

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Health Care
(As Amended at ARRS, September 16, 2019)

902 KAR 20:036. Operation and services; personal care homes.

RELATES TO: KRS 194A.700(1), (9), (11), 202A.011(12), 209.030, 209.032, 216.510 – 216.525, 216.532, 216.765, 216.785-216.793, 216A.080, 216B.010-216B.130, 216B.990, 310.021, 310.031, 21 C.F.R. Part 1317

STATUTORY AUTHORITY: KRS 216B.042[, 216B.105, 314.011(8), 314.042(8), 320.210(2), 1998 Ky. Acts ch. 228, sec. 2, ch. 424, sec. 1]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function, which includes establishing licensure standards and procedures to ensure safe, adequate, and efficient~~[and 216B.105 require that the Cabinet for Health Services regulate]~~ health facilities and health services. This administrative regulation establishes minimum licensure requirements for the operation of and ~~[the]~~ services ~~[to be]~~ provided by personal care homes.

Section 1. Definitions. (1) "Activities of daily living" or "ADL" is defined by KRS 194A.700(1)~~[means activities of self-help (example: being able to feed, bathe and/or dress oneself), communication (example: being able to place phone calls, write letters and understanding instructions), and socialization (example: being able to shop, being considerate of others, working with others and participating in activities)].~~

~~(2) "Activities services" means social and recreation opportunities to stimulate physical and mental abilities, encourage and develop a sense of usefulness and self respect and encourage participation in a variety of activities.~~

~~(3) "Administrator" means an individual~~[a person] who:

~~(a) 1. Has a license to practice long-term care administration pursuant to KRS 216A.080; or~~

~~2. [(b)] Has sufficient education to: maintain adequate records; submit reports requested by the board; and interpret any written material related to all phases of facility operation and resident's care. The administrator shall: be literate; be] a high school diploma, a general equivalency diploma (GED), or qualifying documentation from a comparable educational entity; and~~

~~[(b)] [(c)] Is age~~[graduate or have passed the general Education Development Test; be] twenty-one (21)~~[years of age]~~ or older~~[-or]~~

~~(b) Is licensed as a nursing home administrator as provided by KRS 216A.080].~~

~~(3) [(4)] "Ambulatory" means able to walk without assistance.~~

~~(4) "Certified nutritionist" means a health care professional who is certified pursuant to KRS 310.031.~~

~~(5) "Instrumental activities of daily living" or "IADL" is defined by KRS 194A.700(9).~~

~~(6) "Licensed dietician" means a health care professional who is licensed pursuant to KRS 310.021 [(5) "License" means an authorization issued by the Certificate of Need and Licensure Board for the purpose of operating a personal care home and offering personal care services].~~

~~(7) [(6)] "Mobile nonambulatory" is defined by KRS 194A.700(11) [means unable to walk without assistance, but able to move from place to place,] and includes the ability to:~~

~~(a) Self exit the building; and~~

~~(b) Transfer independently or with minimal assistance from bed-to-chair [-with the use of a device such as a walker, crutches, or a wheelchair and capable of independent bed-to-chair~~

~~transfer or bed-to-chair transfer with minimal assistance].~~

~~(8)[(7)] "Nonambulatory" means unable to walk without assistance.~~

~~(9)[(8)] "Nonmobile" means unable to move from place to place.~~

~~(10) "Personal care home" or "PCH" means an establishment located in a permanent building that has resident beds and provides:~~

~~(a) Supervision of residents;~~

~~(b) Basic health and health-related services;~~

~~(c) Personal care services;~~

~~(d) Residential care services; and~~

~~(e) Social and recreational activities.~~

~~(11) "Qualified mental health professional" or "QMHP" is defined by KRS 202A.011(12).[(9)~~

~~"Personal care" means services to help residents to achieve and maintain good personal hygiene including but not limited to: assistance with bathing, shaving, cleaning and trimming of fingernails and toenails, cleaning of the mouth and teeth, washing, grooming and cutting of hair.~~

~~(10) "Qualified dietician or nutritionist" means a person who:~~

~~(a) Has a bachelor of science degree in foods and nutrition, food service management, institutional management, or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or~~

~~(b) Has a masters degree in nutrition and is a member of ADA or is eligible for registration by ADA; or~~

~~(c) Has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.~~

~~(11) "Residential care" means services which include but are not limited to: room accommodations, housekeeping and maintenance services, dietary services and laundering of resident's clothing and bed linens.]~~

~~(12) "Restraint" means any pharmaceutical agent or physical device, or mechanical device used to restrict the resident's freedom of movement of a portion of a patient's body [temporarily to manage a resident's behavior in a way that reduces the safety risk to the resident or others] [of a patient or the movement of a portion of a patient's body].~~

