

**Licensing Regulations for  
Homes for the Terminally III**

Agency of Human Services  
Department of Aging & Disabilities  
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Waterbury, VT 05671-2306

October 1, 2001

This material is available upon request in alternative formats.

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# I. General Provisions

## 1.1 Introduction

The State regulates Homes for the Terminally Ill for the dual purposes of protecting the welfare and rights of residents and assuring that they receive an appropriate quality of care. Toward that end, these regulations are designed to foster personal independence on the part of residents and a home-like environment in the homes.

Homes for the Terminally Ill are licensed to provide services specifically for people who are terminally ill. These services include room, board, personal care, general supervision, medication management, nursing and other assistance for that individual's emotional, spiritual and physical well being.

## 1.2 Statutory Authority

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

## 1.3 Statement of Intent

Upon the effective date of these regulations, all Homes for the Terminally Ill in Vermont shall be required to be licensed and to adhere to the regulations as adopted.

## 1.4 Exception and Severability

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

## 1.5 Taxes

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

## 1.6 Material Misstatements

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

## 1.7 Appeals

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

## II. Definitions

### 2.1 General Definitions

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

### 2.2 Specific Definitions

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

- a. "Activities of daily living (ADLs)" means dressing and undressing, bathing, toileting, taking medication, grooming, eating, transferring and ambulation.
- b. "Administration of medication" means the act of giving a resident the resident's prescribed medication when the resident is incapable of managing the medication.
- c. "Assistance with medication" means helping a resident, who is capable of self-administration, to use or ingest, store and monitor medications.
- d. "Capable of self-administration" means a resident is able to direct the administration of medication by being able to at least identify the medication and describe how, why and when a medication is to be administered, choose whether to take the medication or not, and communicate to the staff if the medication has had the desired effect or unintended side effects.
- e. "Chemical restraint" means any drug that is used for discipline or convenience and not required to treat medical symptoms.
- f. "Delegation of nursing tasks" means the formal process approved by the Vermont Board of Nursing which permits professional nurses to assign nursing tasks to other individuals as long as the registered nurse provides proper training, supervision and monitoring, and for which the registered nurse retains responsibility.
- g. "Discharge" means movement of a resident out of the home without expectation that the resident shall return.
- h. "Home" means a licensed Home for the Terminally III.
- i. "Homes for the Terminally III" means a place, however named, excluding a licensed foster home, which provides for profit or otherwise, room, board and personal care to three or more residents unrelated to the licensee. Homes for the Terminally III provide services specifically for dying people, including room, board, personal care, and other assistance for the residents' emotional, spiritual and physical well-being. Residents of a Home for the Terminally III may also receive medical and nursing care, and case management through outside agencies and providers.

- j. "Inspection" means an on-site visit to or survey of the home by staff of the Division of Licensing and Protection or fire safety inspectors from the Department of Labor and Industry to evaluate care and services and determine if the home is in compliance with the regulations.
- k. "Investigation" means any gathering of facts, in the home or elsewhere, in response to a complaint or to an allegation that the home is not in compliance with regulations in order to determine if a home is in compliance with the regulations.
- l. "Legal representative" means an individual empowered under state or federal law or regulation to make decisions for or transact business for a resident of a home. Legal representatives include, but are not limited to, court-appointed guardians, an attorney-in-fact appointed pursuant to a durable power of attorney and representative payees. A resident's legal representative may make only those decisions for a resident for which the legal representative has been given authority.
- m. "License certificate" means a document issued by the licensing agency which signifies that a home is entitled to operate.
- n. "Licensed capacity" is the maximum number of residents which the Home for the Terminally Ill is licensed to have at one time.
- o. "Licensed home" is a Home for the Terminally Ill possessing a valid license to operate from the licensing agency.
- p. "Licensed Practical Nurse (LPN)" means an individual licensed as a practical nurse by the Vermont Board of Nursing.
- q. "Licensee" means an individual, group of individuals, or corporation in whose name the license is issued and upon whom rests the legal responsibility for maintaining compliance with the regulations.
- r. "Licensing agency" means the Department of Aging and Disabilities, Division of Licensing and Protection.
- s. "Manager" means the staff person who has been appointed by the home licensee or owner as responsible for the daily management of a home, including supervision of employees and residents.
- t. "Mechanical restraint" means any equipment, material or device that may be applied to a resident or the resident's environment for the purpose of restricting the resident's activity. Mechanical restraints include, but are not limited to, full bed rails, gates, half doors, geri chairs, roll bars, dignity aprons, wrist and ankle restraints, vests and pelvic restraints. The use of a mechanical restraint is a treatment procedure that requires nursing oversight.
- u. "Medication management" means a formal process of (1) assisting residents to self-administer their medications or (2) administering medications, under the supervision and delegation by registered nurses, to designated residents by designated staff of the home. It includes procuring and storing medications, assessing the effects of medications, documentation, and collaboration with the residents' personal physicians.

- v. "Nurse" means a licensed practical nurse or registered nurse currently licensed by the Vermont Board of Nursing to practice nursing.
- w. "Nursing care" means the performance of services necessary to care for the sick or injured and which require specialized knowledge, judgment and skill and meets the standards of the nursing regimen or the medical regimen, or both, as defined in 26 V.S.A. §1572(4) and (5).
- x. "Personal care" means assistance with meals, dressing, movement, bathing, grooming, medication, or other personal needs, and/or the general supervision of physical or mental well-being.
- y. "Plan of care" means a written description of the necessary interdisciplinary services which shall be provided or arranged to meet residents' personal, psychosocial, nursing and medical care needs.
- z. "Plan of correction" means a specific, time-limited plan of action, approved by the licensing agency, which states how and when a violation shall be corrected.
- aa. "PRN medication" means medication ordered by the physician that is not to be administered routinely but is prescribed to be taken only as needed and as indicated by the resident's condition.
- bb. "Psychoactive drug" means a drug that is used to alter mood or behavior, including antipsychotic, anti-anxiety agents and sedatives, as well as antidepressants or anticonvulsants when used for behavior control.
- cc. "Psychosocial care" means care necessary to address an identified psychiatric, psychological, behavioral or emotional problem, including problems related to adjustment to the Homes for the Terminally Ill, bereavement and conflict with other residents.
- dd. "Registered nurse" means an individual licensed as a registered nurse by the Vermont Board of Nursing.
- ee. "Resident" means any individual, unrelated to the operator, who is admitted to a home in order to receive room, board, personal care, general supervision, medication management, or nursing overview as defined by these regulations. For the purposes of these regulations, "resident" also means the individual legally authorized to act on the resident's behalf when the resident is no longer able to exercise any or all of his or her rights.
- ff. "Respite Care" means short-term care generally provided in a nursing facility or hospice facility to provide relief for the family from the daily care of the patient.
- gg. "Staff" means any individual other than a resident who performs any service or carries out any duties at the home.
- hh. "Transfer" means the movement of a resident to another bed location within the home or to another health care setting with return to the home anticipated.

- ii. "Unlicensed home" means a place, however named, which meets the definition of a Home for the Terminally Ill and which does not possess a license to operate.
- jj. "Unrelated to the operator" means anyone other than the licensee's spouse (including an individual who has entered into a civil union), mother, father, grandparent, child, grandchild, uncle, aunt, sibling, or mother-, father-, sister-, brother-in-law.
- kk. "Variance" means a written determination from the licensing agency, based upon the written request of a licensee, which temporarily and in limited defined circumstances waives compliance with a specific regulation.
- ll. "Violation" means a condition or practice in the home which is not in compliance with the regulations.



