

NEW YORK STATE

DEPARTMENT OF SOCIAL SERVICES

40 NORTH PEARL STREET, ALBANY, NEW YORK 12243-0001

CESAR A. PERALES
Commissioner



JUDITH BEREK
Deputy Commissioner
Division of Adult Services

DIVISION OF ADULT SERVICES

ADULT CARE FACILITY INFORMATIONAL LETTER NO. 8-90

NOVEMBER 26, 1990

TO: Operators of Adult Homes and Residences for Adults

SUBJECT: Questions and Answers Regarding Regulatory Interpretations for Department Regulations Part 485, Part 486, Part 487, and Part 490

CONTACT
PERSON: Regional Office Director, NYS Department of Social Services, Division of Adult Services

Ms. Mary E. Hart, Director
Division of Adult Services
Eastern Regional Office
NYS Dept. of Social Services
488 Broadway--3rd Floor
Albany, New York 12243
Phone: (518) 432-2873
Toll Free: 1-800-342-3715;
ext. 432-2873

Mrs. Sylvia King
Western Regional Office
Executive Office Building
259 Monroe Avenue
Rochester, New York 14607
Phone: (716) 238-8185
Toll Free: 1-800-462-6443;
ext. 8185

Ms. Erika Teutsch, Director
Division of Adult Services
Metropolitan Regional Office
80 Maiden Lane--6th Floor
New York, New York 10038
Phone: (212) 804-1234

Mr. Carleton Reo
Long Island Regional Office
1 Old Country Road - Drawer #61
Suite #480
Carle Place, New York 11515
Phone: (516) 294-2877

I. PURPOSE

To provide all operators of adult homes and residences for adults with recent regulatory interpretations.

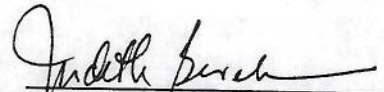
II. BACKGROUND

The Department regularly receives requests for additional clarification of regulatory intent and implementation requirements.

These requests and the Department's responses are periodically consolidated and distributed to all facility operators via Informational Letters. The present Informational Letter contains 20 regulatory interpretations.

IV. RECOMMENDED ACTION

Review the questions and answers and keep them with your copy of the adult home and residence for adults regulations for easy reference. Any new requests for regulatory interpretations should continue to be submitted to your Regional Office Director. Each request should include the respective regulation section, the question and any related background information that is relevant.



Judith Berek
Deputy Commissioner
Division of Adult Services

487.4(b) (14)

Oxygen Equipment

Question: What is the department's current interpretation regarding the permissibility of an adult home resident using oxygen equipment?

Answer: According to department regulation 487.4(b) (14), no person may be accepted or retained as a resident of an adult home if that person is dependent upon medical equipment unless:

- (i) the use of the equipment presents no safety hazard;
- (ii) use of the equipment does not restrict the resident to his/her room, impede the resident in the event of evacuation, or inhibit the resident's 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 resident 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 resident's ability to use and maintain the equipment.

Given these restrictions, the department will permit oxygen enrichment equipment to be utilized by an adult home resident if all of the following conditions are met:

1. The operator must agree to the resident's use of oxygen enrichment equipment.
2. The oxygen enrichment equipment must not produce a flow rate that exceeds 40 percent oxygen concentration or involve the use of a pressurized oxygen container.
3. The oxygen enrichment equipment must be listed by an underwriting concern acceptable to the department, such as Underwriter's Laboratories (UL).
4. The resident must maintain and use the equipment without assistance from facility staff.
5. A physician must certify, in writing, the resident's need for oxygen enrichment equipment and ability to use the equipment without the presence of medical personnel in the facility. At a minimum, re-evaluation by the physician must take place and be documented every six months.

6. The resident must be able to participate in activities of daily living and facility life, including daily meal attendance in the dining room.
7. The use of the oxygen enrichment equipment must not interfere with the life, safety, care, or comfort of other residents in the facility.
8. The resident's roommate(s), if any, must agree to the use of the equipment in the bedroom.

The department is aware that there are other types of oxygen therapy equipment besides oxygen enrichment, such as oxygen concentrators. We believe, however, that in many adult homes, because of problems with residents or visitors smoking inappropriately or other issues, it would be potentially dangerous to allow oxygen to be used in higher concentrations than 40%. As we understand that oxygen concentrators may utilize a 95% oxygen concentration, oxygen concentrators are, in general, not permitted in adult homes. In addition, we are concerned that individuals requiring oxygen concentrators may become dependent on the use of the oxygen equipment, and that continuous use of such equipment may saturate the immediate environment, including linens, bedsheets and bedclothes with oxygen, thereby exacerbating the potential risk. Similarly, the use of liquid oxygen is also not permitted in adult homes, because of the potential hazard.

ACF INF 8-90
11/26/90