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Admission Standards

Issue: The retention of residents who are otherwise appropriate but require injectable medications and glucose testing. What testing may be provided by facility staff and by whom?

Interpretive Guidelines:

Facility RNs and LPNs holding a valid license from the New York State Education Department that authorizes them to administer injectable medications may do so, provided that the medication is one which licensed health care providers would routinely train a patient or family member to administer.

A statement from the resident's physician confirming that the injectable medication(s) is one that the resident and/or their family would be routinely trained to administer must be obtained and on file in the resident's record. There must be current orders from the resident's physician on file for these and all medications.

Glucose testing is permitted by licensed staff, i.e., RNs/LPNs and is limited to administration of the test, interpretation of test results, and adjustment of insulin dosage within the parameters previously established in writing by the resident's physician.

Regulations:

487.4 (b) An operator shall not accept nor retain any person who:

(1) is in need of continual medical or nursing care or supervision as provided by facilities licensed pursuant to article 28 of the Public Health Law, or licensed or operated pursuant to articles 19, 23, 29 and 31 of the Mental Hygiene Law;

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

488.4 (b) An operator must not accept nor retain any person who:

(1) needs continual medical or nursing care or supervision as provided by an acute care facility or a residential health care facility certified by the Department of Health;

488.7(d) (5) Staff of an enriched housing program is not permitted to administer injectable medications to a resident, except that staff holding a valid license from the Education Department authorizing them to administer injectable medications may do so, providing that the injectable medication is one which licensed health care providers would customarily train a patient or his/her family to administer.

490.4 (b) An operator must not accept or retain any person who:

(1) is in need of continual medical or nursing care or supervision as provided by facilities licensed pursuant to article 28 of the Public Health Law or licensed or operated pursuant to articles 19, 23, 29 and 31 of the Mental Hygiene Law;

490.7 (d)(11) (vi) Staff may not administer injectable medications to a resident; except that staff holding a valid license from the State of New York Education Department authorizing them, among other things, to administer injectable medications may do so, provided that the injectable medication is one which licensed health care providers would customarily train a patient or his

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or her family to administer.

Admission Standards

Issue: Employees, volunteers and residents who chose to have the two-step tuberculin skin test (TST) for TB screening, may have their second TB test read (interpreted) by a facility nurse by a Registered Nurse (RN).

Interpretive Guidelines:

Registered Nurses in an adult care facility may read/interpret the second TST ppd test on facility personnel and residents providing that they have completed an acceptable training program for reading (interpreting) and documenting ppd tests. Content of training must be submitted with the equivalency and documentation of completion of training must be maintained in the employee's file.

Conditions for approved Equivalency

Facilities must submit to the Department for review and approval prior to the equivalency being granted, the process/procedure in which they will train their RN(s) to read and document ppd tests.

Definition of volunteer:

All facilities will have a policy and procedure that addresses TB screening for volunteers. The Department provides the following guidance for defining a volunteer: "Volunteers who are consistently in the facility, i.e., 3 or more days a week and share the same air space as the resident for several hours (i.e., 3 hours or more at a time) need to be screened and tested for active TB.

Regulations:

487.4(b) An operator shall not accept nor retain any person who:

(13) suffers from a communicable disease or health condition which constitutes a danger to other residents and staff.

487.9(8) At the time of employment and at least every 12 months thereafter, or more frequently if needed, an employee must provide the operator with a statement from a physician, or, with physician oversight, a physician's assistant (PA) or a registered professional nurse (RN) with special training in primary health care who has physically examined the individual, that:

(ii) that the individual has had: **(a)** a ppd (Mantoux) skin test for tuberculosis within 30 days prior to employment and no less frequently than every 2 years after employment begins; positive findings require appropriate clinical follow-up but no repeat skin test.

488.4(b) An operator must not accept or retain any person who:

(13) suffers from a communicable disease or health condition which constitutes a danger to other residents and staff.

488.9(a)(5) At the time of employment and at least every 12 months thereafter, or more frequently if needed, an employee must provide the operator with a statement from a physician, or, with physician oversight, a physician's assistant (PA) or a registered professional nurse (RN) with special training in primary health care who has physically examined the individual, that: **(ii)** that the individual has had: **(a)** a ppd (Mantoux) skin test for tuberculosis within 30 days prior to

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employment and no less frequently than every 2 years after employment begins; positive findings require appropriate clinical follow-up but no repeat skin test.

1001.7(a) Unless stated otherwise in this section, an operator of an assisted living residence shall admit and retain only those individuals who meet the admission and retention standards prescribed in sections 487.4(a)-(e) or 488.4(a)-(d) of Title 18 NYCRR, depending upon the facility's certification under Title 18 NYCRR.

1001.11(q) In addition to the assessed and documented health status of all new personnel required pursuant to subdivision (d) of this section, the operator shall maintain a record of the following tests for direct care staff of an enhanced assisted living residence or a special needs assisted living residence:

(iv) tuberculin skin test or whole blood assay for tuberculosis screening prior to assuming patient care duties and no less than every year thereafter for negative findings. Positive findings shall require appropriate clinical follow up but no repeat skin test. The residence shall develop and implement policies regarding follow up of positive test results.