### **III. Variances**

- 3.1** Variances from these regulations may be granted upon a determination by the licensing agency that:
- (a) Strict compliance would impose a substantial hardship on the licensee or the resident; and
  - (b) The licensee shall otherwise meet the goal of the statutory provision or rule; and
  - (c) A variance shall not result in less protection of the health, safety and welfare of the residents.
- 3.2** A variance shall not be granted from a statute or regulation pertaining to residents' rights.
- 3.3** A home requesting a variance must contact the licensing agency in writing describing how the variance request meets the criteria in 3.1 above.
- 3.4** Variances are subject to review and termination at any time.
- 3.5** A request for a variance from section 5.1.a to retain or admit a resident whose needs exceed that for which the home is licensed to provide must include:
- (a) A current assessment, with a description of the resident's care needs and how the home shall meet those needs;
  - (b) A written statement from the resident or the resident's legal representative stating the resident's fully informed choice to remain in the home; and that they have been informed the resident shall have to leave if the variance is terminated.
  - (c) A written statement from the resident's physician giving the resident's prognosis and recommending retention at or admission to the home.

## IV. Licensing Procedures

### 4.1 Application

- (a) Any person desiring to operate or establish a Home for the Terminally Ill shall submit two copies of plans and specifications for review, prior to beginning construction or operation, to:

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

In addition, such person shall:

- (b) Provide written evidence to the licensing agency of compliance with local zoning codes, or a statement signed by the city, town or village clerk that such a code has not been adopted in the community.
- (c) Submit a copy of the resident assessment form the home will use.
- (d) Submit a completed license application to the licensing agency on a form supplied by the Department.
- (e) At least ninety (90) days prior to the projected opening date, request inspections by all entities referenced in subsection 2, a, b, and c below to which plans and specifications were submitted. Modifications shall be made as required by these agencies to achieve full code compliance.
- (f) Provide the licensing agency with at least three references from unrelated persons able to attest to the applicant's abilities to run a Home for the Terminally Ill and to the applicant's character.

### 4.2 The process for application review is as follows:

- (a) Licensing and Protection requires the applicant to submit blueprints for new construction or floor plans for existing buildings to the licensing agency for review by an architect and professional engineer.
- (b) Labor and Industry requires all building plans to be submitted to that department for compliance with Labor and Industry codes and standards.
- (c) The Agency of Natural Resources requires applications to be reviewed with regard to water and sewage systems.

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

### **4.3 Denial of Application**

- (a) An applicant may be denied a license for any one of the following:
  - (1) Conviction of a crime, in Vermont or elsewhere, for conduct which demonstrates unfitness to operate a home;
  - (2) Substantiated complaint of abuse, neglect or exploitation;
  - (3) Conviction, in Vermont or elsewhere, for an offense related to bodily injury, theft or misuse of funds or property;
  - (4) Conduct, in Vermont or elsewhere, inimical to the public health, morals, welfare and safety;
  - (5) Financial incapacity, including capitalization, to provide adequate care and services; or
  - (6) An act or omission which would constitute a violation of any of these regulations.
- (b) When an applicant is denied for any of the aforementioned reasons, the licensing agency may determine the applicant has overcome the prohibition if presented with evidence of expungement or suitability sufficient to ensure the safety of residents.
- (c) Failure to provide complete, truthful and accurate information within the required time during the application or renewal process shall be grounds for automatic denial or revocation of a license.

### **4.4 Renewal of Application**

- (a) Application forms shall be mailed to the applicant approximately sixty (60) days before the end of the licensing year. The completed application form must be returned to the licensing agency not less than forty-five (45) days before the expiration date. Upon receipt of a properly completed application, a license shall be renewed assuming all other conditions for licensure are met.
- (b) Licenses shall be issued for a period of one (1) year, unless the licensing agency determines that a home's lack of compliance with these regulations indicates the home should be given a license for a shorter period of time.

### **4.5 Expiration**

A license shall expire on the date indicated on the licensure certificate. However, if the licensee has made complete and accurate application to the licensing agency, but the agency has failed to act on the license application, the current license will remain in effect until the agency completes the renewal process.

#### **4.6 Change in Licensed Capacity**

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

#### **4.7 Other Services**

- (a) A home may provide other related services, such as acting as a senior meals program meal site or adult day care, provided the home:
  - (1) Has adequate space, staff, and equipment to appropriately provide the service;
  - (2) Has fully informed residents on admission, or upon addition of a new service, about the additional services;
  - (3) Ensures residents of the home shall not be inconvenienced by the service; and
  - (4) Has received approval from the licensing agency in advance.
- (b) The offered service must meet accepted standards of practice and general requirements for that service. For adult day care, the provider must meet the standards for adult day care adopted by the Department of Aging and Disabilities. For meal sites, the provider must meet the standards adopted for the senior meals program through the Department of Aging and Disabilities.
- (c) If a Home for the Terminally Ill becomes a meal site, the home cannot charge a resident of the home for a meal at the meal site unless that meal is in addition to the meal the home is required to provide to the resident.

#### **4.8 Temporary License**

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

#### **4.9 Change in Status**

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

#### **4.10 Separate License**

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

#### **4.11 Transfer Prohibited**

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

#### **4.12 License Certificate**

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

#### **4.13 Responsibility and Authority**

- (a) Each home shall be organized and administered under one authority, which may be an individual, corporation, partnership, association, state, subdivision or agency of the state, or any other entity.
- (b) Whenever the authority is vested in the governing board of a firm, partnership, corporation, company, association or joint stock association, there shall be appointed a duly authorized qualified manager, however named, who shall be in charge of the daily management and business affairs of the home, who shall be fully authorized and empowered to carry out the provisions of these regulations, and who shall be charged with the responsibility of doing so. The manager of the home shall be present in the home an average of 32 hours per week. The 32 hours may include time providing services, such as transporting, or attendance at educational seminars. Vacations and sick time shall be taken into account for the 32-hour requirement. In the event of extended absences, an interim manager must be appointed.
- (c) The manager shall not leave the premises without delegating necessary authority to a competent staff person who is at least eighteen (18) years of age. Staff left in charge shall be qualified by experience to carry out the day-to-day responsibilities of the manager, including being sufficiently familiar with the needs of the residents to ensure that their care and personal needs are met in a safe environment. Staff left in charge shall be fully authorized to take necessary action to meet those needs or shall be able to contact the manager immediately if necessary.
- (d) The qualifications for the manager of the home shall include, at a minimum, one of the following:
  - (1) At least an Associate Degree in the area of human services and two (2) years of relevant administrative experience; or
  - (2) Three (3) years of relevant experience including one year in management, supervisory or administrative capacity; or
  - (3) A current Vermont license as a nurse or nursing home administrator and relevant experience.

