

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 680. RESIDENTIAL CARE HOMES**

"Unofficial Version"

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[**Authority:** 63 O.S., §§ 1-819 et seq.]

[**Source:** Codified 12-31-1991]

SUBCHAPTER 1. GENERAL PROVISIONS

Section

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310:680-1-1. Purpose

This Chapter implements the Residential Care Act, 63 O.S. Section 1-820 through 1-840 and establishes the minimum criteria for the issuance or renewal of a residential care home license. In addition, this Chapter provides the criteria which will be used in enforcing the provision of the Act as necessary to protect the health, safety and welfare of the residents and to assure respect for their rights, dignity and comfort.

310:680-1-2. Definitions

When used in this Chapter the following words or terms shall have the following meaning unless the context of the sentence requires another meaning.

"Abuse" means any intentional or negligent act or omission, directly and proximately resulting in physical or mental injury to a resident of a facility.

"Access" means the right of a person to enter a home to communicate privately and without unreasonable restriction.

"Administration" means the removing of a single dose of medication from a labeled container and preparing that dose for distribution.

"Administrator" means the person who is in charge of a home and denotes one-third (1/3) of his/her full working time to on-the-job supervision of such home.

"Ambulatory" means any resident who is capable of self-movement, including in and out of wheelchairs, to all areas of the home.

"Department" means the State Department of Health.

"Dispensing" means transferring one or more doses of medication from one labeled container to another labeled container.

"Habilitation" means procedures and interventions designed to assist a mentally ill, drug dependent or alcohol-dependent person eighteen (18) years of age or older to achieve greater physical, mental and social development by enhancing the well-being of the person and teaching skills which increase the possibility that the resident will make progressively independent and responsible decisions about social behavior, quality of life, job satisfaction and personal relationships.

"Home" means residential care home.

"Institution of higher learning" means an institution which provides post-secondary school programs.

"Licensee" means a person, corporation, partnership, or association who is the owner of a home which is licensed pursuant to the provisions of the Residential Care Act.

"Maintenance" means meals, shelter, and laundry services.

"Medication" means a prescription drug or an over-the-counter drug prescribed by a person licensed to prescribe.

"Monitor" means watch, observe, check and keep track of for a special purpose.

"Neglect" means any act of omission or commission by any owner, operator, administrator, licensee or any agent, servant, employee or other person under the employment, supervision or control of any one or more of the owners, operators or administrators, and which act is a direct and proximate cause of any physical or mental injury to a resident.

"Owner" means a person, corporation, partnership, association or other entity which owns a home or leases a home. The person or entity who stands to profit or lose as a result of the financial success or failure of the operation shall be presumed to be the owner of the homes.

"Personal care" means assistance with meals, dressing, movement, bathing, or other personal needs or maintenance or general supervision of the physical and mental well-being of a person who is capable of maintaining a private, independent residence, or who is incapable of managing his person whether or not a guardian has been appointed for such person.

"Representative of a resident" means a court-appointed guardian, or if there is no court-appointed guardian, the parent of a minor, a relative or other person designated in writing by the resident.

An owner, agent, or employee of a home shall not be a representative of a resident unless such person is appointed by the court.

"Residential Care Home" means

(A) Any establishment or institution other than a hotel motel, fraternity or sorority house, or college or university dormitory which offers or provides residential accommodations, food service and supportive assistance to any of its residents or houses any resident requiring supportive assistance who are not related to the owner or administrator of the home by blood or marriage. Said residents shall be ambulatory and essentially capable of managing their own affairs, but do not routinely require skilled nursing care or intermediate care.

(B) Transitional Living facility and halfway houses are defined in section 3-403 of Title 43A of Oklahoma Statutes.

(C) A residential care home may consist of a series of units or buildings which are not connected or part of the same structure if:

(i) Such buildings or units are owned by the same owner or operator.

(ii) All residents of the units or buildings are fully capable of ambulation to and from buildings or units.

(iii) The location and construction of the building or units ensure the health, safety and protection from fire hazards and other hazards and provide for the convenience and accessibility of the residents to each residential building or unit.

(iv) Any out-of-doors premise or thoroughfare is adequately maintained to ensure the health and safety of the residents.

(v) The building or units are within one hundred seventy-five (175) feet of the building housing the main kitchen and dining room.

(vi) The units or buildings must be located in the most convenient and accessible location for residents.

"Residential Care Certification" means a program in a residential care home certified by and contracted with the Department of Mental Health to provide specialized services to residents who are mentally ill.

"Self-administration" means the administration of resident's medication by the resident with periodic staff review.

"Supportive assistance" means the service rendered to any person which is sufficient to enable the person to meet an adequate level of daily living. Supportive assistance includes but is not limited to housekeeping, assistance in the preparation of meals, assistance in the safe storage, distribution and administration of medications, and assistance in personal care as is necessary for the health and comfort of such person. The term "supportive assistance" shall not be interpreted or applied so as to prohibit the participation of residents in housekeeping or meal preparation tasks as a part of the written treatment plan for the training, habilitation or rehabilitation of the resident prepared with the participation of the resident, the mental health or drug or alcohol services case manager assigned to the resident and the administrator of the facility, or his designee. Supportive assistance shall not include medical service.

