of the substance of the complaint upon completion of the investigation and must, within fifteen working days of completion of the investigation, prepare a written report and notify the complainant and the home in writing of the results of the investigation.

The name of a complainant or of any resident named in the complaint is to be kept confidential and may not be disclosed without the written authorization of the individual.

Section 5.4 requires an adult group home which has been found to have deficiencies to develop a plan for correction of the deficiencies and to submit the plan to the Director within fifteen days of receipt of the report of the inspection or other investigation. 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.

This section also specifies what must be included in the plan of correction and requires the Director to approve, modify or reject the plan, in whole or in part, within fifteen working

days of receipt. When the Director rejects a plan, up to fifteen days may be allowed for submission of a revised plan.

Section 5.5 outlines those documents which are to be available for public inspection. Any confidential information contained in any documents is to be deleted prior to release.

Section 6 relates to management and personnel. It requires all non-family adult group homes to have an administrator and outlines the qualifications which an administrator or owner-operator must possess.

It requires an administrator or owner-operator to be regularly on duty on the premises at least thirty hours per week and specifies his responsibilities. This section also requires that there be adequate adult family members or employees to assure compliance with the provisions of this rule and specifies minimum numbers and how adequate numbers are determined.

A responsible adult, other than a resident, must, in almost all cases, be in the home at all times that residents are present.

Section 6.7 and 6.8 specifies minimum training for family members and all employees and makes the owner-operator responsible for providing and documenting orientation training and instruction.

Section 7 concerns policies and procedures.

Section 7.1 requires an adult group care home to have a written admission policy, and specifies its minimum requirements.

Section 7.3 requires an assessment, signed and dated by a physician, indicating that he has seen the resident not more than forty-five days prior to 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 specifies the residents restrictions and needs.

Section 7.4 requires the home to maintain written documentation that each resident is capable of self-preservation in the event of imminent danger.

Sections 7.5 and 7.6 prohibit the admittance of any person who is bedfast or who is in need of nursing or convalescent care or personal care home services.

Section 8 relates to residents' rights. It requires that the privacy right of residents be fully respected and that residents have reasonable access to a telephone on the premises. It also prohibits confining residents in locked rooms.

Section 8.9 requires the home to notify, in writing, the resident, his family and any legal representative and any agency responsible for placing the resident in the home at least thirty days in advance of the change of residence, discharge, transfer or removal of the resident from the home.

Section 8.15 gives the resident the right to manage his own financial affairs and requires the home, if it handles the resident's financial affairs, to keep a complete accounting and to give the resident an accounting at least monthly.

Section 9 relates to services.

Section 9.1.1 requires that the resident be assisted and encouraged to maintain his or her highest level of independence.

Section 9.1.3 states that supervision and assistance in daily living activities be given only as needed.

Section 9.2 relates to assuring that residents have access to routine health services and emergency services. A resident's next of kin and any legal representative must be notified immediately of any serious accident or illness and within twenty-four hours of any non-routine health care needs.

Section 9.3 concerns medications and relates to the administration of medication and to storage and disposal.

Section 9.4 relates to nutrition and specifies that a resident have at least three nutritionally balanced meals per day. Specifications regarding quality and quantity are provided.

Section 9.5 requires that residents have access to a variety of recreational activities both at the home and outside of the home.

Section 9.6 states that residents should be encouraged to correspond by mail, that incoming mail and outgoing mail shall not be censored and that incoming mail shall be delivered promptly and not opened by staff except upon written request of the resident.

Section 9.7 requires the home to provide or arrange for residents' transportation to necessary resources and activities.

Section 10 relates to resident records. It requires that when a resident is admitted to an adult group home that a permanent individual record be established and subsequently kept current.

Section 10.5 lists that information which must be contained in the resident's record. It requires that all residents' records be kept for at least two years after the last date of the individual's stay at the home.

Section 11 relates to physical requirements for the home. Specifications are provided regarding water, sewage, electricity, telephone, heating and cooling, doors and windows, lighting, sleeping facilities, toilets, handwashing and bathing facilities, housekeeping, building and grounds, solid waste, food preparation, laundry, storage and pets.

Section 11.1.2 requires that if a home accepts residents with physical disabilities that the home provide accommodations suitable for the particular condition of the disabled resident.

Section 12 requires an adult group home to meet the requirements of rules and regulations of the West Virginia State Fire Commission and requires that the home have a written procedure to be followed in the event of a fire.

Section 13 allows the Director to suspend, revoke or deny renewal of a license for good cause after notice and hearing. Those violations which constitute good cause are delineated.

Section 14 sets forth administrative due process procedures.

Section 15 is a severability section.

AUTHORITY

Statutory authority: W. Va. Code, §16-5H-2.

W. Va. Code, §16-5H-2 provides, in part, as follows:

... The Director may promulgate reasonable regulations for the operation of such facilities, and to carry out the requirements of this article, in accordance with the requirements of article three, chapter twenty-nine-a of this Code. ...

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No. As stated above, the Director has the authority to promulgate rules and regulations of the type proposed.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No. However, although there is no conflict between this proposed rule and other code provisions, there is such a similarity between this rule and the law relating to personal care homes that it is almost impossible to distinguish between the two. The following is a comment taken from a letter submitted by the West Virginia Advocates for the Developmentally Disabled which sets forth the similarity between the provisions for adult group homes and personal care homes.

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 the age 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 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." (West Virginia code §16-5H-1(a); §4.4 of the accompanying legislative rule.) The rule provides at §4.24 that personal assistance means "services provided to help and assist residents perform activities of daily living for themselves, in contrast with the personal assistance provided in personal care home, ...". Activities of daily living is defined at §4.2 as "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, ...". 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.