#### 4.14 Survey/Investigation

- (a) The licensing agency shall inspect a home prior to issuing a license and may inspect a home any other time it considers an inspection necessary to determine if a home is in compliance with these regulations.
  - (1) Authorized staff of the licensing agency shall have access to the home at all times, with or without notice.
  - (2) If living quarters of a staff person are part of the physical plant of the home, they may be subject to inspection when the inspector has reason to believe the licensed capacity of the home has been exceeded and only for the purpose of determining if such a violation exists. The inspector shall permit the manager to accompany him or her on such an inspection.
  - (3) If an authorized inspector is refused access to a home or the living quarters of the manager, the licensing agency may, pursuant to 18 V.S.A. §121, seek a search warrant authorizing the inspection of such premises.
  - (4) If, as a result of an investigation or survey, the licensing agency determines that a home is unlicensed and meets the definition of a Home for the Terminally Ill, written notice of the violation shall be prepared pursuant to 33 V.S.A. §7111 and 4.14 of these regulations.
- (b) The licensing agency shall investigate whenever it has reason to believe a violation of the law or regulations has occurred. Investigations may be conducted by the licensing agency or its agents and may be conducted at any place or include any person the licensing agency believes possesses information relevant to its regulatory responsibility and authority.
- (c) After each inspection, survey or investigation, an exit conference shall be held with the manager or designee. The exit conference shall include an oral summary of the licensing agency's findings and if regulatory violations were found, notice that the home must develop and submit an acceptable plan of correction. Residents who wish to participate in the exit conference have the right to do so.
- (d) A written report shall be submitted to the licensee at the conclusion of an investigation. The report shall contain the results of the investigation, any conclusions reached and any final determinations made by the licensing agency.
- (e) The licensing agency may, within the limits of the resources available to it, provide technical assistance to the home to enable it to comply with the law and the regulations. The licensing agency shall respond in writing to reasonable written requests for clarification of the regulations.
- (f) The home shall make written reports resulting from inspections readily available to residents and to the public in a place readily accessible to residents where individuals wishing to examine the results do not have to ask to see them. The home must post a notice of the availability of such written reports. If a copy is requested and the home does not have a copy machine, the home must inform the resident or member of the public that they may request a copy from the licensing agency and provide the address and telephone number of the licensing agency.

#### 4.15 Violations: Notice Procedure

- (a) If, as a result of survey or investigation, the licensing agency finds a violation of a law or regulation, it shall provide a written notice of violation to the home within 10 days. The notice shall include the following:
  - (1) A description of each condition that constitutes violation;
  - (2) Each rule or statutory provision alleged to have been violated;
  - (3) The date by which the home must return a plan of correction for the alleged violations;
  - (4) The date by which each violation must be corrected;
  - (5) Sanctions the licensing agency may impose for failure to correct the violation or failure to provide proof of correction by the date specified;
  - (6) The right to apply for a variance as provided for in Section III of these regulations;
  - (7) The right to an informal review by the licensing agency; and
  - (8) The right to appeal the licensing agency determination of violation, with said appeal being made to the Commissioner within fifteen (15) days of the mailing of the notice of violation.
- (b) If the licensee fails to return a plan of corrective action or to correct any violation in accordance with the notice of violation, the licensing agency shall provide written notice to the licensee of its intention to impose specific sanctions, and the right of the licensee to appeal.
- (c) The licensing agency shall mail its decision to the licensee within ten (10) days of the conclusion of the review or, if no review was requested, within twenty-five (25) days of the mailing of the notice of proposed sanctions. The written notice shall include the licensee's right to appeal the decision to the Commissioner.
- (d) Nothing in these regulations shall preclude the licensing agency from taking immediate enforcement action to eliminate a condition which can reasonably be expected to cause death or serious physical or mental harm to residents or staff. If the licensing agency takes immediate enforcement action, it shall explain the actions and the reasons for it in the notice of violation. At the time immediate enforcement action is proposed, the licensee shall be given an opportunity to request and appeal to the Commissioner. The filing of an appeal will not stay the enforcement action. If immediate enforcement action is taken, the licensee also shall be informed of the right to appeal the Department's action to the Human Services Board.

#### 4.16 Enforcement

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

- (a) Administrative penalties against a home for failure to submit a plan of corrective action or failure to correct a deficiency:
  - (1) Up to \$5.00 per resident or \$50.00, whichever is greater, for each day a violation remains uncorrected if the rule or provision violated was adopted primarily for the administrative purposes of the licensing agency;
  - (2) Up to \$8.00 per resident or \$80.00, whichever is greater, for each day a violation remains uncorrected if the rule or provision violated was adopted primarily to protect the welfare or the rights of residents;
  - (3) Up to \$10.00 per resident or \$100.00, whichever is greater, for each day a violation remains uncorrected if the rule or provision violated was adopted primarily to protect the health or safety of residents.
  - (4) For purposes of imposing administrative penalties under this subsection, a violation shall be deemed to have first occurred as of the date of the notice of violation.
- (b) Suspension, revocation, modification or refusal to renew a license upon any of the following grounds:
  - (1) Violation by the licensee of any of the provisions of the law or regulations;
  - (2) Conviction of a crime for conduct which demonstrates that the licensee, manager, or principal owner is unfit to operate a home;
  - (3) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Vermont in the maintenance and operation of the premises for which a license is issued;
  - (4) Financial incapacity of the licensee to provide adequate care and services;  
or
  - (5) Failure to comply with a final decision or action of the licensing agency.
- (c) Suspension of admissions to a home, or transfer of residents from a home to an alternative placement, for a violation which may directly impair the health, safety or rights of residents, or for operating without a license. Residents subject to transfer shall have the procedural rights provided in Section 6.14.
- (d) The licensing agency, the attorney general, or a resident may bring an action for injunctive relief against a home in accordance with the Rules of Civil Procedure to enjoin any act or omission which constitutes a violation of the law or regulation.



- (e) The licensing agency, the attorney general, or a resident may bring an action in accordance with the Rules of Civil Procedure for appointment of a receiver for a home, if there are grounds to support suspension, revocation, modification or refusal to renew the home's license and alternative placements for the residents are not readily available.
- (f) The licensing agency may enforce a final order by filing a civil action in the superior court in the county in which the home is located, or in Washington Superior Court.
- (g) The remedies provided for violations of the law or regulations are cumulative.

#### **4.17 Identification of Unlicensed Homes**

With regard to Homes for the Terminally Ill operating without a license, but required by law to be licensed, the following regulations shall apply:

- (a) No physician, surgeon, osteopath, chiropractor, physician's assistant (licensed, certified or registered under the provisions of Title 26), resident physician, intern, hospital administrator in any hospital in this state, registered nurse, licensed practical nurse, medical examiner, psychologist, mental health professional, social worker, probation officer, police officer, nursing home administrator or employee, or owner, manager, or employee of a home shall knowingly place, refer or recommend placement of a person to such a home if that home is operating without a license.
- (b) Any individual listed in 4.17.a who is licensed, certified or employed by the State of Vermont or a municipality and who knows or has reason to believe that a home is operating without the license required under this chapter shall report the home and the address of the home to the licensing agency.
- (c) Violation of the above sections shall result in a penalty of not more than \$500 and/or imprisonment not more than six months pursuant to 33 V.S.A. §7116.
- (d) The licensing agency shall investigate any report filed by an individual listed above. The licensing agency shall investigate any report unless it reasonably believes that the complaint is without merit.

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

### **5.1 Eligibility**

- (a) The licensee may admit any individual who has been diagnosed with a terminal illness and an estimated life expectancy of 6 – 12 months as certified by the attending physician.
- (b) The licensee may also admit individuals with terminal conditions for respite care.

### **5.2 Admission**

- (a) Prior to or at the time of admission, each resident, and the resident's legal representative, if any, shall be provided with a written admission agreement which describes the daily, weekly, or monthly rate to be charged, a description of the services that are covered in the rate, and all other applicable financial issues, including an explanation of the home's policy regarding discharge or transfer when a resident's financial status changes. This admission agreement shall specify at a minimum how the following services shall be provided, and what additional charges there shall be, if any: all personal care services; nursing services; medication management; laundry; transportation; toiletries; and any additional services provided. If applicable, the agreement must specify the amount and purpose of any deposit. This agreement must also specify the resident's transfer and discharge rights, including provisions for refunds.
- (b) On admission, the home must determine if the resident has any form of advance directive and explain the resident's right to formulate, or not to formulate, an advance directive.
- (c) Any change of rate or services shall be preceded by a thirty (30) day written notice to the resident and the resident's legal representative, if any.
- (d) On admission each resident shall be accompanied by a physician's statement, which shall include a diagnosis and a statement that the person is terminally ill.