"Transfer" means a change in location of living arrangements of a resident from one home to another home.

[Source: Amended at 18 Ok Reg 2550, effective 6-25-2001]

310:680-1-3. Purpose, authority and indoor tobacco smoke

(a) The purpose of this section is to establish a prevention program for several non-communicable diseases, which will improve the health of Oklahomans by eliminating exposure to secondhand tobacco smoke and its deadly effects. This section abates the public health nuisance of secondhand smoke under the authority of the Commissioner of Health as specified under Section 1-106(b)(1) of Title 63 of the Oklahoma Statutes. This section also further specifies how compliance with the Smoking in Public Places Act will be accomplished. [63 O.S. §§ 1-1521 *et seq.*]

(b) The Commissioner of Health has conducted a study and is recommending these measures to the Board of Health under his authority as stated in section 1-106 of the Public Health Code. [63 O.S. § 1-106] The Board has the authority to establish prevention programs for non-communicable disease and to promulgate rules for the control of causative or toxic substances, which can cause disease under section 1-502b of the Public Health Code. [63 O.S. § 1-502b] The Board is adopting this rule under its authority in sections 1-104 and 1-1526 of Title 63 of the Oklahoma Statutes. [63 O.S. §§ 1-104 & 1-1526]

(c) Smoking or possessing a lighted tobacco product is

prohibited in a home and within fifteen (15) feet of each entrance to a home and of any air intakes; provided however, the home may provide a smoking room not available to the public for use by residents.

(d) An indoor smoking room may be provided if:

(1) It is completely enclosed;

(2) It is exhausted directly to the outside and maintained under negative pressure sufficient to prevent any tobacco smoke from entering non-smoking areas of the building;

(3) It allows for visual observation of the residents from outside of the smoking room; and

(4) The plans are reviewed and approved by the Department.

(e) To enable better observation and supervision of residents who wish to smoke outside, a facility may designate a smoking area outside an entrance other than the main entrance which may be closer than fifteen (15) feet to the entrance providing consideration is given to minimizing the possibility of smoke entering the building.

(f) The walkway to the main entrance shall also be smoke free.

(g) No ashtray shall be located closer than fifteen (15) feet to an entrance, except in an indoor smoking room or a designated outdoor smoking area under paragraph "c" above.

(h) Should construction requirements not be in agreement with this rule, the stricter rule shall apply.

(i) The facility's tobacco use policy shall be clearly posted near the main entrance, and prospective residents or their legal representatives shall be notified of the policy prior to the residents' acceptance for admission.

[Source: Added at 19 Ok Reg 2119, eff 7-01-2002]

SUBCHAPTER 3. LICENSURE REQUIREMENTS

Section

- 310:680-3-1. License required
- 310:680-3-2. Licenses
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- 310:680-3-9. Complaints
- 310:680-3-10. Abuse or neglect
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- 310:680-3-13. Temporary Managers
- 310:680-3-14. Appropriate occupancy

310:680-3-1. License required

(a) It shall be unlawful for any person or organization to operate a residential care home without first obtaining a license from the Oklahoma State Department of Health.

(b) All licenses shall be on a form prescribed by the Commissioner of Health. The license may be issued only for the premises named in the license application and shall not be transferable or assignable.

310:680-3-2. Licenses

(a) **Regular license.** The license shall be issued for a twenty-four (24) month period expiring two years from date of issue. A license may be issued upon receipt of completed application, payment of license fee, and verification by the Department that the home complies with the Residential Care Standards and Regulation for Licensure, and the Residential Care Act.

(b) **Probationary license.** If the applicant has not been previously licensed, or if the home is not in operation at the time application is made, the Department shall issue a probationary license. A probationary license shall be valid for one hundred twenty (120) days unless sooner suspended or revoked by the Department.

(c) Prior to issuance of a probationary license, the Department shall:

(1) Ascertain whether or not the applicant is qualified to be licensed.

(2) Inspect the home and inform the applicant of any condition which requires correction prior to issuance of a license. If the home is a new home, the Department shall also inform the applicant of any conditions which require correction prior to acceptance of residents into the home.

(3) If the home is an existing home whose ownership is being transferred, the probationary license issued to the transferee,

in addition to any corrections required as a result of the inspection, shall be subject to any plan of correction submitted by the previous owner and approved by the Department.

(d) **Conditional license**

(1) The Department may issue a conditional license to any residential care home in which it finds that a violation exists.

The issuance of a conditional license shall revoke any license held by the residential care home.

(2) Prior to the issuance of a conditional license, the Department shall review and approve a written plan of correction. The Department shall specify the violations which prevent full licensure and shall establish a time schedule for correction of the violation. Written notice of the decision to issue a conditional license shall be sent to the residential care home, together with the proposed plan of correction. The notice shall inform the home of the right to an informal conference prior to issuance of the conditional license, and its right to a full hearing.

(3) A conditional license shall be issued for a period specified by the Department, but in no event for more than one (1) year.