~~(13) "Serious mental illness" or "SMI" means a mental illness or disorder (but not a primary diagnosis of Alzheimer's disease or dementia), that is described in the Diagnostic and Statistical Manual of Mental Disorders (DSM), 5th Edition, or the DSM currently in use, that impairs or impedes functioning in one (1) or more major areas of living and is unlikely to improve without treatment, services, or supports.~~

~~(14) "Specialized personal care home" or "SPCH" means a personal care home that:~~

~~(a) Participates in the mental illness or intellectual disability supplement program pursuant to 921 KAR 2:015, Section 13; or~~

~~(b) Serves residents with thirty-five (35) percent or more having an SMI.~~

Section 2. Scope of Operations and Services. ~~(1)[A personal care home is an establishment with permanent facilities including resident beds. Services provided include continuous supervision of residents, basic health and health-related services, personal care services, residential care services, and social and recreational activities.]~~ A resident in a PCH or SPCH ~~[personal care]~~ **[home]** shall:

~~(a) Be admitted in accordance with KRS 216.765;~~

~~(b) Be~~ sixteen (16) years of age or older and be ambulatory or mobile nonambulatory;

~~(c) Be~~ and able to manage most of the activities of daily living; and

(d) Have care needs that do not exceed the capability of the PCH or SPCH.

(2) An individual[Persons] who is[are] nonambulatory or nonmobile shall not be eligible for residence in a PCH or SPCH[personal care home].

Section 3. Administration and Operation. (1) Licensee.[(a)] The licensee shall be legally responsible for:

(a) The operation of the PCH or SPCH;

(b)[personal care home and for] Compliance with federal, state, and local laws and administrative regulations pertaining to the operation of the facility;

(c) The development and implementation of[home. (b) The licensee shall establish] policies related to[for the] administration and operation of the facility; and

(d) If the licensee is an SPCH, the development and implementation of written transition procedures to ensure cooperation with an individual or entity that assists with transitioning residents with an SMI to community living arrangements[service].

(2) Administrator.

(a) The[All personal care facilities shall have an] administrator[who] shall:

1. Be responsible for the day-to-day operation of the PCH or SPCH; and

2. Designate one (1) or more staff to act on behalf of **the administrator[.]** or to perform the administrator's responsibilities in the administrator's[facility and shall delegate such responsibility in his or her] absence.

(b) Each SPCH shall ensure that the administrator completes the mental illness or intellectual disability training workshop established by 921 KAR 2:015, Section 14, within six (6) months from the **most recent** effective date of this administrative regulation and every two (2) years thereafter.

(3) Admission.

(a)[Personal care homes shall admit only persons who are sixteen (16) years of age or older and who are ambulatory or mobile nonambulatory and whose care needs do not exceed the capability of the home. Persons who are nonambulatory or nonmobile shall not be eligible for admission to a personal care home.

(b)] A PCH or SPCH[personal care home] shall not care or be responsible for the care of more residents than the capacity indicated on the license[, regardless of where housed].

(b)[(c)] Upon admission, a PCH or SPCH shall provide the resident and a responsible member of the resident's[his] family or other designated representative with written information regarding the facility's policies, including:

1. Services offered and charges;

2. The right to visitation with family and friends, subject to visiting rules and hours established by the facility; and

3. Meal services[committee shall be informed in writing of the established policies of the home to include but not be limited to fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered].

(c) Prior to[(d) Upon] admission, each resident shall have a complete medical examination in accordance with KRS 216.765 [evaluation including medical history, physical examination and diagnosis (may be copy of discharge summary or health and physical report from physician, hospital or other health care facility if done within fourteen (14) days prior to admission].

(d) No later than three (3) months from the **most recent** effective date of this administrative regulation, a PCH or SPCH shall complete the SMI Screening Form for each current resident. Upon admission, a PCH or SPCH shall complete the SMI Screening Form for each new or returning resident.

(4) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(5) Adult~~and child~~ protection. PCHs and SPCHs~~[Personal care homes]~~ shall have written policies that~~[which]~~ assure the reporting of allegations~~[cases]~~ of abuse, neglect, or exploitation of adults~~and children~~ pursuant to KRS 209.030, including evidence that all allegations of abuse, neglect, or exploitation **shall be**~~are~~ thoroughly investigated internally to prevent further potential abuse while the investigation is in progress~~[Chapters 209 and 620]~~.

(6) Transfer and discharge. (a) PCHs and SPCHs~~[personal care homes]~~ shall:

1. Comply with the requirements of 900 KAR 2:050 upon~~when~~ transferring or discharging a resident; and

2.~~[residents. (a) Personal care homes shall]~~ Have written transfer procedures and agreements for the transfer of residents to a higher intensity level of care, if indicated~~[other health care facilities which can provide a level of inpatient care not provided by the personal care home]~~.