Issue: Annual provision of influenza and pneumococcal immunizations to residents and employees of adult care facilities.

Interpretive Guidelines:

Nurses (RNs or LPNs under RN supervision) may administer the influenza (flu) and pneumococcal immunizations annually to both employees and residents of adult care facilities.

Article 21-A of the New York State Public Health Law:

Long Term Care Resident and Employee Immunization Act, effective as of April 1, 2000 states requires that long-term care facilities request all residents and employees to be immunized against influenza virus and, as appropriate, pneumococcal disease, consistent with current guidelines of the Advisory Committee on Immunization Practices (ACIP).

Specifically:

- Residents and employees of nursing homes, adult homes, enriched housing programs, adult day health care programs and any other facility providing residential housing and supportive services for five (5) or more persons over the age of 65 who are unrelated to the operator.
- The facility must document each year that it has made reasonable attempts to obtain the necessary supplies of vaccines and/or to make the arrangements necessary for immunizing residents and employees.
- The facility must notify all residents and employees that the facility will provide or arrange for immunization against the influenza virus annually, and for pneumococcal disease as indicated by the current ACIP guidelines. Immunization is not mandatory; however, the facility must offer to provide or arrange for immunization for all residents and employees.
- Immunization and documentation must take place no later than November 30th of each year. If an individual becomes a resident or an employee after November 30th but before April 1st and has not been immunized or if documentation is not available for such

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immunization, the facility must request that the individual be immunized, and the facility must provide or arrange for such immunization no later than April 1st.

- No individual is required to be immunized for either influenza virus or pneumococcal disease if he or she refused the vaccine after being fully informed of the health benefits and risk of such action; such immunization is medically contraindicated for that individual; or such immunization is against such individual's religious beliefs.
- For each resident and each employee who receives an influenza or pneumococcal immunization from facility staff, document in that individual's record the date, cite of administration, type of vaccine, dose, manufacturer and lot number of the vaccine, reactions if any, and the name of the person administering the vaccine.
- For each resident who is not immunized as described by the Long Term Care Resident and Employee Immunization Act, document the refusal to receive the vaccine.
- Facilities should refer to the New York State DOH Immunization Tool Kit for additional information and guidance at:

<http://www.health.ny.gov/prevention/immunization/toolkits/>

Issue: The retention of residents who are otherwise appropriate dependent upon oxygen equipment.

Interpretive Guidelines:

This system allows residents to fill their own oxygen cylinders from an oxygen concentrator. The following sixteen conditions must be met in order to use an oxygen refill system:

Conditions for approved equivalency:

- 1) A physician must certify in writing the resident's need for oxygen, the resident's ability to use and maintain the equipment and a re-evaluation done at least every 6 months and more often, if necessary, to ensure the resident remains capable of maintenance and use of the equipment.
- 2) The individual for whom this equipment is prescribed must receive initial training from the supplier of the equipment on the use, maintenance and storage of the oxygen equipment.
- 3) The resident must be able to demonstrate the ability to maintain and use the equipment correctly.
- 4) The operator must agree to the resident's use of the oxygen refill system.
- 5) The operator must retain on file a copy of the operating instructions for the equipment and review all cautions and dangers regarding the equipment with the residents and resident's roommate(s) (if applicable).
- 6) The resident must agree, in writing, to the proper use and cautions of the equipment in the bedroom and adhere to all safety precautions.

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- 7) Equipment must have an Underwriters Laboratories (UL) rating and cylinders must meet industry standards and must be so identified.
- 8) Equipment should be inspected by the provider every 6 months unless otherwise specified by the manufacturer and, if necessary, an appropriate supplier must be available to service the equipment.
- 9) The resident's roommate(s) (if applicable) must agree to the use and cautions of the equipment in the bedroom and adhere to all safety precautions.
- 10) If any resident uses the oxygen refill system in the facility, then facility staff must be trained by the supplier of the equipment in the use of the equipment, and at least one facility staff person who is trained in the use of the oxygen refill system must be on duty and on-site at all times.
- 11) The compressor must not be placed, stored or operated next to a heater, radiator, hot air register or in a closet.
- 12) The compressor must sit on a hard flat stable surface, such as a table to allow the ventilation system to function properly.
- 13) Prohibit smoking and keep all matches, lighters, cigarettes, or the sources of ignition out of the room where this equipment is located/used.
- 14) The operator must notify, in writing, the local Fire Department or local Code Enforcement official, as appropriate, that the facility has this oxygen refill system, in addition to the storage and use of oxygen supply. This notice must be appropriately updated in a timely manner in terms of storage locations or numbers of containers. The storage and/or use of oxygen equipment must also comply with all other applicable local or state statutes, codes and regulations.
- 15) The resident must be able to participate in activities of daily living and facility life, including daily meal attendance in the dining room.
- 16) The use of the oxygen equipment must not interfere with the life, safety, care or comfort of other residents of the facility.

Regulations:

487.4(b) An operator shall not accept nor retain any person who:

487.4(b)(14) is dependent on medical equipment, unless it has been demonstrated that: (i) the equipment presents no safety hazard; (ii) use of the equipment does not restrict the individual to his room, impede the individual in the event of evacuation, or inhibit participation in the routine activities of the home; (iii) use of the equipment does not restrict or impede the activities of other residents; (iv) the individual is able to use and maintain the equipment with only intermittent or occasional assistance from medical personnel; (v) such assistance, if needed, is available from approved community resources; and (vi) each required medical evaluation attests to the individual's ability to use and maintain the equipment.