(4) The Department shall periodically, but not less than semiannually, inspect any home operating under a conditional license. If the Department finds substantial failure by the residential care home to follow the plan of correction, the conditional license may be revoked.

(5) If the Department determines that a conditional license shall expire without renewal or replacement of the conditional license by a regular license, the Department shall notify the licensee at least thirty (30) days prior to expiration of the license. The licensee is entitled to a hearing if requested prior to expiration of the conditional license.

310:680-3-3. Applications

(a) An applicant for license or renewal thereof to operate a residential care home shall submit to the Department a completed application along with the fifty dollar (\$50.00) license fee and documents required by the Commissioner to determine that the applicant is of reputable and responsible character and otherwise demonstrates the skill and fitness to provide the necessary services. In addition, the applicant shall have appropriate business or professional experience in dealing with the type of residents in the home. The license fee of fifty dollars (\$50.00) is not refundable.

(b) A license fee of twenty dollars (\$20.00) shall accompany any application for modification of a license.

(c) An application for license, or renewal, shall include a copy of all agreements with the professional consultants utilized by the home.

(d) An application for an initial license to operate a residential care home shall include documentation that the State Fire Marshal or the State Fire Marshal's representative has

inspected and approved the home. Each application for renewal of a license for a residential care home with more than six beds shall include documentation of annual inspection and approval by the State Fire Marshal or the State Fire Marshal's representative.

(e) The following items must be renewed annually:

(1) An Agreement with a physician to provide emergency medical services and consultation.

(2) Agreements with registered nurse, registered dietitian, and registered pharmacist, as required based on the needs of the residents.

(3) Licensed plumber or building inspector's report.

(4) Licensed electrician or municipal inspector's report.

(5) Kitchen inspection report made by a registered sanitarian.

(f) An approval letter from the local zoning authority shall accompany each initial license application.

(g) Each application shall be accompanied by an attested statement from the applicant assuring that the applicant has not been *convicted of a felony in connection with the operation or management of a home, or facility as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes or the care and treatment of the residents of a home, or facility as defined in Section 1-1902 of Title 63 of the Oklahoma Statute* [63:1-822.D]. If the applicant is a firm, partnership or corporation, the application shall include an attested statement from each member of the firm or partnership and from each officer and major stockholder of the corporation.

[**Source:** Amended at 17 Ok Reg 2074, eff 6-12-00; Amended at 18 Ok Reg 2550, effective 6-25-2001]

310:680-3-4. Inspections

(a) Each residential care home shall be periodically inspected by a duly appointed representative of the Department.

(b) The Department shall at least three times a year and whenever it deems necessary inspect, survey, and evaluate each home to determine compliance with applicable licensure and certification requirements and standards. The annual inspection shall occur within one hundred twenty (120) days prior to license renewal.

(c) Any inspection, investigation, survey or evaluation may be conducted without prior notice to the home. At least one inspection per home shall be unannounced. Any licensee or applicant for a license shall be deemed to have given consent to any duly authorized employee or agent of the Department to enter and inspect the home in accordance with the provisions of the Residential Care Act. Refusal to permit such entry or inspection may constitute grounds for the denial, nonrenewal, suspension, or revocation of a license.

(d) A notice of violation shall be sent to any residential care home when violations are cited as a result of an inspection. The home has ten (10) days after receipt of the notice of violation in which to prepare and submit a plan of correction. The plan of correction shall include a fixed time period not in excess of

thirty (30) calendar days, within which the violations are to be corrected. An additional thirty days may be requested and approved by the Department.

310:680-3-5. Sanctions

(a) The Department may deny, refuse, suspend, or refuse to renew a license to a residential care home on the following grounds:

(1) Failure to meet the provisions of the standards, rules, or regulations for licensure or the provisions of the Residential Care Act.

(2) The residential care home has a history of noncompliance or incomplete or partial compliance with the provisions of the Residential Care Act, or the standards, rules, or regulations, or other evidence which demonstrates that the applicant or licensee is unlikely to manage or operate a home or to provide appropriate services to the residents of the home.

(3) The applicant has insufficient financial or other resources to the extent that the applicant or licensee is incapable of assuring or providing adequate services to the residents of the home.

(4) An applicant, licensee administrator or operator has been convicted of a misdemeanor or felony in connection with the management or operation of a home or facility, or the care and treatment of a resident of a residential care home or other long term care facility.

(5) The applicant or licensee has permitted, aided, or abetted the commission of an illegal act in connection with the management or operation of a home or the care of treatment of a resident of a home.

(6) Failure to make corrections of violations as required in a plan of correction submitted by the home.

(b) The Department may issue a conditional license to any residential care home that violations exist. The issuance of a conditional license shall revoke any license held by the home.

(c) The Department may initiate an emergency transfer of residents in any home where an immediate health or safety hazard exists.

(d) The Department may petition the court to place the home under the control of a receiver to ensure that the residents receive adequate care if the Commissioner determines that proper cause exists. Whatever steps necessary shall be taken to protect the health, welfare, and safety of the residents.