(b) A PCH or SPCH that~~[Any facility which]~~ does not have a transfer agreement in effect, but has attempted in good faith to enter into~~[such]~~ an agreement shall be considered to be in compliance with the requirements of paragraph (a)2. of this subsection.

(c)~~[licensure requirement.]~~ The transfer procedures and agreements shall:

1. Specify the responsibilities each party~~[institution]~~ assumes in the transfer of residents;

2.~~[patients and]~~ Establish responsibility for notifying the other party~~[institution promptly]~~ of an~~[the]~~ impending transfer; and

3.~~[of a patient and]~~ Arrange for~~[appropriate and]~~ safe transportation and transfer of files.

(d)~~[(b)]~~ The administrator shall initiate a transfer through the resident's physician or appropriate agencies ~~if~~~~when~~ the resident's condition is not within the scope of services of the PCH or SPCH~~[a personal care home]~~.

(e) PCH or SPCH resident records.

1. If a resident transfers~~[(e) In the event of transfer]~~ to another health care facility, a current summary of the resident's medical record shall accompany the resident.

2. If a resident transfers~~When a transfer is]~~ to another level of care within the same facility, a copy of the resident's record or current summary of the resident's medical record~~thereof]~~ shall accompany the resident.

3. If a resident transitions into a community living setting, a current summary of, or a copy of the resident's records shall be provided to the resident and the resident's guardian.

(7) Tuberculosis Testing. (a) All employees of a PCH or SPCH~~[and residents]~~ shall be screened and tested for tuberculosis in accordance with 902 KAR 20:205.

(b) Residents of a PCH or SPCH shall be screened and tested in accordance with~~[the provisions of] 902 KAR 20:200~~~~[, Tuberculosis testing in long term care facilities]~~.

(8) Personnel.

(a) In accordance with KRS 216.532, a PCH or SPCH shall not employ or be operated by an individual who is listed on the nurse aide and home health aide abuse registry established by 906 KAR 1:100.

(b) In accordance with KRS 209.032, a PCH or SPCH shall not employ or be operated by an individual who is listed on the caregiver misconduct registry established by 922 KAR 5:120.

(c) A PCH or SPCH shall obtain a criminal record check on each applicant for initial employment in accordance with KRS 216.789 and 216.793.

(d)~~[Operators and employees of personal care homes shall comply with 1998 Ky. Acts ch. 424, sec. 1.~~

(b)] Current employee records shall be maintained on each staff member and contain~~[the following items]:~~

1. Name and address;

2. Verification of all~~[and shall include a record of each employee's]~~ training and experience,

including evidence of current licensure, registration, or certification, if applicable;

3. Employee ~~where required by law,~~ health records;

4. Annual performance evaluations; and

5. Documentation of compliance with the background check requirements of ~~paragraphs~~ **paragraph** (a) through (c) of this subsection ~~and evaluation of performance, along with employee's name, address and Social Security number.~~

(e) Each employee ~~(c) All employees~~ shall be of an age in conformity with state laws.

(f) An ~~(d) Any~~ employee who contracts a communicable or ~~contracting~~ an infectious disease shall:

1. Be immediately excluded from work; and

2. Remain off work until cleared as noninfectious by a health care practitioner acting within the practitioner's scope of practice.

(g) Each ~~not appear at work until the infectious disease can no longer be transmitted. (e) All~~ dietary staff member ~~employees~~ shall wear a hair net ~~nets~~.

(h) ~~(f)~~ In-service training.

1. Each PCH ~~or~~ **and** SPCH employee ~~All personal care home employees~~ shall receive orientation and annual in-service training that corresponds ~~to correspond~~ with the staff member's job duties ~~of their respective jobs~~.

2. Documentation of orientation and in-service training shall be maintained in the employee's record and shall include **[the following]**:

a. Name of the individual or individuals who provided ~~gave~~ the training;

b. Date and number of hours the ~~period of time~~ training was given; and

c. A summary of ~~what~~ the training program's content ~~consisted of~~.

3. In-service training shall include ~~but not be limited to~~ **[the following]**:

a. Policies regarding the responsibilities of specific job ~~of the facility in regard to the performance of their~~ duties;

b. Services provided by the facility;

c. Recordkeeping procedures;

d. Procedures for the reporting of cases of adult ~~and child~~ abuse, neglect, or exploitation pursuant to KRS 209.030 ~~Chapters 209 and 620~~;

e. Resident ~~5. Patient~~ rights established by ~~as provided for in~~ KRS 216.510 to 216.525;

f. Adult learning principles ~~7~~ and methods for ~~of~~ assisting residents ~~patients~~ to achieve maximum abilities in ADLs and IADLs ~~activities of daily living~~;

g. Procedures for the proper application of emergency manual ~~physical~~ restraints;

h. Procedures for maintaining a clean, healthful, and pleasant environment;

i. The aging process;

j. The emotional problems of illness;

k. Use of medication; and

l. Therapeutic diets.

