

Effective Date:

Title: Section 487.1 - Applicability.

Section 487.1 Applicability. (a) This Part shall apply to adult homes as defined herein and, except as specifically limited by Part 490 of this Title, to residences for adults.

(b) Parts 485 and 486 of this Title shall apply to adult homes, except as specifically limited.

(c) This Part shall not apply to any housing projects established pursuant to the Private Housing Finance Law, the Public Housing Law, the former membership Corporations Law or the Not-for-Profit Corporation Law, except for those distinct programs operated by such projects which provide an organized program of supervision or personal care and as such are approved and certified by the department.

(d) Any person, partnership, corporation, organization, agency, government unit or other entity which operates an adult home is subject to the jurisdiction of the department, and must comply with these regulations or cease operation.

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Title: Part 487 - STANDARDS FOR ADULT HOMES

PART 487

STANDARDS FOR ADULT HOMES

(Statutory authority: Social Services Law, Sections 20, 34, 131-o, 460,

460-a--460-g, 461, 461-a--461-h)

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Title: Section 487.7 - Resident services

487.7 Resident services. (a) The operator shall be responsible for the provision of resident services, which shall include, at a minimum, room, board, housekeeping, supervision, personal care, case management and activities.

(b) The operator of a facility in which at least 25 percent of the resident population or 25 residents, whichever is less, are mentally disabled persons who have been released or discharged from facilities operated or certified by an Office of the Department of Mental Hygiene must arrange, by written agreement, with the outpatient or after-care service of the nearest State psychiatric or developmental facility, the local community mental health service, or a community support service provider, for assistance with the assessment of mental health needs, the supervision of general mental health care and the provision of related case management services for those residents enrolled in mental health programs.

(c) (1) The agreement developed in satisfaction of subdivision (b) of this section shall be reviewed and approved, prior to execution, by the appropriate regional offices of the department and the Department of Mental Hygiene.

(2) The agreement shall address the role and responsibility, if any, of each party for:

(i) pre- and post-admission assessment and screening, except that final decisions on admission and retention shall remain the responsibility of the operator;

(ii) the development of service plans, the provision of or arrangements for services;

(iii) securing emergency mental health services and rehospitalization;

(iv) coordination of services within the facility and the exchange of information;

(v) provision of suitable and adequate program space; and

(vi) resolving conflicts or disagreements on individual cases.

(3) The agreement shall not limit or supersede the authority or the responsibilities of either party.

(d) Supervision. (1) Supervision services shall include, but are not limited to:

(i) maintaining knowledge of general whereabouts of each resident;

(ii) recording a daily census (DSS-2900);

(iii) monitoring residents to identify abrupt or progressive changes in behavior or appearance which may signify the need for assessment and service;

(iv) monitoring and guidance to assist residents in performing basic activities of daily living, including:

(a) attendance at meals and maintenance of appropriate nutritional intake;

(b) performance of personal hygiene and grooming activities;

(c) participation in facility and community programs; and

(d) performance of basic money management and fulfillment of service needs;

(v) surveillance of grounds, facility, and activities of residents and staff to protect residents from harm to person and property;

(vi) monitoring emergency call systems within the facility;

(vii) handling individual emergencies, or need for assistance, including arranging for medical or other services;

(viii) conduct and supervision of evacuations and fire and evacuation drills;

(ix) implementation of the disaster and emergency plan; and

(x) investigation of incidents involving resident endangerment, injury or death.

(2) All employees shall be trained in the means of rapidly evacuating the building.

(3) At least one staff person on each shift shall be designated as responsible for the conduct and supervision of any evacuation or implementation of the disaster and emergency plan.

(4) In the event that a resident is absent from the facility and the resident's whereabouts are unknown, the operator shall initiate efforts to find the resident and, if the absence exceeds 24 hours:

(i) immediately notify the resident's next of kin or representative;

(ii) immediately notify the appropriate law enforcement agency;

(iii) notify the appropriate regional office of the department on the first available working day; and

(iv) send a copy of the Incident Report to the appropriate regional office of the department within five working days.

(5) In the event that a resident is unable or unwilling to consume regular meals for two consecutive days, the operator shall immediately notify the resident's personal physician, act on the physician's instruction, and note the call and instructions in the resident's record.

(6) (i) In the event that a resident requires emergency assistance because of illness or injury, the operator shall:

- (a) protect the resident's safety and comfort;
- (b) secure necessary emergency medical assistance; and
- (c) if necessary, arrange for transfer to an appropriate medical facility.

(ii) In the event that a resident becomes ill or displays a progressive deterioration of health or behavior, the operator shall:

- (a) protect the resident's safety and comfort;
- (b) obtain medical evaluation and services; and
- (c) if necessary, arrange for transfer to an appropriate medical facility.