(e) Any person who has been determined by the Department to have violated any provisions of the Residential Care Act or any rule, regulation, or order issued pursuant to the provisions of the Residential Care Act may be liable for a civil penalty of not more than one hundred dollars (\$100.00) for each day that the violation continues. The maximum civil penalty shall be ten thousand dollars (\$10,000.00) for any related series of violations.

(f) The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Residential Care Act or any

rule, regulation, or order issued pursuant to the Residential Care Act.

(g) Enforcement of any action for equitable relief to redress or restrain a violation by any person of a provision of the Residential Care Act or for an injunction or recovery of any administrative or civil penalty assessed pursuant to the Residential Care Act may be brought by:

(1) the district attorney of the appropriate court of the State of Oklahoma.

(2) the Attorney General on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma; or

(3) the Department on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma, or as otherwise authorized by law.

(h) The court has jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

[Source: Amended at 17 Ok Reg 2074, eff 6-12-00]

310:680-3-6. Records and reports

(a) Every residential care home shall conspicuously post in an area of its offices accessible to residents, employees, and visitors, the following:

(1) Its current license.

(2) The name of the current administrator and their certificate posted.

(3) A copy of Residents' Rights.

(4) Complaint procedure, established by the Nursing Home Care Act and provided by the Department which includes name, address, and telephone number of a person within the Department who is authorized to receive complaints.

(5) A copy of any order pertaining to the facility issued by the Department or a court, which is currently in effect.

(b) Every residential care home shall retain the following for public inspection:

(1) A complete copy of every inspection report of the residential care home received from the Department during the past three (3) years.

(2) A copy of every order pertaining to the residential care home issued by the Department or a court during the past three (3) years.

(3) A description of the services provided by the residential care home, the rates charged for those services, and items for which a resident may be separately charged.

(4) A copy of the statement of ownership.

(5) A list of personnel who are licensed, certified, or registered and employed or retained by the residential care home, including area in which individual is credentialed.

(6) If source of payment for resident's care is from public funds, the contract with the agency providing the funds.

(c) Reports of communicable disease shall be made in accordance with the adopted requirements of the Board of Health.

(d) The Department shall be notified of all incidents pertaining to fire, storm damage, death other than natural, residents missing, or utilities failure for more than four (4) hours, and incidents that result in fractures, head injuries or require treatment at a hospital. Notice shall be made no later than the next working day.

(e) An evacuation plan shall be developed and permanently displayed in the hallways and sitting room. Fire drills shall be conducted at least quarterly.

(f) Facility shall have a written plan for temporary living arrangements in case of fire, climatic conditions that warrant evacuation and/or other natural disasters that may render the home unsuitable.

310:680-3-7. Resident records

(a) All current documents which relate to the residents must be kept in the residential care home. Other records may be kept in the central business office or other location, but must be made available upon request by the Department.

(b) Every resident record shall be written in ink and include as a minimum, the following information:

(1) Resident's name.

(2) Date of Birth.

(3) Person to contact in case of emergency.

(4) Written authorization for emergency medical/dental services signed by the resident or responsible party.

(5) Medical summary to include quarterly weight of resident, medications, and dosages.

(6) The name, address, and telephone numbers of resident's physician and dentist.

(7) A record of the resident's illnesses, accidents, and unusual occurrence while a resident of the home.

(8) The legal status of the resident.

(9) An accounting of the resident's funds received and/or distributed by the residential care home.

(c) All persons having access to the records shall strictly adhere to confidentiality of records.

(d) Resident records shall be maintained in a lockable container or a specific lockable area.

(e) Only individuals authorized by the residential care home shall have access to resident records.

310:680-3-8. Residents' council

(a) Each residential care home shall establish a residents' advisory council. The administrator shall designate a member of the residential care home staff to coordinate the establishment of and render assistance to the council. No employee or affiliate of the home shall be a member of the council.

(b) The council shall consist of not less than 10 people or 50% of the residents or residents' family.

- (c) The council shall meet at least monthly.
- (d) A staff member shall assist in preparing a report of each meeting and make a copy available to the residents, the administrator, and staff.
- (e) Reports of the council meetings shall be maintained in the home.
- (f) Names of all residents attending the meeting shall be recorded in the reports.
- (g) The residents' advisory council shall be a forum for:
 - (1) Obtaining and disseminating information.
 - (2) Soliciting and adopting recommendations for residential care home programming and improvements and to strengthen the home's policies and procedures as they affect residents' rights and home responsibilities.
 - (3) The residents' advisory council may present complaints on behalf of a resident to the Department.

310:680-3-9. Complaints

(a) **Complaints to the residential care home.** The home shall make available to each resident or the resident's representative a copy of the home's complaint procedure. The home shall ensure that all employees comply with the home's complaint procedure. The home's complaint procedure shall include at least the following requirements.

(1) The home shall list in its procedures and shall require to be posted in a conspicuous place outside the administrator's office area the following information:

(A) The names, addresses and telephone numbers of staff persons designated to receive complaints for the home;

(B) Notice that a good faith complaint made against the home shall not result in reprisal against the person making the complaint; and

(C) Notice that any person with a complaint is encouraged to attempt to resolve the complaint with the home's designated complaint staff, but that the person may submit a complaint to the Department without prior notice to the home.