488.4(b) An operator shall not accept nor retain any person who:

488.4(b)(14) is dependent on medical equipment, unless it has been demonstrated that: (i) the equipment presents no safety hazard; (ii) use of the equipment does not restrict the individual to his room, impede the individual in the event of evacuation, or inhibit participation in the routine activities of the home; (iii) use of the equipment does not restrict or impede the activities of other residents; (iv) the individual is able to use and maintain the equipment with only intermittent or

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occasional assistance from medical personnel; (v) such assistance, if needed, is available from approved community resources; and (vi) each required medical evaluation attests to the individual's ability to use and maintain the equipment.

490.4(b) An operator shall not accept nor retain any person who:

490.4(b)(16) is dependent on medical equipment, unless it has been demonstrated that: (i) the equipment presents no safety hazard; (ii) use of the equipment does not restrict the individual to his room, impede the individual in the event of evacuation, or inhibit participation in the routine activities of the facility; (iii) use of the equipment does not restrict or impede the activities of other residents; (iv) the individual is able to use and maintain the equipment with only intermittent or occasional assistance from medical personnel; and such assistance is available from local social service agencies or approved community resources; and (v) each required medical evaluation attests to the individual's ability to use and maintain the equipment.

Admission Agreements

Issue: The signing of admission agreements by impaired residents.

Interpretive Guidelines:

The applicant/ resident should always be afforded the opportunity to sign the admission agreement; if refused, the offering of the opportunity and refusal must be noted.

Legally appointed conservators, committees or guardians may sign on behalf of the resident. It is acceptable for individuals with a durable Power of Attorney that allows them to sign contracts, to sign the admission agreement for a resident who is physically or cognitively unable to sign the admission agreement.

Residents who wish to review and sign their admission agreements must be allowed to do so at any time.

Regulations:

487.5 (d)(1) (ii) The admission agreement shall be dated and signed by the operator, the resident and, if appropriate, another person acting as an agent for the resident.

488.5 (c)(2) The admission agreement must be dated and signed by the operator, the resident and, if appropriate, another person acting as an agent for the resident.

490.5 (d) (ii) The admission agreement must be dated and signed by the operator, the resident and, if appropriate, another person acting as an agent for the resident.

Resident Funds and Valuables Personal Allowance Accounts

Issue: Commingling of PNA funds with other resident funds.

Interpretive Guidelines:

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Personal Needs Allowance and other resident funds can be co-mingled in one account provided all other regulatory requirements required by Title 18 NYCRR 487.6 for residents' personal funds are met. Residents funds must not be co-mingled with facility funds.

Regulations:

487.6 (a)(4) Personal allowance accounts and accounts for other resident funds shall be kept separate and distinct from each other and from any other account(s).

488.6 (a)(5) Resident personal allowance accounts or other resident personal funds must not be mingled with the personal funds of the operator or the operating funds of the facility, or become an asset of the operator.

490.6(d)(2) Such funds (non- PNA) may not be mingled with any personal allowance funds maintained pursuant to subdivision (b) of this section.

Personal Allowance Accounts – Recordkeeping

Issue: Computer generated recordkeeping system for resident PNA funds.

Conditions for approved equivalency:

The substitution of a computer-generated system for the Department recommended Personal Allowance recordkeeping system is allowed provided that:

- all regulations pertaining to PNA required by Title 18 NYCRR 487.6 (b), (c), (d) are met; and
- there are back-up paper copies of all transactions.

Regulations:

487.6 (c) (11) No alternative system of recordkeeping for resident personal allowance accounts may be substituted for the above without the prior written consent of the department.

488.6 (c) (11) No alternative system of recordkeeping for resident personal allowance accounts may be substituted for the above without the prior written consent of the department.

490.6 (c) (11) No alternative system of recordkeeping of resident personal allowance accounts may be substituted for the system set forth in paragraphs (1) through (10) of this subdivision without the prior written consent of the department.

Personal Care/ In –Room Tray Service / Food Service

Issue: Alternative meal plans.

Interpretive Guidelines:

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The operator must provide at a minimum three meals a day, served at regularly-scheduled times, or an alternative meal plan which meets certain conditions. Tray service may be offered as a supplemental service; it must be stated as such in the admission agreement and the cost must be clearly stated.

Surveyor Check list for surveying alternate meal plans:

- 1) Tray service is the choice of the resident.
- 2) Resident's physician provides a statement attesting to the resident's ability to safely consume meals without continuous supervision.
- 3) Resident is periodically re-assessed.
- 4) Furniture appropriate for in-room dining is provided.
- 5) Resident is routinely encouraged to dine with other residents at mealtime.
- 6) Resident's food intake, appearance and weight is monitored and recorded as dictated by change or regulation.
- 7) Proper procedures in sanitation, transport, temperature control, and contamination control are observed.
- 8) Sufficient staffing to ensure necessary supervision of both communal and tray service diners is provided.
- 9) Operator provides adequate food service and housekeeping staff to ensure provision and replacement of such needed items as replacement utensils, beverage refills, condiments, second servings, etc; and timely/prompt clean-up of both dining rooms and resident rooms.
- 10) The residents receiving tray service are and remain appropriate for the adult care facility level of care.