(iii) In the event of illness or injury, the operator shall also:

(a) notify the resident's personal physician or, in the event such physician is not available, a qualified alternate;

(b) notify the resident's representative, or next of kin, if known;

(c) upon transfer of a resident to a health, mental health or other residential care facility, send an approved transfer form (or copy of the DSS-3122 medical evaluation and the personal data sheet) and such other information as the receiving facility requests and the operator is required to maintain;

(d) in emergency transfers, the information required in clause (c) of this subparagraph may be telephoned to the receiving facility and written information sent within 72 hours; and

(e) make a notation of the illness or accident and transfer, if any, in the resident's record.

(7) In the event that a resident exhibits behavior which constitutes a danger to self or others, the operator shall:

- (i) arrange for appropriate professional evaluation of the resident's condition;
- (ii) if necessary, arrange for transfer of the individual to a facility providing the proper level of care; and
- (iii) notify the resident's representative, or next of kin, if known.

(8) In the event of the death of a resident, the operator must:

(i) immediately take necessary action to notify the resident's next of kin or representative, if known;

(ii) immediately take necessary action to notify the appropriate local authorities;

(iii) immediately report the death to the appropriate regional office of the department of health by telephone and submit a copy of the Incident Report (DSS-3123), which must be received by the appropriate regional office of the department of health, within twenty-four hours of the death, and

(iv) submit a report to the State Commission on Quality of Care for the Mentally Disabled, on a form prescribed by the Commission, if the resident had at any time received services from a mental hygiene service provider. Such form must be received by the Commission within twenty-four hours of the death.

(9) If a resident attempts suicide, the operator must:

(i) immediately report the attempted suicide to the appropriate regional office of the department of health by telephone and submit a copy of the Incident Report (DSS-3123), which must be received by the appropriate regional office of the department of health, within twenty-four hours of the attempted suicide, and

(ii) submit a report to the State Commission on Quality of Care for the Mentally Disabled, on a form prescribed by the Commission, if the resident had at any time received services from a mental hygiene service provider. Such form must be received by the Commission within twenty-four hours of the attempted suicide.

(10) If it is believed that a felony crime may have been committed by or against a resident, the operator must immediately report the occurrence to the appropriate regional office of the department of health by telephone and submit a copy of the Incident Report (DSS-3123), which must be received by the appropriate regional office of the department

of health, within twenty-four hours of the occurrence. The operator also must notify an appropriate law enforcement authority as soon as possible but at least within twenty-four hours. In addition, the operator must submit a report to the State Commission on Quality of Care for the Mentally Disabled, on a form prescribed by the Commission, if the resident had at any time received services from a mental hygiene service provider. Such form must be received by the Commission within twenty-four hours of the occurrence.

(11) The operator must prepare an Incident Report (DSS-3123) whenever:

- (i) a resident's whereabouts have been unknown for more than 24 hours;
- (ii) a resident assaults or injures, or is assaulted or injured by another resident, staff or others;
- (iii) a resident attempts or commits suicide;
- (iv) there is a complaint or evidence of resident abuse;
- (v) a resident dies;
- (vi) a resident behaves in a manner that directly impairs the well-being, care or safety of the resident or any other resident or which substantially interferes with the orderly operation of the facility;
- (vii) a resident is involved in an accident on or off the facility grounds which results in such resident requiring medical care, attention or services; or
- (viii) it is believed that a felony crime may have been committed by or against a resident.

(12) The operator must:

- (i) place a copy of the Incident Report (DSS-3123) in the resident's individual record;
- (ii) maintain a chronological log or record of all Incident Reports (DSS-3123) prepared, which includes identification of the resident or residents involved and the type of incident; and
- (iii) submit a copy of Incident Reports (DSS-3123) required in paragraph (11) of this subdivision to the appropriate regional office of the department; if the resident is a participant in a service program operated under a cooperative agreement with the operator, to that organization, and for all residents who had, at any time received services from a mental hygiene service provider, to the State Commission on Quality of Care for the Mentally Disabled.

(13) The operator must include the resident's version of the events leading to an accident or incident involving such resident, unless the resident objects, on all required Incident Reports (DSS-3123) .

(e) Personal care. (1) Each resident shall be provided such personal care as is necessary to enable the resident to maintain good personal hygiene, to carry out the activities of daily living, to maintain good health, and to participate in the ongoing activities of the facility.

(2) Personal care functions shall include direction and some assistance with:

(i) grooming, including care of hair, shaving and ordinary care of nails, teeth and mouth;

(ii) dressing;

(iii) bathing;

(iv) toileting;

(v) walking and ordinary movement from bed to chair or wheelchair;

(vi) eating;

(vii) taking and recording weights monthly; and

(viii) assisting with self-administration of medications, as defined in subdivision (f) of this section.