(2) If a resident, resident's representative or home employee submits to the administrator or designated complaint staff a written complaint concerning resident abuse, neglect or misappropriation of resident's property, the home shall comply with the Protective Services for Vulnerable Adults Act, Title 43A O.S. Sections 10-101 through 10-110.

(b) **Complaints to the Department.** The following requirements apply to complaints filed with the Department.

(1) The Department shall provide to each home a notice identifying the telephone number and location of the Department's central call center to which complaints may be submitted. The home shall post such notice in a conspicuous place outside the administrator's office area.

(2) Any person may submit a complaint to the Department in writing, by phone, or personally. The Department shall reduce to writing a verbal complaint received by phone or in person.

(3) If the complainant is a resident, the resident's representative, or a current employee of the home, the Department shall keep the complainant's identity confidential. For other complaints, the Department shall ask the complainants preference regarding confidentiality.

(4) The Department shall receive and triage complaints at a central call center. The complaints shall be classified and investigated according to the following priorities:

(A) A complaint alleging a situation in which the home's noncompliance with state requirements relating to residential care homes has caused or is likely to cause serious injury, harm, impairment or death to a resident shall be classified as immediate jeopardy and shall be investigated by the Department within two (2) working days;

(B) A complaint alleging minimal harm or more than minimal harm to a resident but less than an immediate jeopardy situation shall be classified as actual harm and shall be investigated by the Department within ten (10) working days; and

(C) A complaint alleging other than immediate jeopardy or actual harm to a resident but that represents a repeated or ongoing violation shall be classified as a continuing complaint and investigated within twenty-five (25) days; and

(D) A complaint alleging other than immediate jeopardy or actual harm to a resident and that is not a continuing complaint shall be classified as a primary complaint and shall be investigated within thirty (30) days.

(5) In addition to scheduling investigations as provided in paragraph (4) of this subsection, the Department shall take necessary immediate action to remedy a situation that alleges a violation of the Residential Care Act or any rules promulgated under authority of the Act if that situation represents a serious threat to the health, safety and welfare of a resident.

(6) In investigating complaints, the Department shall:

(A) Protect the identity of the complainant if a current or past resident or resident's representative or designated guardian or a current or past employee of the home by conforming to the following:

(i) The investigator shall select at least three (3) records for review, including the record of the resident identified in the complaint. The three records shall be selected based on residents with similar circumstances as detailed in the complaint if possible. All three (3) records shall be reviewed to determine whether the complaint is substantiated and if the alleged deficient practice exists; and

(ii) The investigator shall interview or observe at least three (3) residents during the home observation or tour, which will include the resident referenced in the complaint if identified and available in the home. If no resident is identified, then the observations used of the three residents shall be used to assist in either substantiating or refuting the complaint;

(B) Review surveys completed within the last survey cycle

to identify tendencies or patterns of non-compliance by the home;

(C) Attempt to contact the State or Local Ombudsman and the complainant, if identified, prior to the survey; and

(D) Interview the complainant, the resident, if possible, and any potential witness, collateral resource or affected resident.

(7) The Department shall limit the complaint report to the formal report of complaint investigation. The formal report of complaint investigation shall be issued to the home and the complainant, if requested, within ten (10) business days after completion of the investigation. The formal report of investigation shall include at least the following:

(A) Nature of the allegation(s);

(B) Written findings;

(C) Deficiencies, if any, related to the complaint investigation;

(D) Warning notice, if any;

(E) Correction order, if any; and

(F) Other relevant information.

[Source: Amended at 18 Ok Reg 2550, effective 6-25-2001]

310:680-3-10. Abuse or neglect

(a) The residential care home shall have a written policy statement that expressly prohibits the abuse or neglect of the individuals it serves. The policy shall include the home's investigative procedures and actions to be taken when incidents of abuse or neglect occur.

(b) Any individual who becomes aware of abuse or neglect of a resident shall report the matter immediately to the Department and comply with other reporting requirements provided in O.S. Title 43A section 10-104.

(c) The administrator of the residential care home who becomes aware of abuse or neglect of a resident shall immediately act to rectify the problem and shall make a report of the incident and its correction to the Department.

(d) The residential care home shall provide staff training in the identification of abuse and neglect, and the home's policies and procedures concerning the same. Verification of the provision of the training shall be written, signed by staff attending, and retained in the personnel files.

310:680-3-11. Transfer of ownership

(a) Whenever ownership of a residential care home is transferred from the person named in the application to another person or entity, who does not have a current license for the home, the transferee must obtain a probationary license.

(b) The transferee shall notify the Department of the transfer and apply for a license no less than thirty days prior to final transfer.

(c) The transferor shall notify the Department of the transfer no less than thirty (30) days prior to final transfer and shall remain responsible for the operation of the home until such time as a probationary license is issued to the transferee. The transferor shall remain liable for all penalties assessed which are imposed for violations occurring prior to transfer of ownership.