Counsel believes, that based upon the above comment, that some amendments may be needed to the code sections involved to help clarify the difference between the two types of care.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No. Although counsel does have a few language clarifications to discuss with the agency representative. Also as mentioned in III above the proposed rule could be made more readily understandable by the general public and person affected by it if the code provisions and their related rules were amended such that the differences between adult group homes and personal care homes are apparent.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

1 Bill 12

2 H. B. 1757

3 (By Delegate Casey)

4 (Introduced February 5, 1986; referred to the
5 Committee on Health and Welfare with the direction)
6 that it later be referred to the Committee on the
7 Judiciary.]

8
9
10 A BILL to amend article two, chapter sixty-four of the code of
11 West Virginia, one thousand nine hundred thirty-one, as
12 amended, by adding thereto a new section designated section
13 sixteen(five-h)(two), relating to authorizing the director of
14 health to promulgate legislative rules relating to adult
15 group home licensure.

16 Be it enacted by the Legislature of West Virginia:

17 That article two, chapter sixty-four of the code of West
18 Virginia, one thousand nine hundred thirty-one, as amended, be
19 amended by adding thereto a new section, designated section
20 sixteen(five-h)(two), to read as follows:

21 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE
22 LEGISLATIVE RULES.

23 §64-2-16(5h)(2). Director of health.

24 The legislative rules filed in the state register on the
25 seventeenth day of December, one thousand nine hundred eighty-
26 five, modified by the director of health to meet the objections

1757

1 of the legislative rule-making review committee and refiled in
2 the state register on the fifteenth day of January, one thousand
3 nine hundred eighty-six, relating to the director of health
4 (adult group home licensure) are authorized.

5
6
7 NOTE: The purpose of this bill is to authorize the director
8 of health to promulgate legislative rules relating to adult group
9 home licensure.

10 This section is new; therefore, strike-throughs and
11 underscoring have been omitted.
12
13

SENATE BILL NO. 440

1 Bill 12

2 (By Senator R. Williams)

3
4 [Introduced February 3, 1986

5 referred to the Committee on Health and Human Resources;

6 then to the Committee on the Judiciary]

7
8
9
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11 West Virginia, one thousand nine hundred thirty-one, as
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Health/JCS

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(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA
SECRETARY OF STATE

Charleston 25305

March 11, 1986

IMPORTANT NOTICE

TO: Kay Howard

FROM: RICH O. HARTMAN, DIRECTOR

RE: LEGISLATIVE RULE Adult Group Home License

THE 1986 LEGISLATURE HAS AUTHORIZED YOUR AGENCY TO FINAL FILE AND ADOPT THE ABOVE LEGISLATIVE RULE. THIS AUTHORIZATION IS IN S.B. 434 SECTION 64-2-16(5h)(2) PASSED ON March 8, 1986, EFFECTIVE FROM PASSAGE. YOU HAVE 60 DAYS FROM THAT DATE TO FINAL FILE THE ABOVE RULE WITH THIS OFFICE. NO RULE WILL BE ACCEPTED AFTER THAT DATE. YOU MAY ESTABLISH ANY EFFECTIVE DATE FOR YOUR RULE RANGING FROM THE SAME DATE YOU FINAL FILE TO 90 DAYS FROM THE DATE YOU FINAL FILE. REMEMBER TO RE-TYPE YOUR RULE IN ITS ENTIRETY FOLLOWING THE PROPER FORMAT. PLEASE CALL IF YOU HAVE ANY QUESTIONS.

WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

Adult Group Home Licensure

Chapter 16-5H
Series 49
1986

FILED
1986 MAY -5 PM 1:00
WEST VIRGINIA LEGISLATIVE BOARD
SECRETARY'S OFFICE

WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

Adult Group Home Licensure

Chapter 16-5H
Series 49
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WEST VIRGINIA LEGISLATIVE RULES
Board of Health

Chapter 16-5H
Series 49
1986

FILED

1986 MAY -5 PM 1:00

OFFICE OF THE CLERK
SECRETARY OF STATE

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 - May 5, 1986

1.4. Effective Date - August 1, 1986

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 any person, partnership, association or corporation and any local or state governmental unit or any division, department, board or agency thereof 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 rooms 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 of age 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, partnership, association or corporation and any local or state governmental unit or any division, department, board or agency thereof which 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 or 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 or 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 5.4. 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) a committee appointed pursuant to the West Virginia Code §27-11-1 et seq.; b) a guardian appointed pursuant to the West Virginia Code §44-10A-1 et seq or any other provision of law; c) 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 on-site 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 a violation or violations 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) any 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) any other field deemed relevant by the director by virtue of its general subject content. A certificate of completion shall be required as evidence of successful completion of adult family care training sponsored by the department of human services or by a licensed community behavioral health center.

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 Section 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 for 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 and have knowledge of:

(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) 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 docu-

mentation 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) admission criteria including degree and type of physical disability for which the home is equipped;
- (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. This assessment shall be part of the resident's record as specified in Section 10.8(c). 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.

7.4. Written documentation that each resident is capable of self-preservation in the event of imminent danger, such as fire, shall be on file in the home. 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) any other suitable agency, 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 it.

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 and 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 the 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 including yellow, orange or dark leafy vegetables or other good source of Vitamin A, at least four times per week.

(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 as needed to meet daily dietary recommendations.

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 and 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 and 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 the 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 an individual 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 individuals and agencies:

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

(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 Section 7.3;

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

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

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

(e) 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 kept on file. The report shall indicate the date and time the incident or accident occurred and the extent of 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 established by the aforementioned rules and design standards. 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 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, and 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 comforter.

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; and (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.