Whether the operator provides the standard meal plan or an approved alternate (e.g., in-room tray service, two seatings for congregate meals), the operator is responsible for the following:

- supervising each resident to insure that the resident maintains appropriate nutritional intake,
- all temperature and sanitation codes are maintained; and
- meals are available to meet the needs of all residents including sufficient quantity, preservation of flavor and appearance of food, and conservation of the nutritive value of food.

Regulations:

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

487.8 (e)(11) Any food service system other than single-seating table service shall require prior written approval of the department.

488.7 (c) (5) (Residents must not be provided tray services except as may be necessary for a short-term illness.

490.8 (b) The operator must provide at a minimum: (1) three meals a day, served at regularly scheduled times, or an alternative meal plan which has the prior approval of the department. Under an approved alternate meal plan, a resident may purchase or prepare some of his/her own meals. However, whether the operator provides the standard meal plan or an approved alternate, the operator is responsible for supervising each resident to insure that the resident maintains appropriate nutritional intake.

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Electronic Medication Management and Documentation Systems

Issue: Use of electronic medication systems to:

- (a) record, document and order resident medications
- (b) document resident medication assistance and/or refusal

Interpretive Guidelines: Use of an electronic medication management and documentation system is acceptable as long as the regulatory requirements under Title 18 NYCRR 487.7, 488.7 and 490.7 are met.

Current DOH approved Systems: Compucare (Gidon Geva), MedWiz Technologies, LLC, TOCCARE (by Da Verci), Optima, Accuflo, Answers on Demand and QuickMar.

Regulations:

487.7(f)(12)(i-iii) Recording for medications. (i) Information on the medication regimen of each resident shall be retained on file in a manner which assures both resident privacy and accessibility, for assistance and supervision or in time of emergency.

(ii) The following information shall be maintained for each resident:

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

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

488.7(d)(4)(i-ii (a-g)) Recording for medications. (i) Information on the medication regimen of each resident must be retained on file in a manner which assures both resident privacy and accessibility for assistance or in time of emergency.

(ii) The following information must be maintained for each resident:

- (a) the person's name;
- (b) identification of each medication used by the resident;
- (c) the current dosage, frequency, time and route of each medication;
- (d) the physician's name for each prescribed medication;
- (e) the dates of each prescription change;
- (f) any contraindications noted by the physician; and
- (g) the type of assistance, if any, needed by the resident.

490.7(d)(12)(xi)(a-c) (xi) Recording for medications. (a) Information on the medication regimen of each resident must be retained on file in a manner which assures both resident privacy and accessibility for assistance and supervision or in time of emergency.

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(b) The following information must be maintained for each resident:

- (i) the person's name;
- (ii) identification of each medication;
- (iii) the current dosage, frequency, time and route of each medication;
- (iv) the prescribing physician's name for each prescribed medication;
- (v) the dates of each prescription change;
- (vi) any contraindications noted by the physician;
- (vii) the type of supervision and assistance, if any, needed by the resident; and
- (viii) a record of assistance.

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

Conditions for approved equivalency:

- 1) A back-up system is in place with appropriate policies and procedures in the event that the electronic medication system becomes inoperable.
- 2) New York State Department of Health staff will have independent and unrestricted access to the electronic system.
- 3) An Operations manual will be provided to the Department of Health Regional Office and available on site at the facility.
- 4) Documentation of staff training will be maintained by the facility and available for review upon request by Department of Health staff. Initial training records will be submitted to the Regional Office.

Facility Records Off-site Storage

Issue: Maintenance of off-site record storage.

Conditions for approved equivalency:

Off-site record storage is permitted under the following conditions:

- 1) Off-site records include no more than the following:
 - Food purchases
 - Resident payment accounts
 - Employee medical evaluations
 - Wage and payroll records
 - Financial records
- 2) Records stored off-site are made available on site to Department staff as soon after the request being made is practical, but in no instance more that two (2) hours thereafter, unless a greater interval is mutually agreed upon by both parties.

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Regulations:

487.10 (d) (2) Facility records. These records shall be maintained in the facility, unless written authorization is given by the department for record retention in another location, and shall be available for review and inspection by department staff and designees.

488.10 (d) (2) Program records. Records must be maintained at the enriched housing program site unless written authorization is given by the department for record retention at another location. All records must be available for review and inspection by department staff and designees.

490.10 (d) (2) Such records must be maintained in the facility, unless written authorization is given by the department for record retention in another location, and must be available for review and inspection by staff of the department or by designees of the department.

Mandated forms

Issues: Use of equivalent alternate forms and computer-generated forms for Department mandated forms.