(3) Personal care functions to participate in the ongoing activities of the facility shall include assistance to:

(i) use central dining;

(ii) consume meals; and

(iii) participate in the activities program.

(4) Residents shall not be permitted, except as may be necessary for the treatment of a short-term illness, to be confined to their room or bed.

(5) Commodes shall not be permitted, except as may be necessary for a short-term illness or for night use as a safety measure as confirmed by the written order of a physician.

(6) Residents shall not be provided in-room tray services, except as may be necessary for short-term illness.

(7) Physical restraints, i.e., any apparatus which prevents the free movement of a resident's arms or legs, or which immobilizes a resident and which the resident is unable to remove, shall not be used.

(8) An operator may set up a sick bay, or isolation area, to serve residents who have short-term illnesses, provided that:

(i) the combined occupancy of the sick bay and the rest of the facility does not exceed the certified capacity of the facility; and

(ii) the sick bay is not used for a resident who is inappropriate for continued retention in the adult home.

(9) The operator shall establish a system which assures that information regarding incidents or changes in residents' conditions affecting their need for personal care or supervision is available on an ongoing basis to all shifts.

(f) Medication management. (1) Each resident capable of self-administration of medication shall be permitted to retain and self-administer medications, provided that:

(i) the resident's physician attests, in writing, that the resident is capable of self-administration; and

(ii) the resident keeps the operator informed of all medications being taken, including name, route, dosage, frequency, times, and any instructions, including any contraindications, indicated by the physician.

(2) Residents capable of self-administration are those who are able to:

(i) correctly read the label on the medication container;

(ii) correctly interpret the label;

(iii) correctly ingest, inject or apply the medication;

(iv) correctly follow instructions as to the route, time, dosage and frequency;

(v) open the container;

(vi) measure or prepare medications, including mixing, shaking and filling syringes; and

(vii) safely store the medication.

(3) A resident needing assistance with self-administration is one who needs assistance to properly carry out one or more of the activities listed in paragraph (2) of this subdivision.

(4) Assistance with self-administration shall include assistance with any activity which the resident would ordinarily be capable of carrying out pursuant to paragraph (2) of this subdivision.

(5) For residents in need of supervision and assistance, the operator shall establish a system for staff to:

(i) provide the resident with the proper dosage of medication at the designated time; and

(ii) observe and record that the resident takes the medication.

(6) In any system for supervision and assistance, removal of a dose from the container, or measurement or preparation of medications, must be performed by the person providing assistance with intake, except that insulin syringes may be prefilled by a nurse.

(7) Staff shall not be permitted to administer injectable medications to a resident; except that staff holding a valid license from the State of New York Education Department authorizing them, among other things, to administer injectable medications, may do so, provided that the injectable medication is one which licensed health care providers would customarily train a patient or his family to administer.

(8) If a resident refuses to take medications or appears unable to independently administer medications, the operator shall notify the prescribing physician and, if different, the primary physician.

(9) Under no circumstances shall staff make a change in the dosage or schedule of administration of medication without the prior written authorization of a physician or, in case of an emergency, by telephone with written confirmation from the physician within seven days.

(10) If medication is prescribed or discontinued by someone other than the resident's primary physician, the operator shall notify the primary physician within one business day to advise of the medication and dosage prescribed or discontinued and shall note the call or retain a copy of the correspondence in the resident's record.

(11) Storage of medications. (i) Medication shall be kept in a secure storage area at all times, whether kept by a resident or kept by the operator for the resident, except when required to be kept by a resident on his person for frequent or emergency use.

(ii) Secure storage shall mean an area or a cabinet which cannot be removed or entered at will, and which cannot be opened except by a key.

- (iii) An operator retaining controlled substance prescriptions for residents shall first obtain a class 3a controlled substance license as an institutional Dispenser, Limited from the Department of Health. Standards for storage and recording set forth by the Department of Health shall be applicable.
- (iv) Drugs for external use shall be stored separately from internal and injectable medications.
- (v) Refrigerators used for the storage of pharmaceuticals shall not be used for the storage of food or beverages, unless the drugs are stored in a separate, locked compartment.
- (vi) Medications shall not be emptied from one container into another, except when necessary to enable a resident to take medications during temporary absences from the facility.
- (vii) Directions on labels shall not be changed by anyone other than a physician or pharmacist. When a change in dosage or schedule has been made, the container must be tagged until the label is corrected. The label must be corrected within 30 days of the change.
- (viii) Stock supplies of prescription medications are prohibited.
- (ix) Stock supplies of nonprescription over-the-counter items for use in self-medication may be maintained.
- (x) Prescribed or dated medication shall be current.
- (xi) Any medication which has been prescribed, but is no longer in use by a resident, shall be destroyed or disposed of in accordance with the Public Health Law, unless the resident's physician requests that the medication be discontinued for a specific temporary period.
- (12) Recording for medications. (i) Information on the medication regimen of each resident shall be retained on file in a manner which assures both resident privacy and accessibility, for assistance and supervision or in time of emergency.
- (ii) The following information shall be maintained for each resident:
 - (a) the person's name;
 - (b) identification of each medication;
 - (c) the current dosage, frequency, time and route of each medication;

- (d) the physician's name for each prescribed medication;
- (e) the dates of each prescription change;
- (f) any contraindications noted by the physician;
- (g) the type of supervision and assistance, if any, needed by the resident; and
- (h) a record of assistance.