310:680-3-12. Voluntary closing

(a) Any owner of a residential care home shall give ninety (90) days' notice to the residents and the Department prior to voluntarily closing a home or closing any part of a home if the closing will require the transfer or discharge of more than ten percent (10%) of the residents. The notice shall include the proposed date of closing and the reason for closing.

(b) The home shall offer to assist the resident in securing alternate placement.

(c) The Department shall be notified if there is need for relocation assistance.

310:680-3-13. Temporary Managers

The provisions of OAC 310:675-15 shall apply to the qualification and selection of a temporary manager, except that the temporary manager shall be or employ a residential care home administrator.

[Source: Added at 18 Ok Reg 2550, effective 6-25-2001]

310:680-3-14. Appropriate occupancy

A residential care home shall not admit or provide services to a resident who is not *ambulatory and essentially capable of participating in their own activities of daily living*. Residents shall not routinely require nursing services [63 O.S. Section 1-820(a)].

[Source: Added at 27 OK Reg 2549, eff 7-25-2010]

SUBCHAPTER 5. CONSTRUCTION REQUIREMENTS AND PHYSICAL PLANT

Section

- 310:680-5-1. General criteria
- 310:680-5-2. Plumbing and electrical systems
- 310:680-5-3. Heating, cooling and ventilating systems
- 310:680-5-4. Location
- 310:680-5-5. Fire safety
- 310:680-5-6. Building elements
- 310:680-5-7. Resident rooms
- 310:680-5-8. Lounge area

310:680-5-1. General criteria

Residential care homes must meet or exceed the following requirements:

- (1) Plans for construction or remodeling must be submitted to the Department for review and approval prior to the start of construction.
- (2) Mobile homes shall not be approved.
- (3) The residential care home shall be constructed or remodeled to provide an adequate living arrangement for residents.
- (4) On and after the effective date of this subsection, each residential care home that undergoes design changes or construction and each newly licensed residential care home shall be designed and constructed in conformity with requirements for accessibility to physically disabled persons as specified in Chapter 11 of the International Building Code, 2003 Edition, published by the International Code Council.
- (5) Any first-time residential care home shall have a minimum of fifty (50) square feet of outside yard space for each licensed bed up to 100 beds (5,000 sq. ft.) For each additional licensed bed, a minimum of twenty-five (25) square feet shall be provided.
- (6) A multiple building residential care home shall be considered as a unit and be subject to the provisions of these regulations as if the home was a single building. Each building of a multiple building unit shall be no more than 175 feet from the building housing the kitchen and dining room.
- (7) All first-time licensed homes shall have seating capacity at dining room tables for the number of licensed beds.
- (8) Each residential care home shall maintain sufficient equipment and furnishings to provide for the needs of all residents.
- (9) Each residential care home shall be maintained in good repair for operation and appearance.
- (10) Each residential care home shall be free from safety hazards.

[Source: Amended at 21 Ok Reg 2809, eff 7-12-2004]

310:680-5-2. Plumbing and electrical systems

(a) Electrical, heating, and plumbing facilities must be certified by a licensed plumber, licensed electrician, or municipal building inspector as being in good working order, of safe design and installation, and meet local code requirements.

(b) Water shall be from a public water supply or meet the standards of a public water supply.

(c) Fuel-fire and water heaters must be vented to the outside and have adequate combustion air. They shall not be installed in habitable areas and must be enclosed. Water heaters must have pressure and temperature relief valves. Water heaters and surrounding areas must be kept clean.

310:680-5-3. Heating, cooling and ventilating systems

(a) Heating systems shall maintain temperatures of not less than 65° Fahrenheit and shall be operating efficiently and in good repair. Open faced, unvented combustion heaters and electrical heaters with exposed heating elements shall not be used.

(b) Refrigerated air conditioning shall be provided to each resident's room. Refrigerated air conditioning units and vents shall be kept clean and in good repair.

(c) Ventilation must be provided and the air shall be circulated to assure an environment that will not jeopardize the health and/or safety of the resident.

(d) Maximum temperature in all areas occupied by residents shall not exceed 85° Fahrenheit, unless authorized or recommended by a physician.

[**Source:** Amended at 17 Ok Reg 425, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2074, eff 6-12-00]

310:680-5-4. Location

(a) Each residential care home shall be conveniently located to the following services:

(1) Safe water supply that complies with rules and regulations adopted by the Board of Health.

(2) Sanitary sewage disposal system that complies with rules and regulations adopted by the Board of Health.

(3) Sanitary garbage disposal.

(4) Electrical services.

(b) The residential care home shall be located in an area where the local fire department will respond to emergencies

(c) The residential care home shall be located adjacent to an all-weather road.

(d) The residential care home shall be located on property that meets the requirements of local zoning regulations. A letter of approval from the zoning authority shall be submitted to the Department.

310:680-5-5. Fire safety

Each residential care home shall provide documentation that the State Fire Marshal or the State Fire Marshal's representative has inspected and approved the home prior to issuance of an initial license. Each residential care home with more than six beds shall provide documentation of annual inspection and approval prior to issuance of a license renewal.

