

LICENSING AND REGULATORY AFFAIRS

HOMES FOR THE AGED

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These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a (6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the department of licensing and regulatory affairs by section 427 of 1965 PA 380, MCL 16.527, and section 2233 of 1978 PA 368, MCL 333.2233; and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, and 2015-1, MCL 330.3101, 445.200, 445.2011, and 400.227.)

R 325.1922, R 325.1923, and R 325.1944 of the Michigan Administrative Code are amended as follows:

PART 3. ADMINISTRATIVE MANAGEMENT OF HOMES

R 325.1922 Admission and retention of residents.

Rule 22. (1) A home shall have a written resident admission contract, program statement, admission and discharge policy, and a resident's service plan for each resident.

(2) The admission policy shall specify all of the following:

(a) That at the time of admission, the home shall document the needs of each individual seeking admission. The documented needs shall be used to develop the resident's service plan.

(b) That a home shall not accept an individual seeking admission unless the individual's needs can be adequately and appropriately met within the scope of the home's program statement.

(c) That the individual seeking admission and his or her authorized representative, if any, shall participate in the development of the individual's service plan.

(d) That the home has developed and implemented a communicable disease policy governing the assessment and baseline screening of residents.

(3) At the time of an individual's admission, a home or the home's designee shall complete a written resident admission contract between the resident, the resident's authorized representative, or both, and the home. The resident admission contract shall, at a minimum, specify all of the following:

(a) That the home shall provide room, board, protection, supervision, assistance, and supervised personal care consistent with the resident's service plan.

(b) The services to be provided and the fees for the services.

(c) The notice to be provided by the home to the resident, the resident's authorized representative, or both, upon any change in fees.

(d) The transportation services that are provided, if any, and the fees for those services.

- (e) The home's admission and discharge policy.
 - (f) The home's refund policy.
 - (g) The resident's rights and responsibilities, which shall include those rights and responsibilities specified in section 20201(2) and (3), MCL 333.20201(2) and (3) of the public health code and section 20202, MCL 333.20202, of the code.
- (4) If there is a change in a term or condition in the written resident admission contract, then the home or home's designee shall review the change with the resident and the resident's authorized representative, if any.
- (5) A home shall update each resident's service plan at least annually or if there is a significant change in the resident's care needs. Changes shall be communicated to the resident and his or her authorized representative, if any.
- (6) A home shall require an individual who, at the time of admission, is under the care of a licensed health care professional for ongoing treatments or prescription medications that require the home's intervention or oversight, to provide a written statement from that licensed health care professional completed within the 90-day period before the individual's admission to the home. The statement shall list those treatments or medications for the purpose of developing and implementing the resident's service plan. If this statement is not available at the time of an emergency admission, then the home shall require that the statement be obtained not later than 30 days after admission.
- (7) An individual admitted to residence in the home shall have evidence of initial tuberculosis screening on record in the home that was performed within 12 months before admission. Initial screening may consist of an intradermal skin test, a blood test, a chest x-ray, or other methods recommended by the public health authority. The screening type and frequency of routine tuberculosis (TB) testing shall be determined by a risk assessment as described in the 2005 MMWR "Guidelines for Preventing the Transmission of Mycobacterium tuberculosis in Health-Care Settings, 2005" (<http://www.cdc.gov/mmwr/pdf/rr/rr5417.pdf>), Appendices B and C, and any subsequent guidelines as published by the centers for disease control and prevention. A home, and each location or venue of care, if a home provides care at multiple locations, shall complete a risk assessment annually. Homes that are low risk do not have to conduct annual TB testing for residents.
- (8) A home shall not retain a resident if the resident has harmed himself or herself or others, or has demonstrated behaviors that pose a risk of serious harm to himself or herself or others, unless the home has the capacity to manage the resident's behavior.
- (9) A home shall not admit a resident who requires continuous nursing care services of the kind normally provided in a nursing home as specified in section 21711(3) of the code, MCL 333.21711(3), and section 21715(2), MCL 333.21715(2), of the code.
- (10) A home shall not retain a resident who requires continuous nursing care services of any kind normally provided in a nursing home as specified in section 21711(3), MCL 333.21711(3), and section 21715(2), MCL 333.21715(2), of the code unless the home meets the provisions of section 21325, MCL 333.21325, of the code or the individual is enrolled in and receiving services from a licensed hospice program or a home health agency.
- (11) In accordance with section 20201(3) of the code, MCL 333.20201(3) (e), a home's discharge policy shall specify that a home for the aged resident may be transferred or discharged for any of the following reasons:

- (a) Medical reasons.
- (b) His or her welfare or that of other residents.
- (c) For nonpayment of his or her stay.
- (d) Transfer or discharge sought by resident or authorized representative.