### **5.3 Discharge and Transfer Requirements**

- (a) Involuntary Discharge or Transfer of Residents
  - (1) An involuntary discharge of a resident is the removal of the resident from a home when the resident or the resident's legal representative has not requested or consented in advance to the removal. A transfer is the removal of the resident from the room the resident currently occupies to another room in the home or to another facility with an anticipated return to the home. An involuntary discharge or transfer may occur only when:
    - i. The home is unable to meet the resident's assessed needs; or
    - ii. The resident presents a threat to the resident's self or the welfare of other residents or staff; or
    - iii. The discharge or transfer is ordered by a court; or
    - iv. The resident has failed to pay monthly charges for room, board and care in accordance with the admission agreement.

- (2) In the case of an involuntary discharge or transfer, the manager shall:-
- i. Notify the resident, and if known, a family member and/or legal representative of the resident, of the discharge or transfer and the specific reasons for the move in writing and in a language and manner the resident understands at least 72 hours before a transfer within the home and thirty (30) days before discharge from the home.
  - ii. Use the form required by the licensing agency for giving written notice of discharge or transfer and include a statement in large print that the resident has the right to appeal the home's decision to transfer or discharge with the appropriate information regarding how to do so.
  - iii. Include a statement in the written notice that the resident may remain in the room or home during the appeal.
  - iv. Place a copy of the notice in the resident's clinical record.
- (3) A resident has the right to appeal the decision by the home to discharge or transfer. The process for appeal is as follows:
- i. To appeal the decision to transfer or discharge, the resident must notify the administrator of the home or the director of the licensing agency. Upon receipt of an appeal, the administrator must immediately notify the director of the licensing agency.
  - ii. The request to appeal the decision may be oral or written and must be made within 10 business days of the receipt of the notice by the resident.
  - iii. Both the home and the resident shall provide all the materials deemed relevant to the decision to transfer or discharge to the director of the licensing agency as soon as the notice of appeal is filed. The resident may submit orally if unable to submit in writing. Copies of all materials submitted to the licensing agency shall be available to the resident upon request.
  - iv. The director of the licensing agency shall render a decision within eight business days of receipt of the notice of appeal.
  - v. The notice of decision from the director shall be sent to the resident and to the home, shall state that the decision may be appealed to the Human Services Board, and shall include information on how to do so.
  - vi. The resident or the home shall have 10 business days to file a written request for an appeal with the Human Services Board.

(b) Emergency Discharge or Transfer of Residents

- (1) An emergency discharge or transfer may be made with less than the required notice under the following circumstances:
- i. The resident's attending physician documents in the resident's record that the discharge or transfer is an emergency measure necessary for the health and safety of the resident or other residents; or
  - ii. A natural disaster or emergency necessitates the evacuation of residents from the home; or

- iii. The resident presents an immediate threat to the health or safety of self or others. In that case, the licensee shall request permission from the licensing agency to discharge or transfer the resident immediately. Permission from the licensing agency is not necessary when the immediate threat requires intervention of the police, mental health crisis personnel, or emergency medical services personnel who render the professional judgment that discharge or transfer must occur immediately. In such cases, the licensing agency shall be notified on the next business day; or
  - iv. When ordered or permitted by a court.
- (c) If the resident agrees to a discharge or transfer, the discharge or transfer may occur prior to the effective date of notice.
  - (d) A home must provide sufficient preparation and orientation to residents to ensure a safe and orderly transfer or discharge from the home.
  - (e) A home is responsible for any charges associated with disconnecting, relocating or reconnecting telephones, cable television, air-conditioning or other similar costs resulting from a home's decision to transfer the resident.
  - (f) A licensee who intends to discontinue all or part of the operation, or to change the admission or retention policy, ownership, or location of the home in such a way as to necessitate the discharge or transfer of residents, shall notify the licensing agency and residents at least ninety (90) days prior to the proposed date of change. The licensee is responsible for ensuring that all residents are discharged or transferred in a safe and orderly manner. When such change in status does not necessitate the discharge or transfer of residents, the licensee shall give the residents at least thirty (30) days prior written notice.
  - (g) The home may include language in its admission agreement requiring residents to provide thirty (30) days notice when the resident intends to voluntarily leave the home.

#### **5.4 Refunds**

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

## **5.5 General Care**

- (a) Upon a resident's admission to a Home for the Terminally Ill, necessary interdisciplinary services shall be provided or arranged to meet the resident's personal, psychosocial, nursing and medical care needs.
- (b) Staff shall provide care that respects each resident's dignity and each resident's accomplishments and abilities. Residents shall be encouraged to participate in their own activities of daily living. Families shall be encouraged to participate in care and care planning according to their ability and interest and with the permission of the resident.
- (c) Each resident's medication, treatment, and dietary services shall be consistent with the physician's orders and developed with an interdisciplinary approach to care.
- (d) Each resident admitted to the home for hospice care shall have care fully coordinated by the local Medicare/Medicaid certified hospice or home health agency.

## **5.6 Assessment**

- (a) An assessment shall be completed for each resident within 24 hours of admission, consistent with the physician's diagnosis and orders, using an assessment instrument approved by the licensing agency. The resident's abilities regarding medication management shall be assessed within 24 hours and nursing delegation implemented, if necessary.
- (b) Each resident shall be reassessed every 2 weeks and at any point in which there is a change in the resident's physical or mental condition.

## **5.7 Physician Services**

- (a) All respite residents shall be under the continuous general supervision of a physician of their choosing and should receive assistance if needed on scheduling medical appointments.
- (b) Any refusal of medical care and the reasons for the refusal must be documented in the resident's record. If the resident has an attending physician, the physician shall be notified.
- (c) All physicians' orders obtained via telephone shall be countersigned by the physician/licensed practitioner within 15 days of the date the order was given.-

## **5.8 Nursing Services**

- (a) Residents who are admitted to a Home for the Terminally Ill shall have nursing services provided by a Medicare certified hospice program or home health agency or have an alternative arrangement which otherwise meets the hospice philosophy and is approved by the licensing agency in consultation with the Hospice and Palliative Care Council of Vermont.

- (b) The use of ventilators or respirators are not permitted in a Home for the Terminally Ill except under a variance granted by the licensing agency.
- (c) For each resident the Registered Nurse shall:
  - (1) Complete an assessment of the resident in accordance with section 5.6;
  - (2) Coordinate the development of an interdisciplinary written plan of care;
  - (3) Assure that medical orders are implemented;
  - (4) Provide instruction and supervision to all direct care personnel regarding each resident's health care and nutritional needs and delegate nursing tasks as appropriate;
  - (5) Maintain a current list for review by staff and physician of all residents' medications. The list shall include: resident's name; medications; date medication ordered; dosage and frequency of administration; and likely side effects to monitor;
  - (6) Assure that residents' medications are reviewed periodically and that all resident medications have either a supporting medical diagnosis or problem;
  - (7) Maintain a current list of all treatments for each resident that shall include: the name, date treatment ordered, frequency prescribed and documentation to reflect that treatment was carried out;
  - (8) Assure that symptoms or signs of illness or accident are recorded at the time of occurrence, along with action taken;
  - (9) Ensure that the resident's record documents any changes in a resident's condition;
  - (10) Review all therapeutic diets and food allergies with home employees as needed to assure nutritional standards and resident preferences are met. Consult with dietician as indicated by assessment and resident needs.
  - (11) Assume responsibility for staff performance in the administration of or assistance with resident medication in accordance with the home's policies.