4. Each SPCH shall ensure that at least one (1) direct care staff member in addition to the administrator completes the mental illness or intellectual disability training workshop established by 921 KAR 2:015, Section 14, within six (6) months from the most recent effective date of this administrative regulation and every two (2) years thereafter. An SPCH shall employ at least one (1) direct care staff member who has received the training.

(i) ~~(g)~~ Staffing requirements.

1. The number of personnel required shall be based on:

a. The number of patients; and

b. Amount and kind of personal care, health care, and ~~7~~ supervision ~~7~~ ~~and program~~ needed to meet the needs of the residents ~~as determined by the definitions of care and services re-~~

quired in this administrative regulation].

2.[If the staff to resident ratio does not meet the needs of the residents, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification and shall give the basis for this determination.

3-] The administrator shall designate one (1) or more staff members to be [a person for each of the following areas who will be primarily] responsible for ~~[the following services]~~ coordination and provisions of services (personnel may be required to perform combined duties):

- a. Recordkeeping;
- b. Basic health and health related services; and
- c. Activity services.

3.[4.] Each PCH or SPCH[facility] shall have a full-time staff member who shall be:

a.[person designated by the administrator,] Responsible for the total food service operation of the facility; and

b.[who shall be] On duty a minimum of thirty-five (35) hours each week.

5. A PCH or SPCH shall ensure that sufficient staff, but no less than one (1) staff member[attendant] shall be awake and on duty on each floor in the facility at all times.

(9) Medical records.

(a) The PCH or SPCH administrator or staff member[person] in charge of medical records shall assure that a complete medical record is[shall be] kept for each resident with all entries current, dated, and signed.

(b)[Entries should be made in ink, ballpoint, or typed.] Each record shall include ~~[the following]~~ ing:

1.[(a)] Identification information, including:

a.[4.] Resident's name;

b.[2.] Social Security, Medicare, and Medical Assistance identification number (if appropriate);

c.[3.] Marital status;

d.[4.] Birthdate;

e.[5.] Age;

f.[6.] Sex;

g.[7.] Home address;

h.[8.] Religion and personal clergyman, if any (with consent of the resident);

i.[9.] Attending physician, health care practitioner acting within the practitioner's scope of practice, QMHP, dentist, and podiatrist, if any, and[;] address and phone number for each[one];

j.[10.] Next of kin or responsible person, address, and telephone number;

k.[11.] Date of admission and discharge;

l. If the resident is discharged, transferred, or transitioned to a community living arrangement[12. In the event of transfer], a copy of the summary of resident's records; and

m.[13.] Monthly recording of the resident's weight;

2.[(b)] If admitted from another facility, a discharge summary or transfer summary;

3.[(c)] Admitting medical evaluation;

4.[(d) Physician's] Report by the physician or health care practitioner acting within the practitioner's scope of practice, documenting completion of an[one] annual medical evaluation of each[the] resident;

5.[(e)] Physician, health care practitioner, or QMHP progress notes indicating any changes in the resident's condition, documented at the time of each visit by the physician, health care

practitioner, QMHP, or ~~and~~ consultant;

~~6.-(f)] Orders for medication or therapeutic services;~~

~~7.-(g)] Nurses' or staff notes indicating any changes in the[a] resident's condition as changes[they] occur;~~

~~8. Documentation of any accident, injury, illness, medication error, or drug reaction **impacting the resident**;~~

~~9. Documentation[-(h) Reports of accidents or acute illnesses of any resident. (i) Reports] of social services, dental, laboratory, x-ray, or[and special] reports from[of] consultants or therapists if[when] the resident receives any of these services;~~

~~10.[-~~

~~(j)] Medication and treatment sheets, including all medications, treatments, and special procedures performed **for that resident**, with the[indicating] date and time of each service documented and[- Entries shall be] initialed by the individual[personnel] rendering treatment or administering medication;~~

~~11. Documentation[-~~

~~(k) Reports] of the use of an emergency manual restraint for that resident[physical restraints], including justification for why the procedure was[procedures] used;~~

~~12. Documentation[-, and the checks and releases of physical restraints.~~

~~(l) A record] of the resident's discharge, transfer, or transition destination, if applicable; and~~

~~13. Monthly documentation of ADL and IADL skills instruction provided to, or made available and refused by, **the resident if the resident is an SPCH resident who is[SPCH residents who are]** transitioning to living independently in the community pursuant to 908 KAR 2:065.~~

(10) Retention of records. After death or discharge, the completed medical record shall be placed in an inactive file and retained for **at least six (6)[five (5)] years**[-, or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest].

Section 4. Provision of Services. (1) Basic health and health related services.

