

Frequently Asked Questions In Response to Newly Adopted Adult Home Regulations

1. Question: A person with serious mental illness who was a resident of a transitional adult home moved to a hospital for rehabilitation and is still there. The adult home initially held the bed for this person, with the expectation that they would return to the adult home within 90 days. However, when the rehabilitation needs were not resolved within 90 days, the person was discharged, with the offer and understanding that they could be readmitted if appropriate after rehabilitation was complete. Would this person be considered a new admission that would increase the adult home's mental health census, or would the fact that the adult home was this person's residence immediately prior to his or her current period of hospitalization" as set forth in the OMH regulations mean that the person could be readmitted?

1. Answer: A person is not discharged from an adult home until their Residency Agreement has been terminated. Provided the Residency Agreement has not been terminated, the individual is still a resident of the adult home and may move back to it. However, if the Residency Agreement has been terminated, the individual has been discharged from the adult home and is no longer a resident. In this case, the individual would be considered a new admission that would increase the adult home's mental health census. Under the latter scenario, a transitional adult home would not be permitted to admit the resident.

2. Question: 18 NYCRR Part 487.4 (g) states that professionals that may complete a Mental Health Evaluation must be "approved by the Department in consultation with the Office of Mental Health". What does this mean? Does an adult home have to request approval from DOH/OMH for every individual who may fill out a mental health evaluation?

2. Answer: The intent of this regulation is to ensure that only qualified professionals complete the required mental health evaluation and secondly that the evaluation provides the information necessary to determine if an individual has a serious mental illness as defined under 18 NYCRR Section 487.2 (c) and in accordance with the guidance issued January 16, 2013.

The Department has developed Guidance on Qualifications for Completing Mental Health Evaluations in consultation with the Office of Mental Health, and has posted the guidance on the DOH website. The Department will not require prior approval of mental health evaluators on a person-by-person basis. Rather, each individual conducting mental health evaluations must meet the criteria set forth in the guidance. The operator of an adult home shall maintain proof of such qualifications for each individual conducting mental health examinations in the form of a curriculum vitae that includes the individual's name, educational

background, current employment, professional licenses, professional experience, past positions held, and current contact information for the individual. Resumes must be updated annually.

3. Question: What if in the adult home's geographic area there is no professional available who meets the requirements set forth in the Department's Guidance on Qualifications for Completing Mental Health Evaluations. Must the adult home refuse admission to prospective residents who require a mental health evaluation or discharge current residents whose mental health evaluation is due?

3. Answer: The adult home must make arrangements with a professional with the required qualifications to conduct mental health evaluations.

4. Question: When will the Department-mandated Mental Health Evaluation form be issued? In the meantime, do adult homes using their own Mental Health Evaluations in accordance with 487.4 remain in compliance?

4. Answer: The Department of Health is in the process of developing a mental health evaluation form. In the meantime, in order to maintain compliance, adult home operators must assure that any form that is currently in use or planned for use asks for the information necessary to meet the all applicable regulatory requirements, including the requirements of 18 NYCRR § 487.4(g).

5. Question: Do the regulatory requirements apply even before transitional adult homes have completed and submitted their compliance plans to the Department?

5. Answer: Yes. The amended regulations are effective immediately upon adoption. An operator may request a waiver of non-statutory requirements of Part 487 pursuant to 18 NYCRR Section 487.3(g). Applications for approval must be submitted in writing to the appropriate regional office and must include:

- a) The specific regulation for which a waiver is sought;
- b) The reason the waiver is necessary; and
- c) A description of what will be done to achieve or maintain the intended outcome of the regulation and to protect the health, safety and well-being of the residents.

Failure to adhere to the terms of the approved waiver would result in rescission of the approval and imposition of penalties for the applicable regulation. Please refer to 18 NYCRR Section 487.3(g) for detail.