## **5.9 Medication Management-**

- (a) Each Home for the Terminally Ill must have written policies and procedures describing the home's medication management practices. Residents must be fully informed of the home's policy prior to admission. The policies must cover at least the following:
  - (1) Homes for the Terminally Ill must provide medication management under the supervision of a registered nurse;

- (2) Who provides the professional nursing delegation if the home administers medications to residents unable to self-administer and how the process of delegation is to be carried out in the home;
  - (3) Qualifications of the staff who shall be managing medications or administering medications and the home's process for nursing supervision of the staff;
  - (4) How medications shall be obtained for residents including choices of pharmacies;
  - (5) Procedures for documentation of medication administration;
  - (6) Procedures for disposing of outdated or unused medication, including designation of a person or persons with responsibility for disposal;
  - (7) Procedures to account for narcotics; and
  - (8) Procedures for monitoring side effects of psychoactive medications.
- (b) The manager of the home is responsible for ensuring that all medications are handled according to the home's policies and that designated staff are fully trained in the policies and procedures.
- (c) Staff shall not assist with or administer any medication, prescription or over-the-counter medications for which there is not a physician's order and supporting diagnosis or problem statement in the resident's record.
- (d) If a resident requires medication administration, unlicensed staff may administer medications under the following conditions:
- (1) A registered nurse must conduct an assessment consistent with the physician's diagnosis and orders of the resident's care needs as required in section 5.7.c.
  - (2) A registered nurse must delegate the responsibility for the administration of specific medications to designated staff for designated residents.
  - (3) The registered nurse must accept responsibility for the proper administration of medications, and is responsible for:
    - i. Teaching designated staff proper techniques for medication administration and providing appropriate information about the resident's condition, relevant medications, and potential side effects;
    - ii. Establishing a process for routine communication with designated staff about the resident's condition and the effect of medications, as well as changes in medications;
    - iii. Assessing the resident's condition and the need for any changes in medications; and
    - iv. Monitoring and evaluating the designated staff performance in carrying out the nurse's instructions.

- (4) All medications must be administered by the person who prepared the doses unless the registered nurse responsible for delegation approves of an alternative method of preparation and administration of the medications.
  - (5) Staff other than a nurse may administer PRN psychoactive medications only when the home has a written plan for the use of the PRN medication which: describes the specific behaviors the medication is intended to correct or address; specifies the circumstances that indicate the use of the medication; educates the staff about what desired effects or undesired side effects the staff must monitor for; and documents the time of, reason for and specific results of the medication use.
  - (6) Insulin. Staff other than a nurse may administer insulin injections only when:
    - i. The designated staff to administer insulin to the resident have received additional training in the administration of insulin and use of glucometer, including return demonstration, evidence of competency determination is documented and kept on file and the registered nurse has deemed them competent and documented that assessment; and
    - ii. The registered nurse monitors the resident's condition regularly and is available when changes in condition or medication might occur.
- (e) Staff responsible for assisting residents with medications must receive training from the registered nurse in the following areas before assisting with any medications:
- (1) The basis for determining "assistance" versus "administration".
  - (2) The resident's right to direct the resident's own care, including the right to refuse medications.
  - (3) Proper techniques for assisting with medications, including hand washing and checking the medication for the right resident, medication, dose, time, route.
  - (4) Signs, symptoms and likely side effects to be aware of for any medication a resident receives.
  - (5) Pain assessment and management.
  - (6) The home's policies and procedures for assistance with medications.
- (f) Residents who are capable of self-administration have the right to purchase and self administer over-the-counter medications. However, the home must make every reasonable effort to be aware of such medications in order to monitor for and educate the residents about possible adverse reactions or interactions with other medications without violating the resident's rights to direct the resident's own care. If a resident's over-the-counter medications use poses a significant threat to the resident's health, staff must notify the physician.



- (g) Homes must establish procedures for documentation sufficient to indicate to the physician, registered nurse, certified manager or representatives of the licensing agency that the medication regimen as ordered is appropriate and effective. At a minimum, this shall include:
  - (1) Documentation that medications were administered as ordered;
  - (2) All instances of refusal of medications, including the reason why and the actions taken by the home;
  - (3) All PRN medications administered, including the date, time, reason for giving the medication, and the effect;
  - (4) A current list of who is administering medications to residents, including staff to whom a registered nurse has delegated administration; and
  - (5) For residents receiving psychoactive medications, a record of monitoring for side effects.
  - (6) All incidents of medication errors.
  
- (h) All medicines and chemicals used in the home must be labeled in accordance with currently accepted professional standards of practice. Medication shall be used only for the resident identified on the pharmacy label.-
  - (1) Resident medications that the home manages must be stored in locked compartments under proper temperature controls. Only authorized personnel shall have access to the keys.
  - (2) Medications requiring refrigeration shall be stored in a separate, locked container separate from food storage.
  - (3) Residents who are capable of self-administration may choose to store their own medications provided that the home is able to provide the resident with a secure storage space to prevent unauthorized access to the resident's medications. Whether or not the home is able to provide such a secured space must be explained to the resident on or before admission.
  - (4) Medications left after the death or discharge of a resident, or outdated medications, shall be disposed of promptly in accordance with the home's policy and applicable standards of practice.
  - (5) Controlled substances must be kept in a locked cabinet and must be accounted for on a daily basis. The accounting shall be documented.
  - (6) Controlled substances shall be disposed of upon the resident's death and documented in resident's record.

## 5.10 Staff Services

- (a) There shall be sufficient number of qualified personnel available at all times to provide necessary care, to maintain a safe and healthy environment, and to assure prompt, appropriate action in cases of injury, illness, fire or other emergencies.
- (b) The home must ensure that staff demonstrate competency in the skills and techniques they are expected to perform before providing any direct care to residents. There shall be at least twelve (12) hours of training each year for each staff person providing direct care to residents. The training must include, but is not limited to, the following:
  - (1) Resident rights;
  - (2) Fire safety and emergency evacuation;
  - (3) Resident emergency response procedures, such as the Heimlich maneuver, accidents, police or ambulance contact, CPR and first aid;
  - (4) Policies and procedures regarding mandatory reports of abuse, neglect and exploitation;
  - (5) Respectful and effective interaction with residents;
  - (6) Infection control measures, including, but not limited to, hand washing, handling of linens, maintaining clean environments, blood borne pathogens and universal precautions; and
  - (7) General supervision and care of residents.
  - (8) Orientation and continuing education programs in hospice philosophy and care.
  - (9) Grief and bereavement.
- (c) All training to meet the requirements of 5.11.b shall be documented. Training in direct care skills by a home's nurse may meet this requirement, provided the content and amount of training are documented.
- (d) The licensee shall not have on staff a person who has had a charge of abuse, neglect or exploitation substantiated against him or her, as defined in 33 V.S.A. Chapter 69, or one who has been convicted of an offense for actions related to bodily injury, theft or misuse of funds or property, or other crimes inimical to the public welfare, in any jurisdiction whether within or outside of the State of Vermont. This provision shall apply to the manager of the home as well, regardless of whether the manager is the licensee or not.
- (e) Staff persons shall not perform any duties when their judgment or physical ability is impaired to the extent that they cannot perform duties adequately or be held accountable for their duties.