(a) A PCH or SPCH[~~All personal care homes~~] shall provide basic health and health related services, including:

~~1.[Continuous] Supervision and monitoring of the resident to assure that the resident's health care needs are[being] met;~~

~~2.[-] Supervision of self-administration of medications;~~

~~3.[-] Storage and control of medications; and~~

~~4. Arranging[-, when necessary, and making arrangements] for[obtaining] therapeutic services ordered by the resident's health care practitioner, if the services[physician which] are not available in the facility.~~

(b) **For a PCH or SPCH, [All personal care homes] [shall meet the following requirements relating to the provision of basic health and health related services:**

~~1.-] the administrator or staff person designated by the administrator[(a) The person in charge of the facility] shall, **relating to the provision of basic health and health-related services:**~~

~~1.[a.] Be responsible for obtaining medical care[by a licensed physician] promptly in response to an[~~cases of~~] accident, injury, or acute illness of any resident; and~~

~~2.[b.] Document any accident, injury, illness, incident, medication error, or drug reaction[- Such instances shall be recorded] in the resident's medical record.~~

(c)[(b)] Medications or therapeutic services shall not be administered or provided to any resident, except on the order of a licensed physician or other health care practitioner as authorized under the practitioner's[ordering personnel acting with the limits of their statutory] scope of

practice.

(d) Administration of all medications and delivery~~[provisions]~~ of therapeutic services shall be recorded in the resident's medical record.

(e)~~[(e)]~~ If an order is~~[orders are]~~ received by telephone, the order shall be:

1. Recorded in the resident's~~[on the individual's]~~ medical record; and

2. Signed by the physician or other health care practitioner as authorized under the practitioner's~~[ordering personnel acting within the limits of their statutory]~~ scope of practice within fourteen (14) days.

(f)1. The administrator or staff person designated by the administrator shall make~~[(d)]~~ a written report of any incident or accident involving a:

a. Resident,~~[(i)]~~ including a medication error~~[errors]~~ or drug reaction;

b.~~[reactions];~~ Visitor; or

c. Staff member.

2. The report shall:

a. Identify~~[be made and signed by the administrator, and]~~ any staff member who **might**~~[may]~~ have been witness to the incident; and

b.~~[The report shall]~~ Be filed in an incident file.

(g)1.~~[(e)]~~ Controlled substances. A PCH or SPCH ~~[home]~~ shall not keep any controlled substances or other habit forming drugs, hypodermic needles, or syringes except under the specific direction of a prescribing practitioner~~[physician]~~.

2. Controlled substances shall be kept under double lock, **for example**~~[e.g.]~~ stored~~[(i.e.,)]~~ in a locked box in a locked cabinet~~[)]~~.

3. There shall be a controlled substances bound record book with numbered pages that includes~~[the following]~~:

a.~~[, in which is recorded the]~~ Name of the resident;

b.~~[the]~~ Date, time, kind, dosage, and method of administration of each~~[all]~~ controlled substance~~[substances]~~;

c.~~[the]~~ Name of the practitioner~~[physician]~~ who prescribed the medications; and

d.~~[the]~~ Name of the:

(i) Nurse who administered the controlled substance; ~~[it,]~~ or

(ii) Staff member who supervised~~[the]~~ self-administration by a resident whose medical record includes a written determination from a health care practitioner that the resident is able to safely self-administer a controlled substance under supervision.

4. A staff member with access to controlled substances shall be responsible for maintaining~~[In addition, there shall be]~~ a recorded and signed:

a. Schedule II controlled substances count daily;~~[,]~~ and

b. Schedule III, IV, and V controlled substances count at least one (1) time~~[once]~~ per week ~~[by those persons who have access to controlled substances]~~.

5. All expired or unused controlled substances~~[which are left over after the discharge or death of the resident]~~ shall be disposed of, or destroyed in accordance with 21 C.F.R. Part 1317 no later than thirty (30) days:

a. After expiration of the medication; or

b. From the date the medication was discontinued~~[C.F.R. 1307.24]~~.

6. If controlled substances are destroyed on-site:

a. The method of destruction shall render the drug unavailable and unusable;

b. The administrator or staff person designated by the administrator shall be responsible for destroying the controlled substances with at least one (1) witness present; and

c. A readily retrievable record of the destroyed controlled substances shall be maintained for a minimum of eighteen (18) months from the date of destruction and contain the~~[following]~~:

- (i) Date of destruction;
- (ii) Resident name;
- (iii) Drug name;
- (iv) Drug strength;
- (v) Quantity;
- (vi) Method of destruction;
- (vii) Name of the person responsible for the destruction; and
- (viii) Name of the witness.

7. A PCH or SPCH that stores and administers controlled substances in an emergency medication kit (EMK) shall comply with the:

- a. Requirement for licensed personnel established by 201 KAR 2:370, Section 2(4)(i);**
- b. Requirements for storage and administration established by 902 KAR 55:070, Section 2(2), (5), (7), (8), and (9); and**

c. Limitation on the number and quantity of medications established by 902 KAR 55:070, Section 2(6).

