

Health, Department of

Aging Division

Chapter 13: Rules for Pilot Project - Adult Foster Care Homes

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**DEPARTMENT OF HEALTH
RULES FOR PILOT PROJECT – ADULT FOSTER CARE HOMES**

CHAPTER 13

Section 1. Authority.

This rule is being promulgated by the Department of Health pursuant to SEA 89, Chapter 219, enacted during the 2007 General Legislative session, to be codified at W.S. 42-6-105 and the Wyoming Administrative Procedures Act at W.S. 16-3-101, et seq.

Section 2. Purpose and Applicability.

These rules have been adopted to initiate and provide the process for licensure of no more than five (5) adult foster care home pilot projects.

Section 3. General Provision.

(a) The Wyoming Department of Health may issue materials to providers and/or other affected parties to interpret the provisions of this Chapter. Such materials shall be consistent with and reflect the rules and regulations contained with this Chapter. The provisions contained in the materials shall be subordinate to the provisions of this Chapter.

(b) The incorporation by reference of any external standard is intended to be the incorporation of that standard as it is in effect on the effective date of this Chapter.

(c) If any portion of these rules is found to be invalid or unenforceable, the remainder shall continue in full force and effect.

Section 4. Definitions.

The following definitions shall apply in the interpretation and enforcement of these rules. Where the context in which words are used in these rules indicates that such is the intent, words in the singular number shall include the plural and vice versa. Throughout these rules, gender pronouns are used interchangeably. The drafters have attempted to utilize each gender pronoun in equal numbers, in random distribution. Words in each gender shall include individuals of the other gender.

For the purpose of these rules, the following shall apply:

(a) “Adult” shall mean any person who is eighteen (18) years of age or older.

(b) “Adult Foster Home” shall mean a home where care is provided for up to five (5) adults who are not related to the provider by blood, marriage or adoption in need of long term care in a home like atmosphere. Resident clients in the home shall have private rooms

which may be shared with spouses and shall have individual handicapped accessible bathrooms. “Adult foster homes” does not include any residential facility otherwise licensed or funded by the state of Wyoming.

(c) “Aging Division” shall mean the Wyoming Department of Health, Aging Division.

(d) “Department” shall mean the Wyoming Department of Health.

(e) “License” shall mean the authority granted by the Office of Healthcare Licensing and Surveys to operate an adult foster home.

(f) “Licensee” shall mean any person or persons to whom an adult foster care home license is issued.

(g) “Licensing Division” shall mean the Wyoming Department of Health, Office of Healthcare Licensing and Surveys.

(h) “Resident client” shall mean a person eighteen (18) years of age or older, unrelated to the owner by blood, marriage or adoption, who resides and receives services in the adult foster care home.

(i) “Supervisory care” shall mean general supervision of resident clients with responsibility for awareness and assistance with resident client function and continuing needs. This type of care presupposes the ability to intervene or assist resident clients in the event of a crisis or an emergency, and assistance with self-administration of prescribed medications, per the Nurse Practice Act.

Section 5. Philosophy.

It is the philosophy of the Department to develop reasonable and enforceable rules with regard to the application for awarding a license to an adult foster care home pilot project to ensure the health, welfare and safety of resident clients in adult foster care homes.

Section 6. Application Requirements.

(a) An applicant for licensure as an adult foster care home must complete an application and provide verification of the following before it can be considered for a provisional license under this pilot project:

(b) It shall complete the appropriate application, available from the Licensing Division. In the event that a change of ownership occurs, the license will not be automatically transferred. The potential new owner must be approved under these requirements in order for the home to continue to function as an adult foster care home. If the new owner is not approved, or if the new owner is not interested in continuing to operate

the home as an adult foster care home, the current licensee must arrange for an orderly, safe transfer of each resident client, must notify the Licensing Division as to the transfer disposition of each resident client, and must deliver or mail the original license back to the Licensing Division.

(c) It shall submit with the application an evacuation plan outlining the proposed adult foster care home's plan to evacuate all resident clients within three (3) minutes in case of an emergency.

(d) It shall submit with the application a floor plan of the home for review and approval.

(e) It shall pay a one-time fee of one hundred dollars (\$100.00) to the Department.

(f) It shall successfully pass all required inspections of the proposed home by the Department, by a public health nurse, or by such other employee of the local department of health as is available, subject to the prior approval of the Department, as follows:

(i) It shall pass an inspection for construction requirements and Life Safety Code prior to admitting any resident clients. In addition, required policies and procedures will be submitted to the Licensing Division for approval prior to the admission of resident clients. Once these preliminary reviews are successfully completed, a provisional license will be issued, and resident clients may be admitted.

(ii) An initial inspection of care and quality of life will be unannounced, and will occur following the admission of clients, and annually thereafter.

(g) It shall be licensed pursuant to Chapter 1, Rules and Regulations for Health Care Facilities Licensure Fees.

(h) It shall attest that the adult foster care home will be the primary residence of the licensee.

Section 7. Priority of Applicants.