- (f) At all times, the home must maintain adequate staffing to meet the needs of residents. Home must flex staffing as residents' needs change.
- (g) (g) There shall be at least two (2) staff members on duty at all times. There shall be at least one (1) responsible staff member awake at all times. There shall be a record of the staff on duty, including names, titles, dates and hours on duty.
- (h) The licensing agency may require a home to have specified staffing levels in order to meet the needs of residents.

### **5.11 Records/Reports**

- (a) The licensee shall be responsible for maintaining, filing and submitting all records required by the licensing agency. Such records shall be kept current and available for review at any time by authorized representatives of the licensing agency.
- (b) The following records shall be maintained and kept on file:
  - (1) A resident register including all admissions, discharges, and transfers out of the home.
  - (2) A record for each resident which includes: resident's name; emergency notification numbers; name, address and telephone number of any legal representative or, if there is none, the next of kin; physician's name, address and telephone number; instructions in case of resident's death; the resident's assessment(s); progress notes regarding any accident or incident and subsequent follow-up; list of allergies; a signed admission agreement, a copy of the resident's advance directives, if any; and a copy of the document giving legal authority to another, if any.
  - (3) The results of the criminal record and adult abuse registry checks for all staff.
- (c) A home must file the following reports with the licensing agency:
  - (1) When a fire occurs in the home, regardless of size or damage, the licensing agency and the Department of Labor and Industry must be notified within twenty-four (24) hours. A written report must be submitted to both departments within seventy-two (72) hours. A copy of the report also shall be kept on file in the home.
  - (2) A written report of any accident or illness shall be placed in the resident's record. Any untimely deaths shall be reported to the licensing agency within 24 hours and a record kept on file in the home.
  - (3) A report of any unexplained absence of a resident from a home for more than 12 hours shall be reported to the police, legal representative and family, if any. The incident shall be reported to the licensing agency within twenty-four (24) hours of disappearance followed by a written report within seventy-two (72) hours, a copy of which shall be maintained.

- (4) A written report of any breakdown or cessation to the home's physical plant's major services (plumbing, heat, water supply, etc.) or supplied service, which disrupts the normal course of operation. The licensee shall notify the licensing agency immediately whenever such an incident occurs. A copy of the report shall be sent to the licensing agency within seventy-two (72) hours.
  - (5) A written report of any reports or incidents of abuse, neglect or exploitation reported to the licensing agency.
  - (6) A written report of resident injury or death following the use of mechanical or chemical restraint.
- (d) Reports and records shall be filed and stored in an orderly manner so that they are readily available for reference. Resident records shall be kept on file at least seven (7) years after the date of either the discharge or death of the resident.

### **5.12 First Aid Equipment and Supplies**

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

### **5.13 Restraints**

- (a) Mechanical restraints may be used only in an emergency to prevent injury to a resident or others and shall not be used as an on-going form of treatment. The use of a mechanical restraint shall constitute nursing care.
- (b) When a temporary mechanical restraint is applied by the staff, a physician must be consulted immediately and written approval for continuation of the restraint obtained. The written order, signed by the physician, should contain the resident's name, date, time of order, and reason for restraint, means of restriction, and period of time the resident is to be restrained. A record shall be kept of every time the restraint is applied and removed during the day and night. Restraints must be removed at least every two (2) hours when in use so as to permit personal care to be given. A resident in a restraint shall be under continuous supervision by the staff of the home.
- (c) A resident shall not be secluded in any room by locking or fastening a solid door from the outside. Half doors or gates may be employed only with the prior approval of both the physician and the licensing agency.
- (d) The home shall notify the licensing agency and the resident representative within 24 hours when a restraint is used, and within 72 hours must complete a reassessment of the resident to determine if the resident's needs can be met within the residential care setting. The reassessment shall include consultation with the physician and the resident or the resident's representative.

- (e) Residents shall have a right to be free from chemical restraints and unnecessary mechanical restraints. Residents shall be notified at the time a restraint is applied of their right to challenge the use of the restraint. A resident has the right to meet with and discuss the challenge with the following individuals:
  - (1) The home manager; and/or
  - (2) The licensing agency;
- (f) In the event that a resident does challenge the use of a restraint, the home operator shall inform the licensing agency at the time the challenge is raised.
- (g) A home may not install a door security system which prevents residents from readily exiting the building without prior approval of the Department of Labor and Industry and the licensing agency.

#### **5.14 Policies and Procedures**

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

#### **5.15 Transportation**

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

#### **5.16 Death of a Resident**

- (a) In those deaths in which the law applies (such as an unexpected, untimely death), pursuant to 18 V.S.A. §5205 (a), the manager shall be responsible for immediately notifying the regional medical examiner.
- (b) In those deaths in which the medical examiner need not be notified, the manager shall:
  - (1) Follow the prearranged written instructions of the deceased, and contact the hospice nurse.
  - (2) In instances where the services of an undertaker are not immediately available, and the resident occupied a multi-bed room, the manager shall arrange for the immediate removal of the body of the deceased resident to a separate unoccupied room.
  - (3) Remove a deceased resident's body from the Home for the Terminally III within 12 hours.

- (c) When a resident dies unexpectedly, the licensee shall notify the Medical Examiner and the licensing agency. Within 72 hours of the resident's death, the licensee shall submit a report to the licensing agency with the following information.
  - (1) Name of resident;
  - (2) Circumstances of the death;
  - (3) Circumstances of any recent incidents, injuries or falls; and
  - (4) A list of all medications and treatments received by the resident during the two (2) weeks prior to the death.

### **5.17 Reporting of Abuse, Neglect or Exploitation**

- (a) The licensee and staff shall report any case of suspected abuse, neglect or exploitation to Adult Protective Services (APS) as required by 33 V.S.A. §6903. APS may be contacted by calling toll-free 1-800-564-1612. Reports must be made to APS within 48 hours of learning of the suspected, reported or alleged incident.
- (b) The licensee and staff individually are required to report suspected or reported incidents of abuse, neglect or exploitation. It is not the licensee's or staff's responsibility to determine if the alleged incident did occur or not; that is the responsibility of the licensing agency. A home may, and should, conduct its own investigation. However, that must not delay reporting of the alleged or suspected incident to Adult Protective Services.
- (c) Incidents involving resident-to-resident abuse must be reported to the licensing agency if a resident alleges abuse, sexual abuse, or if an injury requiring physician intervention results, or if there is a pattern of abusive behavior. All resident-to-resident incidents, even minor ones, must be recorded in the resident's record. Families or legal representatives must be notified and a plan must be developed to address the behaviors.