(12) The reason for transfer or discharge shall be documented in the resident record.

(13) A home shall provide a resident and his or her authorized representative, if any, and the agency responsible for the resident's placement, if any, with a 30-day written notice before discharge from the home. The written notice shall consist of all of the following:

- (a) The reasons for discharge.
- (b) The effective date of the discharge.

(c) A statement notifying the resident of the right to file a complaint with the department. The provisions of this subrule do not preclude a home from providing other legal notice as required by law.

(14) If the department finds that the resident was discharged in violation of these rules or the home's discharge policy, then the resident may return to the first available bed in the home that can meet the resident's needs as identified in the resident's service plan.

(15) A home may discharge a resident before the 30-day notice if the home has determined and documented that either, or both, of the following exist:

(a) Substantial risk to the resident due to the inability of the home to meet the resident's needs or due to the inability of the home to assure the safety and well-being of the resident, other residents, visitors, or staff of the home.

(b) A substantial risk or an occurrence of the destruction of property.

(16) A home that proposes to discharge a resident for any of the reasons listed in subrule (15) of this rule shall take all of the following steps before discharging the resident:

(a) The home shall notify the resident, the resident's authorized representative, if any, and the agency responsible for the resident's placement, if any, not less than 24 hours before discharge. The notice shall be verbal and issued in writing. The notice of discharge shall include all of the following information:

(i) The reason for the proposed discharge, including the specific nature of the substantial risk.

(ii) The alternatives to discharge that have been attempted by the home, if any.

(iii) The location to which the resident will be discharged.

(iv) The right of the resident to file a complaint with the department.

(b) The department and adult protective services shall be notified not less than 24 hours before discharge in the event of either of the following:

(i) A resident does not have an authorized representative or an agency responsible for the resident's placement.

(ii) The resident does not have a subsequent placement.

(c) The notice to the department and adult protective services shall include all of the following information:

(i) The reason for the proposed discharge, including the specific nature of the substantial risk.

(ii) The alternatives to discharge that have been attempted by the home, if any.

(iii) The location to which the resident will be discharged, if known.

(d) If the department finds that the resident was improperly discharged, then the resident may return to the first available bed in the home that can meet the resident's needs as identified in the resident's service plan.

(e) The resident shall not be discharged until a subsequent setting that meets the resident's immediate needs is located.

R 325.1923 Employee's health.

Rule 23. (1) A person on duty in the home shall be in good health. The home shall develop and implement a communicable disease policy governing the assessment and baseline screening of employees. A record shall be maintained for each employee, which shall include results of baseline screening for communicable disease. Records of accidents or illnesses occurring while on duty that place others at risk shall be maintained in the employee's file.

(2) A home shall provide initial tuberculosis screening at no cost for its employees. New employees shall be screened within 10 days of hire and before occupational exposure. The screening type and frequency of routine tuberculosis (TB) testing shall be determined by a risk assessment as described in the 2005 MMWR "Guidelines for Preventing the Transmission of Mycobacterium tuberculosis in Health-Care Settings, 2005" (<http://www.cdc.gov/mmwr/pdf/rr/rr5417.pdf>), Appendices B and C, and any subsequent guidelines as published by the centers for disease control and prevention. Each home, and each location or venue of care, if a home provides care at multiple locations, shall complete a risk assessment annually. Homes that are low risk do not need to conduct annual TB testing for employees.

(3) Employees with past documented positive TB skin test results or who have received treatment for tuberculosis infection in the past are exempt from the TB skin test. Employees with past documented positive TB skin result, who have never been treated for TB infection, shall be screened for active symptoms of TB disease and the need for evaluation by a qualified health care professional to determine if treatment for TB infection is indicated.

(4) TB skin tests, as well as post-exposure follow-up and treatment evaluations, shall be offered at no cost to the employees at times and locations convenient to the employees. A qualified health care professional shall perform the reading and interpretation of the TB testing.

PART 5. RECORDS

R 325.1944 Employee records and work schedules.

Rule 44. (1) A home shall maintain a record for each employee, which shall include all of the following:

- (a) Name, address, telephone number, and social security number.
- (b) License or registration number, if applicable.
- (c) Date of birth.
- (d) Summary of experience, education, and training.
- (e) Beginning date of employment and position for which employed.
- (f) References, if provided.
- (g) Results of initial TB screening as required by R 325.1923(2).

- (h) Date employment ceases and reason or reasons for leaving, if known.
- (i) Criminal background information, consistent with section 20173a, MCL 333.20173a, of the code.
- (2) The home shall prepare a work schedule showing the number and type of personnel scheduled to be on duty on a daily basis. The home shall make changes to the planned work schedule to show the staff who actually worked.
- (3) The home shall retain the work schedules for the preceding 3 months.