Conditions for approved equivalency:

Substitution of equivalent/alternate forms and computer-generated forms for Department mandated forms are permitted under the following conditions

- 1) The Regional Office has been notified about the alternate form. The content may not be altered but the typeface and placing the form on letterhead. is permitted.
- 2) Utilization of computer-generated versions of all eight (8) Department forms or approved substituted forms are permitted provided that :
 - a) Computer versions submitted to the RO are identical in form and content to the mandated form or the approved substituted form, and
 - b) A hard copy of all current, required forms and records required by the Department are maintained and available on site at all times

Regulations:

The department mandates utilization of the following forms (for Adult Homes, Enriched Housing Programs and Residences for Adults) :

- (1) Personal Data Sheet (DSS-2949).
- (2) Daily Census Record (DSS-2900).
- (3) Incident Report (DSS-3123).
- (4) Medical Evaluation (DSS-3122).
- (5) Inventory of Resident Property (DSS 3027).
- (6) The following personal allowance account forms must be used unless prior written authorization for substitutions has been given by the department:
 - (i) Statement of Offering (DSS-2853).
 - (ii) Personal Allowance Summary (DSS-2855).
 - (iii) Personal Allowance Ledger. (DSS-2854)

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Water Temperature

Issue: Water Temperature above 110 degrees (43 degrees Celsius).

Conditions for approved equivalency:

The water temperature may be raised above 110 degrees Fahrenheit (43 degrees Celsius) provided that the following conditions are met:

- 1) The maximum water temperature allowed in resident areas is 120 degrees Fahrenheit (48 degrees Celsius).
- 2) Periodic logs of all water temperature readings must be maintained and immediate action taken should temperatures exceed 120 degrees Fahrenheit (48 degrees Celsius).
- 3) All current residents must receive advance notice and newly admitted residents must receive notice that their water temperature may reach up to 120 degrees Fahrenheit (48 degrees Celsius) with additional reminders as necessary.
- 4) The operator must provide assistance with bathing/showering as needed or requested, even if only precautionary due to the higher water temperatures.

Regulations:

487.11 (h) (4) (11) The water temperature at faucets for bathing, showering and handwashing must be capable of attaining a temperature of 95 degrees Fahrenheit (35 degrees Celsius) and must not attain a temperature in excess of 110 degrees Fahrenheit (43 degrees Celsius).

488. 11(e) (9) The water temperature at faucets for bathing, showering, and handwashing must be capable of attaining a temperature of 95 degrees Fahrenheit (35 degrees Celsius) but must not attain a temperature in excess of 110 degrees Fahrenheit (43 degrees Celsius) where controllable by the operator.

490.11(l)(11) The water temperature at faucets for bathing, showering, and hand-washing must be capable of attaining a temperature of 95 degrees Fahrenheit (35 degrees Celsius) but must not attain a temperature in excess of 110 degrees Fahrenheit (43 degrees Celsius).

Furnishings and equipment Bed substitution

Issue: Substitution of bed with alternative furniture.

Interpretive Guidelines:

Residents who request a substitution of alternate furniture i.e., recliner chair or a couch for a bed must have their physician concur with the request. The substitution should be appropriate and not hazardous; the resident should be able to use this alternate furniture safely and it must not constitute a restraint or limit freedom of movement. Additionally, it should not interfere with the safety, comfort and privacy of the roommate.

If at another time the resident requests a bed, the operator must replace the substituted furniture with a bed.

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Regulations:

487.11 (i)(4) Each operator shall furnish each resident with the following minimum bedroom equipment:

- (i) a standard single bed, well constructed, in good repair, and equipped with:
 - (a) clean springs maintained in good condition;
 - (b) a clean, comfortable, well-constructed mattress, standard in size for the bed;

488.11(f)(4) When not supplied by the resident, the operator must provide each resident with the following minimum household equipment:

- (i) a standard, single bed in good repair, a chair, a lamp;

490.11(j)(4) Each operator must furnish each resident with the following minimum bedroom equipment:

- (i) a standard, single bed, well-constructed, in good repair, and equipped with:
 - (a) clean springs maintained in good condition;
 - (b) a clean, comfortable, well-constructed mattress, standard in size for the bed;

Furnishings and equipment Hospitals beds/beds with ½ side rails

Issue: Use of a hospital bed or a bed with ½ side rails or other enabling device

Interpretive Guidelines:

A. Hospital Bed or Bed with ½ side rails

A resident may use a hospital bed or a bed with ½ side rails (full side rails are not permitted) provided the following conditions are met:

- There is a physician's order for the specific resident for the hospital bed or bed with ½ side rails.
- The bed has no wheels or the wheels are locked.
- The bed must be less than 36 inches high.
- The resident is capable of using the bed safely
- The resident can transfer independently and the hospital bed or bed with ½ rails is not used as a restraint.
- The bed is used as an enabler to help the resident pull him or herself out of bed and or to prevent the resident from falling out of bed.

B. Enabling Device (e.g. Halo Safety Ring)

When using an enabling device (e.g. Halo Safety Ring), the following conditions must be met:

- Physician's order is on file in the record
- Documentation in the record will include the purpose for use
- Statement in the resident's record that the device will not be used as a restraint
- Only one Halo safety ring can per bed is permitted

Regulations:

487.11(i) Furnishings and equipment (4) Each operator shall furnish each resident with the following minimum bedroom equipment: (i) a standard single bed, well constructed, in good

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repair, and equipped with: (a) clean springs maintained in good condition; (b) a clean, comfortable, well-constructed mattress, standard in size for the bed; and (c) a clean, comfortable pillow of average bed size.