(h)[(f)] All resident medications[medicines] shall be plainly labeled with the **following**:

- 1. Resident's name;
- 2.[, the] Name of the drug;
- 3.[,] Strength;
- 4.[,] Name of the pharmacy;
- 5.[,] Prescription number;
- 6.[,] Date;
- 7. Prescriber's[, Physician] name; **and**

8.[,] Caution statements and directions for use, unless a[except where accepted] modified unit dose drug distribution system is[systems conforming to federal and state laws are] used.

(i)1. All medicines kept by the PCH or SPCH[home] shall be kept in a locked place.

2. The administrator or staff person designated by the administrator[and the persons in charge] shall:

- a. Be responsible for administering or supervising the self-administration of medication;
- b. Ensure that all[giving the medicines and keeping them under lock and key.] medications requiring refrigeration are[shall be] kept in a separate locked box[of adequate size] in the refrigerator in the medication area; and
- c. Ensure that[-] drugs for external use are [shall be] stored separately from those administered by mouth and injection[. Provisions shall also be made for the locked separate storage of medications of deceased and discharged patients until such medication is surrendered or destroyed in accordance with existing federal and state laws and regulations].

(j)1. A PCH or SPCH that stores and administers non-controlled substances in an EMK shall comply with the:

- a. Requirement for licensed personnel established by 201 KAR 2:370, Section 2(4)(i); and**

b. Limitation on the number and quantity of medications established by 201 KAR 2:370, Section 2(4)(b).

2. A PCH or SPCH that stores and administers non-controlled substances from a long-term care facility (LTCF) drug stock shall comply with the limitation on the number and quantity of medications established by 201 KAR 2:370, Section 2(5)(b).

(k)1.[(g)] If a resident manifests persistent behavior that **might[may]** require psychiatric treatment, the PCH or SPCH shall notify the resident's physician or health care practitioner acting within the practitioner's scope of practice[shall be notified in order] to evaluate and direct the resident's care.

2. If the resident's condition does not improve~~enough~~ for~~his~~ continued stay in a PCH or SPCH~~[personal care facility]~~, the physician or health care practitioner shall initiate transfer of the resident to an appropriate facility as soon as possible.

~~(l)(k)~~ ~~(h)~~ Use of restraints.

1. Chemical and physical~~[No]~~ restraints shall not be used, except as authorized~~[permitted]~~ by KRS 216.515(6).

2. Restraints that require a lock and key shall not be used.

3. Emergency use of a manual restraint~~[Restraints]~~ shall be applied only by appropriately trained personnel if:

a. A resident poses an imminent risk of physical harm to self or others; and

b. The emergency manual restraint is the least restrictive intervention to achieve safety.

4. Restraints shall not be used as:

a.~~[A]~~ Punishment;

b.~~[, as]~~ Discipline;

c.~~[, as a]~~ Convenience for~~[the]~~ staff;~~;~~ or

d. Retaliation ~~[as a mechanism to produce regression].~~

~~(m)(4)~~~~(i)~~ Each resident shall have an annual medical evaluation by a physician or health care practitioner acting within the practitioner's scope of practice.~~[The results of this evaluation shall be recorded in the resident's medical record].~~

~~(n)(m)~~~~(j)~~ Communicable diseases. If a resident or prospective resident is suspected or confirmed as having~~[known to have]~~ a communicable disease for which a reasonable probability of disease transmission exists in the PCH or SPCH~~[personal care home]~~, the administrator or staff person designated by the administrator shall:

1. Contact~~[assure that]~~ a physician; and

2. Ensure~~[is contacted and]~~ that appropriate measures are taken to treat~~[on behalf of]~~ the resident with the communicable disease and prevent the disease from spreading~~[to other residents].~~

(2) Residential care services. A PCH or SPCH~~[personal care home]~~ shall provide residential care services to all residents, including:

(a) Room accommodations;

(b)~~;~~ Housekeeping and maintenance services;~~;~~ and

(c) Dietary services.

(3) A PCH or SPCH~~[personal care home]~~ shall meet the following requirements relating to the provisions of residential care services:

(a) Room accommodations.

1. A PCH or SPCH shall provide each resident with:

a.~~[shall be provided]~~ A bed that is at least thirty-six (36) inches wide;

b.~~[equipped with substantial spring;]~~ A clean, comfortable mattress with a support mechanism;

c.~~;~~ A mattress cover;

d.~~;~~ Two (2) sheets and a pillow;~~;~~ and

e.~~[such]~~ Bed covering~~[as is required]~~ to keep the resident~~[residents]~~ comfortable.