[Source: Amended at 17 Ok Reg 2074, eff 6-12-00]

310:680-5-6. Building elements

- (a) Each residential care home shall have its address clearly visible from the street.
- (b) At least two (2) flashlights in working order shall be maintained for emergency lighting.
- (c) All doors and windows opening to the outside for ventilation shall be screened. Screens shall be well fitted and in good repair.
- (d) Adequate enclosed storage space shall be provided for items belonging to residents. Clothing, bedding, and residents' personal belongings shall be stored off the floor.
- (e) Each residential care home shall have one toilet facility for every six (6) residents. Toilet facility shall contain one (1) stool and one (1) lavatory.
- (f) Bathtubs or showers shall be provided at the rate of one (1) for each ten (10) residents.
- (g) Hot water temperatures at faucets accessible to residents shall be maintained within a range of 100° to 120° Fahrenheit.
- (h) Laundry equipment, if on premises, shall be housed in a safe, well-ventilated and clean area. Laundry equipment shall be kept clean and dryer shall be vented to outside.
- (i) Linen storage areas shall be provided and be clean and organized.
- (j) Cleaning supplies and equipment shall be stored in a separate, clean, and locked area.
- (k) Telephone service must be available within the building. Pay phones are not acceptable as the only telephone service.

310:680-5-7. Resident rooms

- (a) Each resident shall be provided with clean, comfortable orderly, and reasonably private living accommodations.
- (b) Each resident's room shall have direct access to exits and other areas of the home without passing through another resident's room, the kitchen, laundry, or bathroom.
- (c) Each single resident room shall contain a minimum of 80 square feet of floor space.
- (d) Each resident room containing multiple beds shall provide a minimum of 60 square feet per bed.
- (e) Each resident room shall have at least one (1) outside operable window installed in a vertical wall which can be used as an emergency exit. However, if a facility has a sprinkler system approved by the State Fire Marshall, it shall be exempt from the

requirement of an outside operable window in each resident room useable as an emergency exit but shall be required to have a window. Minimum dimension of this window shall be 22 inches and the area shall be minimum of 5 square feet. Windows shall have adjustable coverings to provide privacy.

(f) Each resident room shall have a full door which can be closed to provide privacy.

(g) Male and female residents shall not be housed in the same or adjoining rooms which do not have a full floor-to-ceiling partition and door which can be locked, except immediate family may occupy the same room.

(h) Each resident room shall have an electrical outlet.

(i) Each resident room shall have a minimum of 20 foot candle power of lighting.

(j) Each resident shall have a comfortable chair, a bedside table and a bureau or its equivalent for storing personal belongings.

(k) When residents' personal furniture is used, it shall be clean and in good repair.

(l) Each resident's bed shall have a comfortable mattress and bed linens which are clean and in good condition.

(m) Clean towels and wash cloths shall be available to meet the needs of all residents. Towels and wash cloths shall be in good condition.

[**Source:** Amended at 9 Ok Reg 3123, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1677, eff 6-1-93]

310:680-5-8. Lounge area

A clean and comfortably furnished sitting room of adequate size shall be provided for residents. Furnishings shall be in good repair.

[**Source:** Amended at 19 Ok Reg 2119, eff 7-01-2002]

**SUBCHAPTER 7. ENVIRONMENTAL HEALTH AND
SANITARY REQUIREMENTS**

Section

- 310:680-7-1. Control of premises
- 310:680-7-2. Premises (sanitation and cleanliness)
- 310:680-7-3. Insect and rodent control
- 310:680-7-4. Garbage disposal
- 310:680-7-5. Housekeeping
- 310:680-7-6. Residential and visiting pets

310:680-7-1. Control of premises

The administrator shall have access to and authority over the entire premises. The person in charge shall be specifically designated in writing by the administrator and shall have authority to act in his/her absence and have access to the home's records if the owner or operator is not immediately available.

310:680-7-2. Premises (sanitation and cleanliness)

Surroundings shall be kept clean and neat and free from accumulated rubbish, weeds, ponded water or other characteristics of a similar nature which would have a tendency to create a health hazard.

310:680-7-3. Insect and rodent control

Methods shall be employed to prevent the entrance and harborage of insects, spiders, and rodents. Homes shall be kept free of insects, and rodents.

310:680-7-4. Garbage disposal

- (a) All garbage shall be properly stored and safely disposed of in accordance with local ordinance.
- (b) All garbage waste containers shall have tight-fitting covers and shall be insect and rodent resistant.
- (c) Approved containers shall be kept clean by washing and airing as needed. Outside storage of garbage in plastic bags is prohibited.
- (d) Trash cans in resident areas shall be kept clean.

310:680-7-5. Housekeeping

- (a) The interior and exterior of the home shall be safe, clean and sanitary.
- (b) Practices and procedures shall be utilized to keep the home free from offensive odors, accumulation of dirt, rubbish, dust, and safety hazards.
- (c) Floors and floor coverings shall be clean and in good condition. Floor polishes shall provide for a non-slip finish.
- (d) Walls and ceilings shall be in good condition and shall be cleaned regularly. All homes shall have walls capable of being

cleaned.

(e) Deodorizers shall not be used to cover up odors caused by unsanitary conditions or poor housekeeping practices.