(6) Beds with side rails or beds in excess of 36 inches high shall not be used, except in sick bays.

488.11(f) Furnishings and equipment (4) When not supplied by the resident, the operator must provide each resident with the following minimum household equipment: (i) a standard, single bed in good repair, a chair, a lamp;

490.11(j) Furnishings and equipment (4) Each operator must furnish each resident with the following minimum bedroom equipment: (i) a standard, single bed, well constructed, in good repair, and equipped with: (a) clean springs maintained in good condition; (b) a clean, comfortable, well-constructed mattress, standard in size for the bed; and (c) a clean, comfortable pillow of average bed size.

(6) Beds with side rails or beds in excess of 36 inches high shall not be used.

Resident Rights and Protections

Issue: Electronic Monitoring Devices

Interpretive Guidelines: This equivalency applies to wanderguard systems, bed monitors and electronic monitoring devices, not security cameras and motion detector systems. Security cameras will continue to require that the facility notify the Regional Office and receive approval for the installation. Motion detector systems which monitor resident movement will continue to require a waiver.

Conditions for use of bed alarms, electronic monitoring/supervision of residents within an ACF:

- The devices and monitoring systems must be installed and operated per the manufacturer's requirements and specifications. The system must have UL (Underwriters Laboratory) and FCC certification and/or other appropriate agency approvals.
- The family and resident must agree to the use of the device.
- Use of such devices will not be substituted for supervision services that are normally required to be provided by facility staff.
- The facility must provide adequate staffing to respond when the device is activated. Staff must respond immediately.
- The facility must demonstrate that the device is non-obtrusive or disruptive to other residents.
- Staff will perform daily checks on the bed alarm/electronic monitoring device to ensure the device is operating correctly and document the findings.
- Staff will be trained on the use and inspection of the device.
- The facility must demonstrate how they will periodically, at a minimum every three (3) months evaluate the effectiveness of the device in meeting the resident's needs. Additionally, the facility must demonstrate how they will evaluate that the resident remains appropriate for use of the device and does not require a higher level of care, i.e., resident having a bed alarm, but still continuing to fall on a regular basis.

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- Facilities will maintain all information for the device/system on file and will have guidelines and or policies and procedures that address:
 - The facility's use and capabilities of the device/equipment system
 - Staff monitoring/supervision and response
 - Means for documenting activations and response
 - Periodic testing/maintenance of the equipment/system
 - Staff training on the device/system including annual in-service training and orientation of new staff

Questions to be addressed by the facility in their waiver request:

- Describe the alarm. How will the alarm be heard by all staff? How is the alarm transmitted through the facility?
- How will the activation of the alarm be identified (e.g. solely, based on the audible tone, interconnection with the facility's emergency call system, monitored by remove signaling/panel activation or remove staff pagers)?

Conditions for use of door alarm systems, elopement/wandering management systems for monitoring/supervision of ACF residents:

- The devices and monitoring system must be installed and operated per manufacturer's requirements and specifications. The system must have UL (Underwriters Laboratory) and FCC certification and/or other appropriate agency approvals.
- No device should lock any door in an exit path.
- Elopement/wandering devices such as pendants and bracelets are not allowed for use in dementia units.
- The facility must have staff sufficient in number to meet the needs of the residents including providing supervision to the residents in the facility and staff available to stay with a resident if a resident elopes from the facility.
- It is strongly recommended that staff designated to following the eloping resident have a cell phone to communicate with the facility, to call for help or to report location.
- The family and resident must agree to the use of the device.
- There is a physician order for the device that specifies the resident's need(s).
- A current photograph of all residents using the system will be maintained on file and be made available to the authorities in the event that the whereabouts of the resident becomes unknown.
- If a resident refuses to wear the activating device, or wanders to the extent that they are inappropriate for retention, or the system is not operating correctly at any time, the facility must initiate the appropriate actions to supervise and protect the resident. The facility must also make and document persistent efforts to place the resident if the resident exercises the right not to wear the activating device and the facility is unable to institute or arrange other protections for the resident such as one-on-one supervision.
- The facility is responsible to develop a tracking mechanism to identify each resident that activates the alarm, including the date, time and door of alarm activation. The facility must use this information in making retention decisions. These events should be recorded in the resident's record
- The use of such devices will not relieve the operator from supervision responsibilities as specified by regulation.
- The door alarm must cover all exit doors.
- The door alarm must be clearly audible to facility staff who is responsible for providing supervision services.

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- The facility must demonstrate that the device is non-obtrusive or disruptive to other residents.
- A list of residents that use the system will be maintained on file.
- Facilities will maintain all information for the device/system on file and will have guidelines and/or policies and procedures that address:
 - The use and capabilities of the device/equipment/system.
 - Staff monitoring/supervision and response.
 - Means for documenting activations and response
 - Periodic testing/maintenance of the equipment/system
 - Training of staff on the device/system including annual in-service training and orientation of new staff.
- The policies and procedures must specify the frequency that staff will perform checks to ensure the resident is still wearing the elopement/wandering bracelet and to ensure that the bracelet is still functional.
- The facility must have staff sufficient in number to meet the needs of the resident. If a resident using the system leaves the facility and cannot be redirected back to the facility, a staff member will stay with the resident until the situation is resolved. Under no circumstances will the resident be abandoned by facility staff and be permitted to wander away.
- Staff will be trained on the use, purpose and procedure for inspection of the device/system.
- The facility must demonstrate how they will periodically, at a minimum every three (3) months evaluate the effectiveness of the device in meeting the resident's needs. Additionally, the facility will demonstrate how they will evaluate that the resident remains appropriate for use of the device and does not require a higher level of care, i.e. resident who removes the activating device (bracelet or pendant), or elopes despite its use.