2. Each bed~~[Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by residents]~~ shall be placed so that a~~[no]~~ resident does not~~[may]~~ experience discomfort because of proximity to a radiator, heat outlet, or exposure to a draft~~[radiators, heat outlets, or by exposure to drafts].~~

3. Except for married couples or domestic partners, there shall be separate sleeping quarters for males and females.

4. A PCH or SPCH~~[2. The home]~~ shall provide:

- a. Window coverings;
- b. Bedside tables with reading lamps, ~~{}~~if appropriate;
- c. Comfortable chairs;
- d. A chest or dresser with a mirror for each resident; ~~dressers with mirrors~~ and
- e. A night light.

5. A resident shall not be housed in a room, detached building, or other enclosure that has not previously been inspected and approved for residential use by the Office of Inspector General and the Department of Housing, Buildings and Construction ~~3. Residents shall not be housed in unapproved rooms or unapproved detached buildings~~.

6. ~~4.~~ Basement rooms shall not be used for sleeping rooms for residents.

7. ~~5.~~ Residents may have personal items and furniture, if ~~when it is physically~~ feasible.

(b) Housekeeping and maintenance services.

1. A PCH or SPCH ~~The home~~ shall:

- a. Maintain a clean and safe facility free of unpleasant odors; and
- b. Ensure that ~~odors are~~ odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans, and other ~~obvious~~ sources.

2. A PCH or SPCH shall:

- a. Have available at all times a quantity ~~An adequate supply~~ of clean linen essential to the proper care and comfort of residents;

- b. Ensure that ~~should be on hand at all times~~ soiled clothing and linens ~~shall~~ receive immediate attention and ~~should~~ not be allowed to accumulate;

- c. Ensure that ~~clothing or bedding used by one (1) resident shall not be used by another resident unless~~ clothing or bedding used by one (1) resident shall not be used by another resident unless ~~until it has been~~ laundered or dry cleaned;

- d. Ensure that each ~~3. Laundering of resident's normal personal clothing and bed linens.~~ resident's personal clothing and bed linens are ~~shall be~~ laundered ~~by the home~~ as often as is necessary;

- e. Maintain responsibility for laundering each ~~resident's personal clothing~~ resident's personal clothing ~~shall be laundered by the home~~ unless the resident or the resident's family accepts this responsibility;

- f. Provide laundry equipment for each resident who is ~~Residents~~ capable of, and chooses to launder his or her ~~laundrying their own~~ personal clothing; and

- g. **Label or mark** ~~Labels or marks~~ each ~~and wishing to do so may, instead, be provided the facilities to do so.~~ resident's personal clothing if laundered by the facility for return ~~shall be marked to identify the resident-owner and returned~~ to the correct resident.

3. ~~4.~~ Safety. The condition of the overall environment ~~home~~ shall be maintained in such a manner that the ~~take appropriate precautions to insure~~ safety and well-being of residents, personnel, and visitors is assured ~~and employees~~.

4. ~~5.~~ Maintenance. The premises shall be well kept and in good repair as established in clauses a. through d. of this subparagraph. ~~follows~~. ~~Requirements shall include but not be limited to~~:

- a. The facility shall insure that the grounds are well kept and the exterior of the building, ~~and~~ including the sidewalk, steps, porches, ramps, and fences, are in good repair.

- b. The interior of the building, including walls, ceilings, floors, windows, window coverings, doors, plumbing, and electrical fixtures, shall be in good repair. Windows and doors shall be screened.

- c. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

- d. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company.

Care shall be taken to use the least toxic and least flammable~~[effective]~~ insecticides and rodenticides. The compounds shall be stored under lock **if stored by the facility.**

(c) Dietary services.

1. Dining area. A dining area shall be available for the residents.

2. Therapeutic diets. If the facility provides therapeutic diets~~[,]~~ and the staff member~~[designated person]~~ responsible for food services is not a license~~[qualified]~~ dietician or certified nutritionist, the responsible staff person shall consult with a licensed~~[consultation by a qualified]~~ dietician or certified~~[qualified]~~ nutritionist~~[shall be provided]~~.

3. Menu planning.

a. Menus shall be planned in writing and rotated to avoid repetition.

b. A PCH or SPCH shall meet the nutrition needs of residents ~~[shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity and]~~ in accordance with physician's orders.

c.~~[b-]~~ **Except as established in clause e. of this subparagraph,** meals shall correspond with the posted menu.

d. Menus shall be planned and posted one (1) week in advance.

e. If ~~[When]~~ changes in the menu are necessary:

(i)~~[,]~~ Substitutions shall provide equal nutritive value;

(ii) ~~[and]~~ The changes shall be recorded on the menu; and

(iii) Menus shall be kept on file for **at least** thirty (30) days.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well-balanced, palatable meals.

b. Food shall be prepared with consideration for any individual dietary requirement.