(iii) When a resident is assisted in taking medications, the name of the resident, the medication, the staff assisting and the date and time of assistance shall be recorded. Recording shall occur at the time of assistance to each resident. In no event shall recording be done by a person who has not observed the taking of the dose.

(g) Case management. (1) Case management services shall include:

- (i) initial and periodic evaluation, at least once every 12 months, of the needs of a resident and of the capability of the facility program to meet those needs;
- (ii) orientating a new resident and family to the daily routine;
- (iii) assisting each resident to adjust to life in the facility;
- (iv) assisting each resident to maintain family and community ties and to develop new ones;
- (v) encouraging resident participation in facility and community activities;
- (vi) establishing linkages with and arranging for services from public and private sources for income, health, mental health and social services;
- (vii) assisting residents in making application for, and maintaining, income entitlements and public benefits;
- (viii) assisting the resident in obtaining and maintaining a primary physician or source of medical care of choice, who is responsible for the overall management of the individual's health and mental health needs;
- (ix) assisting the resident in making arrangements to obtain services, examinations and reports needed to maintain or document the maintenance of the resident's health or mental health, including:

- (a) health and mental health services;
 - (b) dental services; and
 - (c) medications;
 - (x) providing information and referral;
 - (xi) coordinating the work of other case management and service providers within the facility;
 - (xii) assisting residents in need of alternative living arrangements to make and execute sound discharge or transfer plans; and
 - (xiii) assisting in the establishment and operation of a system to enable residents to participate in planning for change or improvement in facility operations and programs and to present grievances and recommendations.
- (2) Each resident shall be provided such case management services as are necessary to support the resident in maintaining independence of function and personal choice.
- (3) The operator shall establish a system of recordkeeping which documents the case management needs of each resident and records case management activities undertaken to meet those needs.
- (4) The operator and case management staff within the facility shall utilize and cooperate with external service providers.
- (5) The operator shall:
- (i) provide, without charge, space for residents to meet in privacy with service providers;
 - (ii) not inhibit access to individual residents who request services;
 - (iii) identify persons in need of services and assist external service providers in establishing a relationship with these residents;
 - (iv) work with these service providers in executing a plan for service for individual residents; and
 - (v) assist in arranging for transportation as necessary to ensure that residents are able to attend required services provided in an external location.
- (h) Activity services. (1) The operator shall maintain an organized and diversified

program of individual and group activities which will enable each resident to engage in cultural, spiritual, diversional, physical, political, social and intellectual activities within the facility and the community, in order to sustain and promote an individual's potential and a sense of usefulness to self and others.

(2) Activities services shall include, but not be limited to:

(i) direct provision, within the facility, of programs and activities for group and individual participation;

(ii) arrangement for provision of program and activities within the facility by community groups and service providers;

(iii) arrangement for resident participation in community-based and community-sponsored activities; and

(iv) arrangement for transportation or such other resources as are necessary to enable residents to participate in community activities.

(3) Activities shall be planned and available to each resident for a minimum of 10 hours per week.

(4) Activities shall be scheduled during evenings and weekends as well as during the weekday.

(5) A monthly schedule of activities shall be prepared one week in advance of its proposed implementation, and amended to reflect changes as they occur.

(6) Activities scheduling shall take into account and reflect the age, sex, physical and mental capabilities, interests and the cultural and social background of the residents.

(7) Each activities schedule shall include:

(i) individual, small group and large group activities;

(ii) facility-based and community activities;

(iii) physical exercise or other physical activities;

(iv) intellectual activities;

(v) social interaction; and

(vi) opportunities for both active and passive resident involvement.

(8) Each activities schedule shall identify the location, time, the provider of each activity and a facility staff contact person responsible for or knowledgeable about each activity.

(9) The current schedule of activities shall be conspicuously posted in a public area accessible to all residents and visitors.

(10) A record of the schedule of activities, as planned and as implemented, shall be maintained for six months:

(11) The operator shall provide equipment and supplies sufficient to implement the program of activities.

(12) Accommodations and space shall be provided for activity and socialization services in accordance with section 487.11 of this Part.

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