Questions that should be considered:

- Describe the alarm. How will the alarm be heard by all staff? How is the alarm transmitted throughout the facility?
- How will the activation of the alarm be identified (solely, based on the audible tone, interconnection with the facility's emergency call system, monitored by remote signaling/panel activation or remote staff pagers)?

Regulations:

487.5 (a)(3)(x) Resident Protections : A resident shall not be restrained nor locked in a room at any time.

487.5(a)(3)(ix) A resident shall have the right to receive courteous, fair and respectful care and treatment at all times, and shall not be physically, mentally or emotionally abused or neglected in any manner.

487.5(a)(3)(i) A resident's civil rights shall not be infringed.

488.5(a)(3)(i) Each resident has the right to receive courteous, fair and respectful care and treatment, and not be physically, mentally or emotionally abused or neglected in any manner.

488.5(a)(3)(ii) Each resident has the right to exercise his/her civil rights and religious liberties, and to make personal decisions, including choice of physician, and to have the assistance and encouragement of the operator in exercising these rights and liberties.

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Space Requirements

Issues: Alternate use of space in the facility.

Conditions for approved equivalency:

Use of certified space for overnight visitors may be used provided that the following conditions are met:

- 1) It is for occasional use only (a maximum of two weeks) not for routine or alternate use such as respite,
- 2) Only vacant certified rooms are used (no cots are to be set up, occupied rooms are not to be shared),
- 3) These vacant certified rooms are used by relatives or friends of current residents or persons associated with the operator or the facility
- 4) Use of this space for overnight guests does not interfere with the care, comfort, safety or programs of the residents,
- 5) A system is established for logging the presence of overnight visitors; this information must be available for staff in case of an emergency; and
- 6) Visitors must adhere to applicable regulation prohibitions, i.e., cooking equipment, smoking regulations and they must receive an orientation of the evacuation procedures.

Regulations:

487.11 (l) (1) Space in a facility shall be used exclusively for the purposes set forth in this Part. An operator may request prior permission, in writing, to utilize space for other activities. The operator must demonstrate that the proposed use is not incompatible with the facility program, will not be detrimental to residents, and complies with applicable local codes. A request to use resident bedrooms for another purpose must include a request for an equal reduction in the certified capacity of the facility.

490.11(m)(1) Space in a facility must be used exclusively for the purposes set forth in this Part. An operator may request prior permission from the department, in writing, to utilize space for other activities. The operator must demonstrate that the proposed use is not incompatible with the program, will not be detrimental to residents and complies with applicable local codes. A request to use resident bedrooms for another purpose must include a request for an equal reduction in the certified capacity of the facility.

Sprinklers in bathrooms and closets in resident rooms or dwelling units

Issue: Facilities lacking sprinklers in resident bathrooms and clothes closets

Interpretive Guidelines: Alternate method of assuring resident welfare and safety in existing building seeking to be licensed as an Enhanced Assisted Living Residence (EALR) and/or Special Needs Assisted Living Residence (SNALR), but lack sprinklers in bathrooms and clothes closets in resident rooms or dwelling units.

Conditions for approved equivalency:

- 1) Applies to buildings licensed as an Adult Care Facility (Adult Home, Enriched Housing Program or Assisted Living Program) prior to the effective date of the Assisted Living Residence regulations Title 10 NYCRR part 1001 on March 26, 2008.

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- 2) An automatic sprinkler system that is comparable or equivalent to NFPA 13
- 3) Bathrooms and clothes closets shall have walls and ceilings sheathed with gypsum board or other noncombustible material that has a minimum 15-minute thermal barrier rating.
- 4) Clothes closets shall be limited to storing only clothing, shoes and other wardrobe items.
- 5) At least an 18-inch clearance shall be maintained below the smoke detector.
- 6) Closets and bathrooms used to store combustible material or flammable items, and equipment such as; oxygen tanks and concentrators, hot water heaters, washers & dryers, heating and electrical equipment and panels, etc., **are not included in this equivalency and must be protected with automatic sprinklers in accordance with NFPA 13.**
- 7) In lieu of sprinklers, a clothes closet with 24 square feet or less, or a bathroom with 55 square feet or less, shall be provided with a smoke detector. The smoke detector shall be addressable and interconnected into the existing system either hardwired or wireless. A heat detector may be installed in lieu of a smoke detector in bathrooms where excessive humidity may cause incidents of false alarm and become a nuisance. The alternative smoke/heat detections shall be inspected and monitored in accordance with manufacturer's recommendations and documented for review by NYS DOH surveillance staff.
- 8) The applicant shall document that construction required to retrofit and install additional sprinkler heads in resident bathrooms and clothes closets would result in financial hardship, and be highly disruptive to residents.
- 9) The applicant shall provide a reasonable time frame to complete the work required to come into compliance with the alternative method to achieve equivalency as specified herein.
- 10) The applicant shall document that their compliance record is in good standing.