Because this pilot project may consist of no more than five (5) adult foster care homes, the following criteria shall be used to prioritize applications and applicants for licensure:

(a) The application and all application requirements found in Section 6 above have been met.

(b) No more than two (2) of the Adult Foster Homes in the pilot project can be in counties with a population base greater than 30,000, based on population data from the U.S. Census Bureau on the date the complete application is received.

(c) Complete applications will be reviewed and qualified in order of receipt by the Licensing Division.

Section 8. Licensure.

(a) A successful adult foster home applicant who is granted a provisional license shall follow all applicable existing Assisted Living Facility Rules and Regulations, excepting the following subsections:

(i) Program Administration of Assisted Living Facility Rules:

(A) Section 6. Personnel and Staffing Requirements.

(B) Section 7. Assisted Living Facility Core Services (the following sections only):

(I)(a)(vi) Maintenance of a personal fund account.

(II)(b)(i) Completion of the ALF 102.

(III)(e)(i)(E) An accounting of all personal funds.

(IV)(e)(i)(J) Copy of all ALF 102s.

(V)(j)(iii)(A) Food production management.

(VI)(j)(iv)(A) Menu planning.

(VII)(n) Furnishings, Building, Physical Plant.

(VIII)(o) Evacuation Capability, Emergency Procedures and Fire Safety.

(C) Section 9. Contractual Services Provided Outside Assisted Living Facility Authority (the following section only):

(I)(d) Long Term Care Home and Community Based Waiver.

(D) Section 10. Secure Dementia Units.

(ii) Rules and Regulations for Licensure of Assisted Living Facilities:

- (A) Section 6. Furnishings, Building, Physical Plant.
- (B) Section 7. Physical Environment.
- (C) Section 8. Mobile Homes.
- (D) Section 9. Construction, Remodeling.
- (E) Section 10. Life Safety and Electrical Safety.
- (F) Section 11. Licensing as an Assisted Living Facility.

(b) In addition to the applicable sections of the Assisted Living Facility Rules, an Adult Foster Care Home must meet the following requirements:

(i) Personnel and Staffing Requirements:

(A) The owner/manager shall be at least twenty-one (21) years of age and have responsibility for the day-to-day operation of the Adult Foster Home.

(B) The owner/manager shall be able to read, write, and speak English.

(C) The owner/manager shall have a land-line telephone with a listed phone number that shall be located in the Adult Foster Home.

(D) The owner/manager shall be familiar with and follow all applicable rules related to the operation of the Adult Foster Home, including the applicable rules for the Assisted Living Program Administration and Licensure.

(E) The owner/manager shall provide an acceptable plan of correction to the Licensing Division within ten (10) calendar days of the date when the statement of deficiencies is received by the assisted living facility.

(F) The owner/manager shall not act as, or become the legal guardian or conservator of, or have power of attorney for, any resident client of the facility.

(G) Any person providing supervisory care in the adult foster care home must be at least eighteen (18) years of age.

(H) The staffing levels shall be sufficient to meet the resident client needs.

(I) The Adult Foster Home shall not employ an individual as a nurse assistant, nor shall any resident of the home function as a nurse assistant, unless that person is currently certified by the Wyoming State Board of Nursing. Certification must be on file in the Adult Foster Home and available for inspection at any time.

(J) If the owner/manager is not an RN, the Adult Foster Home shall, at a minimum, contract with an RN, to ensure regular supervision of any nurse assistants, initial and periodic assessments of the resident clients, development of care plans, and medication management according to professional standards.

(K) Written policies shall be in effect to ensure employees and residents of the home (those who are not resident clients) or any potential employees do not expose resident clients to communicable diseases.

(L) Tuberculin testing/screening must be accomplished for each employee prior to any contact with resident clients and annually thereafter. In addition, each resident and resident client must be screened annually. Individuals with known positive skin tests shall provide a certificate of non-infectiousness, recommendations, if any, for treatment, and evidence they have complied with such recommendations. Any individual providing documentation of a negative skin test administered within the last twelve (12) months does not require a follow up.

(M) A record for the owner/manager and each employee shall be maintained in a secure location and contain, at a minimum, an employment application with evidence of education, work experience, and reference checks as applicable; all federal and state required documentation related to legal requirements for employment in the United States; professional licensure, certification or registration documentation; and documentation of background check results.

(ii) The home shall be in compliance with the 2000 Edition for the Life Safety Code of the National Fire Protection Association, NFPA 101, Chapters 32/33 for New or Existing Residential Board and Care Occupancies, Sections 32.2/33.2: Small Facilities.

(iii) Each home shall have at least one (1) portable, functional fire extinguisher accessible in the kitchen. The licensee may choose to have other fire extinguishers in other locations, but all extinguishers must be installed, inspected and maintained in accordance with NFPA 10, Standard for Portable Fire Extinguishers.

(iv) The home shall have an evacuation plan and the licensee shall conduct a minimum of four (4) fire drills each year, one (1) per quarter. Upon admission, resident clients shall be made aware of escape procedures.

(v) Portable space heaters shall not be used.