## **VI. Residents' Rights**

- 6.1** Every resident shall be treated with consideration, respect and full recognition of the resident's dignity, individuality, and privacy. A home may not ask a resident to waive the resident's rights.
- 6.2** Each home shall establish and adhere to a written policy, consistent with these regulations, regarding the rights and responsibilities of residents, which shall be explained to residents at the time of admission.
- 6.3** Residents may retain personal clothing and possessions as space permits, unless to do so would infringe on the rights of others or would create a fire or safety hazard.
- 6.4** A resident shall not be required to perform work for the licensee. If a resident chooses to perform specific tasks for the licensee the resident shall receive reasonable compensation which shall be specified in a written agreement with the resident.
- 6.5** Each resident shall be allowed to associate, communicate and meet privately with persons of their choice. Homes shall allow visitors; however, in deference to other residents, the number of visitors staying through the night may be limited.
- 6.6** Each resident may send and receive personal mail unopened.
- 6.7** Residents have the right to reasonable access to a telephone for private conversations. Residents shall have reasonable access to the home's telephone except when restricted because of excessive unpaid toll charges or misuse. Restrictions as to telephone use shall be in writing. Any resident may, at the resident's own expense, maintain a personal telephone in his or her own room.
- 6.8** A resident may complain or voice a grievance without interference, coercion or reprisal. Each home shall establish a written grievance procedure for resolving residents' concerns or complaints that is explained to residents at the time of admission. The grievance procedure shall include, at a minimum, time frames and a process for responding to residents in writing.
- 6.9** Residents may manage their own personal finances. The home or licensee shall not manage a resident's finances unless requested in writing by the resident and then in accordance with the resident's wishes. The home or licensee shall keep a record of all transactions and make the record available, upon request, to the resident or legal representative, and shall provide the resident with an accounting of all transactions at least quarterly. Resident funds must be kept separate from other accounts or funds of the home.
- 6.10** The resident's right to privacy extends to all records and personal information. Personal information about a resident shall not be discussed with anyone not directly involved in the resident's care. Release of any record, excerpts from or information contained in such records shall be subject to the resident's written approval, except as requested by representatives of the licensing agency to carry out its responsibilities or as otherwise provided by law.

- 6.11** The resident has the right to review his or her medical or financial records upon request.
- 6.12** Residents shall be free from mental, verbal or physical abuse, neglect, and exploitation. Residents shall also be free from restraints as described in Section 5.13.
- 6.13** When a resident is adjudicated mentally disabled, such powers as have been delegated by the Probate or Family Court to the resident's guardian shall devolve to the guardian pursuant to applicable law.
- 6.14** Residents subject to transfer or discharge from the home under Section 5.3 of these regulations shall:
- (a) Be allowed to participate in the decision-making process of the home concerning the selection of an alternative placement;
  - (b) Receive adequate notice of a pending transfer; and
  - (c) Be allowed to contest their transfer or discharge by filing a request for a fair hearing before the Human Services Board in accordance with the procedures in 3 V.S.A. §3091.
- 6.15** Residents have the right to refuse care to the extent allowed by law. This includes the right to discharge himself or herself from the home. The home must fully inform the resident of the consequences of refusing care. If the resident makes a fully informed decision to refuse care, the home must respect that decision and is absolved of further responsibility. If the refusal of care shall result in a resident's needs increasing beyond what the home is licensed to provide, or shall result in the home being in violation of these regulations, the home may issue the resident a thirty (30) day notice of discharge in accordance with section 5.3.a of these regulations.
- 6.16** Residents have the right to formulate advance directives as provided by state law and to have the home follow the residents' wishes.
- 6.17** The enumeration of residents' rights shall not be construed to limit, modify, abridge or reduce in any way any rights that a resident otherwise enjoys as a human being or citizen. A summary of the obligations of the home to its residents shall be written in clear language, large print, given to residents on admission, and posted conspicuously in a public place in the home. Such notice shall also summarize the home's grievance procedure.



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

### **7.1 Meal Patterns**

- (a) Residents shall be offered a balanced nutritional diet based on what the resident will accept.
- (b) The home shall keep a record of foods served for the previous month.
- (c) There shall be a written physician's order in the resident's record for all therapeutic diets.
- (d) The home shall maintain sufficient food supplies at hand on the premises to meet the needs of each resident.

### **7.2 Food, Safety and Sanitation**

- (a) Each home shall procure food only from sources that comply with all laws relating to food and food labeling. Food must be safe for human consumption, free of spoilage, filth or other contamination. All milk products served and used in food preparation must be pasteurized. Cans with dents, swelling or leaks shall be rejected and kept separate until returned to the supplier.
- (b) All perishable food and drink shall be labeled, dated and held at proper temperatures, as follows:
  - (1) At or below 40 degrees Fahrenheit.
  - (2) At or above 140 degrees Fahrenheit when served or heated prior to service.
- (c) All work surfaces shall be cleaned and sanitized after each use. Equipment and utensils are cleaned and sanitized after each use and stored properly.
- (d) The home shall assure that food handling and storage techniques are consistent with safe food handling practices.
- (e) The use of outdated, unlabeled or damaged canned goods is prohibited and such goods shall not be maintained on the premises.

### **7.3 Food Storage and Equipment**

- (a) All food and drink shall be stored so as to protect from dust, insects, rodents, overhead leakage, unnecessary handling and all other sources of contamination.
- (b) Areas of the home used for storage of food, drink, equipment or utensils shall be constructed to be easily cleaned and shall be kept clean.
- (c) All food service equipment shall be kept clean and maintained according to manufacturer's guidelines.

- (d) All equipment, utensils and dinnerware shall be in good repair. Cracked or badly chipped dishes and glassware shall not be used.-
- (e) Single service items, such as paper cups, plates and straws, shall be used only once. They shall be purchased and stored in sanitary packages or containers in a clean dry place and handled in a sanitary manner.
- (f) Food service areas shall not be used to empty bed pans or urinals, or as access to toilet and utility rooms. If soiled linen is transported through food service areas, the linen must be in an impervious container.
- (g) Doors, windows and other openings to the outdoors shall be screened against insects, as required by seasonal conditions.
- (h) All garbage shall be collected and stored to prevent the transmission of contagious diseases, creation of a nuisance, or the breeding of insects and rodents, and shall be disposed of at least weekly. Garbage or trash in the kitchen area must be placed in lined containers with covers.
- (i) Poisonous compounds (such as cleaning products and insecticides) shall be labeled for easy identification and shall not be stored in the food storage area unless they are stored in a separate, locked compartment within the food storage area.

## VIII. Laundry Services

- 8.1** The home shall launder bed and bath linens used by the residents. The home shall launder and return the residents' personal clothing in order for residents to be clean, well-groomed and comfortable.
- (a) The home shall make provisions for residents who choose to launder their own personal clothing.
  - (b) Clean and soiled laundry shall be separated at all times.
  - (c) All soiled laundry shall be stored and transported in a closed impervious container.
  - (d) Each resident's personal laundry shall be identified by a distinctive marking or other method and shall be returned to the resident after laundering.
  - (e) Laundering shall be done so that laundered items are clean and in good condition. Personal items damaged or lost by the home shall be replaced by the home.

## IX. Physical Plant

### 9.1 Environment-

- (a) The home must provide and maintain a safe, functional, sanitary, homelike and comfortable environment.
- (b) All homes shall comply with all current applicable state and local rules, regulations, codes and ordinances. Where there is a difference between codes, the code with the higher standard shall apply.

### 9.2 Residents' Rooms

- (a) Each bedroom shall have at least 100 square feet of useable floor space in single rooms and at least 80 square feet per bed in double-bed rooms, exclusive of toilets, closets, lockers, wardrobes, alcoves or vestibules.
- (b) Rooms shall be of dimensions that allow for the potential of not less than three (3) feet between beds and three feet between the bed and the side wall to facilitate cleaning and easy access.
- (c) Each bedroom shall have an outside window.
  - (1) Windows shall be openable and screened except in construction containing approved mechanical air circulation and ventilation equipment.
  - (2) Window shades, venetian blinds or curtains shall be provided to control natural light and offer privacy.
- (d) The door opening of each bedroom shall be fitted with a full-size door of solid core construction.
- (e) Resident bedrooms shall be used only as the personal sleeping and living quarters of the residents assigned to them.
- (f) A resident shall not have to pass through another bedroom or bathroom to reach the resident's own bedroom.
- (g) Each resident shall be provided the resident's own bed that shall be a standard-size full or twin bed. Roll away beds, cots and folding beds shall not be used.
- (h) Each bed shall be in good repair, with a clean, comfortable mattress that is at least 6 inches thick and standard in size for the particular bed, a pillow, bedspread, and a minimum of one (1) blanket, two (2) sheets, and one (1) pillowcase.
- (i) Each resident shall be provided with adequate closet and drawer space to accommodate clothing and personal needs.