Pertinent Regulations:

1001.13(b)(4)(i)(b) In addition to meeting the requirements set forth in subparagraph (2) above, a building used by the operator of an ALR, Enhanced ALR and Special Needs ALR must comply with the following fire safety features: (i) An automatic sprinkler system throughout the building. (b) An ALR with 17 or more beds, and an Enhanced ALR or Special Needs ALR of any size, shall have a NFPA 13 automatic sprinkler system installed.

1001.13(e) An applicant for initial licensure or certification for, or an approved operator of, an ALR, Enhanced ALR or Special Needs ALR may submit to the Department a written request for Department approval of an alternate method of assuring resident welfare and safety. The request should describe how the alternative would meet the intended purpose of the particular safety feature. Proposals will also be accepted that phase in modification to permit a facility to meet these standards over a specified period of time. The Department will review such requests on a case-by-case basis, considering the various facts and circumstances presented, consistent with law applicable to assisted living residences and adult care facilities. Such review will include but not be limited to the following: documentation by architects, local code enforcement and/or fire/safety officials supporting the contention that the proposed alternative will meet the intended safety outcome of the particular feature; staffing availability in the event of evacuation; the proposed timeframe for the applicant to come into conformance with the specified safety features; documentation of hardship to the applicant if the safety features were to be included; the fiscal impact of adding the safety features; the compliance record of the applicant; and any other information applicants wish to submit.

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Enriched Housing Program Definitions Age Requirements

Issue: Accepting residents who are under age 55.

Interpretive Guidelines:

Enriched Housing Programs may accept applicants under age 55 when the Medical Evaluations indicate appropriateness for these services, where there is no negative impact on the health, safety and welfare of other program participants, and when both the applicants and the operator anticipate success, age requirements should not be a barrier to admittance to an Enriched Housing Program. Additionally, no more than 25 percent of the residents may be under 65 years of age.

Regulation:

488.2 (b) For the purposes of this Part an enriched housing program will be considered to be serving persons primarily 65 years of age or older if no more than 25 percent of the residents are under 65 years of age and each resident is at least 55 years of age.

Space Requirements for Enriched Housing Programs

Issue: Provide microwave ovens instead of stoves in Enriched Housing Programs that do not have an approved dementia units.

Conditions for approved equivalency:

Enriched Housing Programs may substitute a microwave for a stove under the following conditions:

1. The operator must provide three congregate meals a day in those instances where there is no stove and only a microwave.
2. Space must be provided in each unit for food storage, i.e., snacks, breakfast foods, etc.
3. A stove/oven will be available in a common area for those residents who are capable of cooking safely and wish to cook.
4. Facility will conduct a resident assessment at least every 6 months regarding the resident's ability to use the microwave properly.
5. It is not a dementia unit.

Regulation:

488.11 (h)(5) Suitable equipment for storing, preparing and serving foods in a sanitary manner must be in good operating condition in each individual or shared dwelling unit. This equipment must include a cooking stove or range with oven, a refrigerator with freezer of appropriate size and sufficient capacity for the number of occupants, a kitchen sink with hot and cold running water, which drains into an approved private or public system, and cabinets for storage of chinaware, food, and cleaning supplies. There must be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage of garbage. Where required for the purpose of preparing and, or serving common meals, communal dining areas with sufficient space, a pleasant atmosphere, and sanitary conditions must be available within shared dwelling units or otherwise within the building.

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Space Requirements for Enriched Housing Overnight Guests in Occupied Resident Rooms

Issue: Allowing friends and family to stay overnight in occupied resident rooms.

Interpretive Guidelines: Residents who wish to have friends and family members stay in their room overnight must meet the following conditions:

Conditions for approved equivalency:

Use of certified space for overnight visitors staying in an occupied resident room may be used provided that the following conditions are met::

- 1) It is for occasional use only not for routine or alternate use such as respite,
- 2) Overnight guests are limited to no more than two adults. Individuals under the age of 18 must have supervision by a responsible adult who is not a resident or staff of the facility.
- 3) These certified rooms are used by relatives or friends of current residents.
- 4) Use of this space for overnight guests does not interfere with the care, comfort, safety or programs of the residents.
- 5) A system is established for logging the presence of overnight visitors; this information must be available for staff in case of an emergency.
- 6) Visitors must adhere to applicable regulation prohibitions, i.e., cooking equipment, smoking regulations and they must receive an orientation of the evacuation procedures.
- 7) The facility must take sufficient precautions to ensure the overnight guest does not interfere with the health, safety and welfare of any of the facility residents.
- 8) There is sufficient room for the overnight guests including adequate sleeping accommodations.
- 9) Only dwelling units that are not shared (other than by family members) are used.
- 10) The facility must submit a policy and procedure to identify how they will comply with the above conditions.

Regulation:

488.11(h)(6) Individual and shared dwelling units must contain living, dining and sleeping areas which provide adequate space and comfortable, homelike surroundings. Adequate closet space for storing personal effects must be provided.