(vi) A ladder, folding stairs, or trap door may not be the only access to a bedroom.

(vii) Smoke detectors must be tested monthly. All smoke detectors must be cleaned and the battery changed at least annually. Documentation of compliance with these requirements must be available for review.

(viii) Resident clients may not reside in attics. They may reside in finished basements where the living quarters, heating plant, and utility room are completely and safely segregated by one (1) hour fire-resistant construction.

(ix) A water supply must be derived from a public water system, or, in its absence, from an approved source. Private water supplies must have a water sample bacteriologically tested at least annually. Documentation of compliance with this requirement must be available for review. Maximum hot water temperatures at plumbing fixtures used by residents may not exceed 120 degrees Fahrenheit (49 degrees Celsius).

(x) If a storm window, screen, or burglar guard is used, it must have a quick-opening device which can be easily opened from the inside.

(xi) The home shall be maintained free of rodents and insects. Doors and windows used for outside ventilation shall have screens.

(xii) The home shall be kept clean, neat and free of litter, and garbage. Hazardous cleaning solutions, chemicals, and poisons must be labeled and stored in a safe place. Garbage and refuse shall be kept in durable, easily cleanable containers that do not leak and do not absorb liquids. Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents. Sewage shall be disposed of by means of a public sewage disposal system or a septic system, and must not constitute a source of contamination of food, equipment, or utensils or otherwise create an unsanitary condition or nuisance.

(xiii) The home must have a working heating system, and the licensee must maintain the temperature of the home at a comfortable, safe level (68 degrees Fahrenheit – 80 degrees Fahrenheit during waking hours and no lower than 60 degrees Fahrenheit at night).

(xiv) The home shall have interior and exterior lighting adequately maintained at a level to ensure safety and comfort for resident clients.

(xv) At least one (1) entrance to the home must be handicap accessible.

(c) Copies of the current Program Administration and Licensure rules can be obtained from the Licensing Division, whose address is:

Office of Healthcare Licensing and Surveys
400 Qwest Building
6101 Yellowstone Road
Cheyenne, WY 82002
Telephone: 307-777-7123
Fax: 307-777-7127
Email: wdh-ohls@health.wyo.gov
Website: <http://wdh.state.wy.us/ohls>

(d) In addition to the above rules and regulations, adult foster care homes shall be regulated in accordance with W.S. 35-2-901 through 35-2-912 and with the Wyoming Long Term Care Choices Act at W.S. 42-6-102 and 42-6-105. The Wyoming Long Term Care Choices Act shall govern in the event of a conflict between the two (2) statutory acts.

(e) A successful adult foster home applicant who is granted a provisional license shall immediately submit the name(s) of the following individuals to the Aging Division:

(i) Any individual employed by the adult foster home at the time of licensure, and any individual who becomes employed by the adult foster care home subsequent to licensure.

(ii) Any individuals, other than a resident client or a resident client's spouse, who at the time of licensure is expected to live in the adult foster home or who, after licensure, lives or comes to live in the adult foster home.

(f) The Department shall complete a criminal background check on the individuals referenced in Section 8(e)(i) and 8(e)(ii). The qualified adult foster home applicant shall reimburse the Department for the cost of the criminal background checks upon receipt of invoice from the Aging Division. Any employee or other resident in the home who is not a resident client or a resident client's spouse, and who has not completed a criminal background check, shall not have contact with resident clients until the home has received and paid for the criminal background check.

(g) The adult foster home shall have established policies and procedures with regard to who it will hire, based on information found in the criminal background check, and how it will monitor other residents in or visitors to the home to ensure the health, safety and welfare of the resident clients.

Section 9. Denying, Revoking, or Placing Conditions on a License.

(a) The Licensing Division may refuse to license a home if any employee of the home, or anyone living in the home, has been convicted of a felony which may indicate, that he may abuse a resident client or that he may steal from a resident client.

(b) The Licensing Office will provide fifteen (15) days notice prior to revoking a license unless it finds that conditions in an Adult Foster Home pose a substantial and immediate threat to the health or safety of resident clients and require immediate action and suspension of the license in order to protect the resident clients. In such a case, the licensee shall be afforded an opportunity for a hearing within ten (10) days after the suspension.

(c) The Department may, after notice and an opportunity for a hearing, revoke or suspend any license issued pursuant to these rules and the enabling legislation; it may prohibit an adult foster home from accepting new resident clients; it may place conditions on the continuation of a license; or it may require a home to take specified remedial actions within a specified time, if any of the following have occurred or are occurring:

(i) There is a threat to the health, safety or welfare of any resident client.

(ii) There is credible evidence of abuse, neglect or exploitation of any resident client, per W.S. 35-20-102 through 35-20-116.

(iii) The home is not operated in compliance with these rules and regulations or with the enabling legislation.

(d) If, in the professional judgment of the state health officer, there is a clear and present threat to the health or safety of a resident client, the state health officer may immediately close an adult foster home and transfer the resident clients to another appropriate placement. The Department shall initiate any other appropriate actions pursuant to the above paragraph within three (3) working days.