c. Modified diets, nutrient concentrates, and supplements shall be given only on the written order~~[orders]~~ of a physician.

d.~~[e-]~~ At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the evening meal and breakfast.

e. Between-meal snacks, including~~[to include]~~ an evening snack before bedtime, shall be offered to all residents.

f. Adjustments shall be made if~~[when]~~ medically contraindicated.

g.~~[d-]~~ Food shall be:

(i) Prepared by methods that conserve nutritive value, flavor, and appearance;~~[,]~~ and

(ii)~~[shall be attractively]~~ Served at the proper temperature~~[temperatures]~~ and in a form to meet individual needs.

h. A file of tested recipes, adjusted to appropriate yield, shall be maintained.

i. Food shall be cut, chopped, or ground to meet individual needs.

j. If a resident refuses food served, substitutes shall be offered.

k.~~[e-]~~ All opened containers or leftover food items shall be covered and dated when refrigerated.

l.~~[f-]~~ Ice water shall be readily available to the residents at all times.

m. Food services shall be provided in accordance with~~[5. Sanitation. Personal care homes shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and]~~ 902 KAR 45:005.

(4)~~[(3)]~~ Personal care services. All PCHs and SPCHs~~[personal care homes]~~ shall provide services to assist residents with activities of daily living to achieve and maintain good personal hygiene, including~~[the level of]~~ assistance as needed~~[necessary]~~ with:

(a) Bathing~~[Washing and bathing of the body to maintain clean skin and freedom from of-~~

~~fensive odors]. [In addition to assistance with washing and bathing,] The facility shall provide soap, clean towels, and wash cloths for each resident and ensure that[-] toilet articles such as towels, brushes, and combs are[shall] not[be] used in common;[-]~~

(b) Shaving;[-]

(c) Cleaning and trimming of fingernails and toenails;[-]

(d) Cleaning of the mouth and teeth to maintain good oral hygiene, and[as well as] care of the lips to prevent dryness and cracking. The facility shall provide all residents[shall be provided] with tooth brushes, a dentifrice, and denture containers, if[when] applicable; and[-]

(e) Washing and[,] grooming[~~, and cutting of hair~~].

~~(5)~~[(4)] Activity services.

(a) All PCHs and SPCHs[A personal care home] shall provide social and recreational activities to:

1. Stimulate physical and mental abilities to the fullest extent;

2. Encourage and develop a sense of usefulness and self-respect;

3. Prevent, inhibit, or correct the development of symptoms of physical and mental regression; and

4. Provide[~~due to illness or old age, be of~~] sufficient variety to [that they] meet the needs of each resident[~~the various types of residents in the home~~].

(b) All PCHs and SPCHs[A personal care home] shall meet the **[following]** requirements **established in subparagraphs 1. through 8. of this paragraph** relating to the provision of activity services.[-]

1. Staff.[A person designated by] The administrator**[shall]**:

a. **Shall designate a staff member to be responsible for the activity program; and**

b. May accept services from a[-] volunteer group[~~groups may be enlisted~~] to assist with carrying out the activity[activities] program.[-]

2. There shall be a planned activity period each day.

3. The schedule shall be current and posted.

4.[3-] The activity program shall be planned for group and individual activities, both within and outside of the facility.

5.[4-] The staff member[person] responsible for the activity program[activities] shall maintain a current list of residents in[on] which precautions are documented[noted] regarding **if/whether** a resident's condition **might**[~~may~~][that might] restrict or modify the resident's[his] participation in the program.

6.[5-] A living or recreation room and outdoor recreational space shall be provided for residents and their guests.

7.[6-] The facility shall provide supplies and equipment for the activity[activities] program.

8.[7-] Reading materials, radios, games, and TV sets shall be provided for the residents.

(c) An SPCH shall collaborate with the agency or team that is working with residents transitioning to community living pursuant to 908 KAR 2:065 to offer basic instruction in ADLs and IADLs to each resident who is identified as working to transition to independent community living pursuant to 908 KAR 2:065. ADL and IADL skills training shall include instruction that is integrated into the normal rhythms of life.

(6) For purposes of subsection (5)(c) of this section, the following shall apply:

(a) "Basic instruction" in ADLs and IADLs shall have the same meaning as "assistance with" ADLs and IADLs;

(b) An SPCH shall not be responsible for selecting which residents receive basic instruction in ADLs and IADLs; and

(c) An SPCH shall not be responsible for ensuring that a resident has mastered each task defined as an ADL or IADL.

Section 5. Material Incorporated by Reference. (1) The form, "SMI Screening Form", **Au-**
gust 2019~~[April 15, 2019 edition]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law,
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STEVEN D. DAVIS, Inspector General

ADAM M. MEIER, Secretary

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CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legisla-
tive and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40602, phone
502-564-6746, fax 502-564-7091, CHFSregs@ky.gov.