### **9.3 Toilet, Bathing and Lavatory Facilities**

- (a) Toilet, lavatories and bathing areas shall be equipped with grab bars for the safety of the residents. There shall be at least one (1) full bathroom that meets the requirements of the Americans with Disabilities Act of 1990 and state building accessibility requirements as enforced by the Department of Labor and Industry.
- (b) There shall be a minimum of one (1) bath unit, toilet and lavatory sink exclusively available to residents per eight (8) licensed beds per floor. Licensed beds having private lavatory facilities are not included in this ratio.
- (c) Each lavatory sink shall be at least of standard size and shall be equipped with hot and cold running water, soap, and, if used by multiple residents, paper towels.
- (d) Each bathtub and shower shall be constructed and enclosed so as to ensure adequate space and privacy while in use.
- (e) Resident lavatories and toilets shall not be used as utility rooms.

### **9.4 Recreation and Dining Rooms**

- (a) All homes shall provide at least one (1) well-lighted and ventilated living or recreational room and dining room for the use of residents. Combination dining and recreational rooms are acceptable but must be large enough to serve a dual function.
- (b) Dining rooms shall be of sufficient size to seat and serve all residents of the home at the same time.
- (c) Smoking shall be permitted only in designated areas and the home must ensure that residents who object to smoke have smoke-free dining and recreation spaces.

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

- (a) Each home shall be accessible to and functional for residents, personnel and members of the public with physical disabilities in compliance with the Americans with Disabilities Act.
- (b) Blind or physically disabled residents shall not be housed above the first floor unless the home is in compliance with all applicable codes, regulations and laws as required by the Department of Labor and Industry.

### **9.6 Plumbing**

- (a) All plumbing shall operate in such a manner as to prevent back-siphonage and cross-connections between potable and nonpotable water. All plumbing fixtures and any part of the water distribution or sewage disposal system shall operate properly and be maintained in good repair.
- (b) Plumbing and drainage for the disposal of sewage, infectious discharge, household and institutional wastes shall comply with all State and Federal regulations.
- (c) All plumbing fixtures shall be clean and free from cracks, breaks and leaks.
- (d) Hot water temperatures shall not exceed 120 degrees Fahrenheit in resident areas.

## **9.7 Water Supply**

- (a) Each home shall be connected to an approved public water supply when available and where said supply is in compliance with the Department of Health's public water system regulations.
- (b) If a home uses a private water supply, said supply shall conform to the construction, operation and sanitation standards published by the Department of Health. Private water supplies shall be tested annually for contamination, and copies of results shall be kept on premises.
- (c) Water shall be distributed to conveniently located taps and fixtures throughout the building and shall be adequate in temperature, volume and pressure for all purposes, including fire fighting if there is a residential sprinkler system.

## **9.8 Heating**

- (a) Each home shall be equipped with a heating system which is of sufficient size and capability to maintain all areas of the home used by residents and which complies with applicable fire and safety regulations.
- (b) The minimum temperature shall be maintained at an ambient temperature of 70 degrees Fahrenheit in all areas of the home utilized by residents and staff during all weather conditions.

## **9.9 Ventilation**

- (a) Homes shall be adequately ventilated to provide fresh air and shall be kept free from smoke and objectionable odors.
- (b) Kitchens, laundries, toilet rooms, bathrooms, and utility rooms shall be ventilated to the outside by window or by ventilating duct and fan of sufficient size.

## **9.10 Life Safety/Building Construction**

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

## **9.11 Disaster and Emergency Preparedness**

- (a) The licensee or manager of each home shall maintain a written disaster preparedness plan. The plan shall outline procedures to be followed in the event of any emergency potentially necessitating the evacuation of residents, including but not limited to: fire, flood, loss of heat or power, or threat to the home.
- (b) Each home shall have in effect, and available to staff and residents, written copies of a plan for the protection of all persons in the event of fire and for the evacuation of the building when necessary. All staff shall be instructed periodically and kept informed of their duties under the plan. Fire drills shall be conducted on at least a quarterly basis and shall rotate times of day among morning, afternoon, evening, and night. The date and time of each drill and the names of participating staff members shall be documented.
- (c) There shall be an operable telephone on each floor of the home, at all times. A list of emergency telephone numbers shall be posted by each telephone.

## **X. Pets**

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

- (a) The pet owner must provide evidence of current vaccinations.
- (b) The pet must be clean, properly groomed and healthy.
- (c) The pet owner is responsible for the pet's behavior and shall maintain control of the pet at all times.

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

- (a) The home shall ensure that the presence of a pet causes no discomfort to any resident.
- (b) The home shall ensure that pet behavior poses no risk to residents, staff or visitors.
- (c) The home must have procedures to ensure that pets are kept under control, fed, watered, exercised, kept clean and well-groomed, and that they are cleaned up after.
- (d) Pets must be free from disease including leukemia, heartworm, hepatitis, leptosporiasis, parvo, worms, fleas, ticks, ear mites, and skin disorders, and must be current at all times with rabies and distemper vaccinations.
- (e) Pet health records shall be maintained by the home and made available to the public.
- (f) The home shall maintain a separate area for feeding cats and dogs other than the kitchen or resident dining areas.

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

- 11.1** A resident's money and other valuables shall be in the control of the resident, except where there is a guardian, attorney in fact (power of attorney), or representative payee who requests otherwise. The home may manage the resident's finances only upon the written request of the resident. There shall be a written agreement stating the assistance requested, the terms of same, the funds or property and persons involved.
- 11.2** If the home manages the resident's finances, the home must keep a record of all transactions, provide the resident with a quarterly statement, and keep all resident funds separate from the home or licensee's funds.
- 11.3** The personal property of the resident shall be available for the resident's use and securely maintained when not in use.
- 11.4** No licensee, staff or other employee of the home may solicit, offer or receive a gift, including money or gratuities, from a resident. Nominal gifts, such as candy or flowers that can be enjoyed by all staff, are permissible.
- 11.5** When it becomes apparent that a resident is no longer capable of managing funds and/or property, the licensee shall contact the resident's legal representative if any, or the next of kin. If there is no legal representative or next of kin, the licensee shall contact the licensing agency.
- 11.6** When a resident is absent without explanation for a period of thirty-one (31) days and there is no responsible person to contact, the licensee shall hold the property for six (6) months. At the conclusion of this period, the property shall be transferred to the selectmen of the town.
- 11.7** Each home shall develop and implement a written policy regarding a resident's personal needs. The policy shall be explained to the resident upon admission, with a copy provided to the resident at that time.
- 11.8** The licensee, the licensee's relative or any staff member of the home shall not be the legal guardian, trustee or legal representative for any resident other than a relative. The licensee or any staff of the home is permitted to act as the resident's representative payee according to Social Security regulations provided the resident or the resident's legal representative agrees in writing to this arrangement and all other provisions of these regulations related to money management are met.