(f) Home and surrounding areas shall be kept free from refuse, discarded furniture, and old newspaper. Combustibles such as cleaning rags and compounds must be kept in closed metal containers in areas away from residents' rooms. No items shall be stored in the hot water heater closet or furnace closet.

(g) General laundry shall be placed in linen hampers/carts with the lids closed.

(h) Soiled linens or clothing shall be placed in bags or nonporous containers with lids tightly closed.

310:680-7-6. Residential and visiting pets

(a) Each home that allows residential or visiting animals shall adopt and comply with policies that meet or exceed 310:680-7-6(a) and 310:680-7-6(b). The facility's policies shall describe the schedule of animal care and zoonotic infection control for the respective facility. The facility shall not allow any animal to reside in the facility until all of the following requirements are met:

(1) The animal is a dog, cat, fish, bird, rabbit, or guinea pig. If a home desires to include other types of animals in their program, the home shall submit a supplemental request accompanied by its policies, procedures, and guidelines to the Department and receive written approval from the Department prior to implementation.

(2) For residential pets, excluding fish, the number of animals in a home shall be limited to no more than one dog per 50 residents; 1 cat, rabbit, or guinea pig per 30 residents; or 1 bird per 20 residents, unless the home has received the Department's prior approval of a greater number of pets through a supplemental request pursuant to 310:675-7-19(a)(1).

(3) The home adopts policies ensuring non-disruption of the home.

(4) All pets are housed and controlled in a manner that ensures that neither the pet nor the residents are in danger. A pet cage or container must not obstruct an exit or encroach on the required corridor width.

(5) The following veterinary medical services are obtained for each pet, when applicable to species, and a record of service is maintained on file at the home:

(A) A health certificate from a veterinarian licensed to practice in Oklahoma stating the animal is healthy on physical exam and of acceptable temperament to be placed in the home;

(B) Proof of evaluation by a veterinarian licensed to practice in Oklahoma for presence of internal parasites on a semi-annual basis and for the presence of external parasites as needed;

(C) Proof of current rabies immunization for dogs and cats, and leptospirosis immunization for dogs administered by a

licensed veterinarian;

(D) Proof of spaying/neutering for dogs and cats over six months of age; and

(E) Statement from a licensed veterinarian certifying that each bird tested negative for *Chlamydia psittaci* infection (psittacosis) within 30 days prior to placement in the home. Birds equal in size to or larger than a parakeet shall receive a serologic test. Culture from fresh droppings or cloacal swab will be acceptable test in smaller birds, such as canaries and finches.

(6) The pet's skin appears normal, and its coat or feathers are free of ectoparasites, matted hair, feces, and other debris.

(7) Residential pets shall be the responsibility of the administrator, who shall designate at least one attendant to supervise the care and maintenance of resident animals. The administrator and the designated attendants shall at least annually review the home's policy on residential and visiting pets, and shall document that they have read and understood the policy.

(8) The home provides for the cleaning and disinfecting of any areas contaminated by urine or excrement, and for the regular cleaning of aviaries, aquariums, and animal cages. Water in aquariums and fish bowls shall be appropriately maintained to prevent bacterial growth in the water.

(9) Residential dogs and cats shall not be allowed to remain in the resident areas after visiting hours. No animal shall be allowed in an area used for food storage or preparation, dining, medication preparation or administration, or clean or sterile supply storage.

(10) If there is more than one resident per room, permission shall be obtained from each resident in the room before allowing animal visitation.

(b) The home may allow other animals to visit the home. Visiting animals shall be under the control of the person bringing the pet into the home. The attendant of visiting animals shall adhere to the home's policies and procedures for residential pets. Proof of current rabies immunization must be provided to the administrator before any dog, cat or ferret can be allowed as a visiting pet in the home.

(c) The Department shall publish and distribute to homes recommended husbandry and veterinary care guidelines for residential pets. The guidelines shall include but not be limited to recommendations for housing, cleaning needs, exercise, diet, fecal examinations, grooming, attendant training on animal care and nutrition, and preventive health care. The guidelines shall be used for the information and education of homes.

(d) Section 310:680-7-6 does not supersede any local or state rules that regulate animals.

[**Source:** Added at 14 Ok Reg 3149, eff 7-25-97; Amended at 16 Ok Reg 2526, eff 6-25-99; Amended at 18 Ok Reg 2550, effective 6-25-2001]

SUBCHAPTER 9. DIETARY REQUIREMENTS

Section

310:680-9-1. Food service

310:680-9-1. Food service

(a) A residential care home shall have available a minimum of three (3) meals per day, constituting a palatable, nutritionally adequate general diet and should include the basic four (4) food groups in the recommended amounts.

(b) There shall be no more than fourteen (14) hours between the substantial evening meal and the following morning meal. Between meal snacks shall not replace regular meals.

(c) Fresh drinking water shall be available and easily accessible to the residents. Ice from an approved source shall be available.

(d) Menus shall be planned, dated, and posted at least one (1) week in advance. Menus are to be retained in the home for one (1) year.

(e) Three (3) days supply of food shall be in the home at all times, including cold storage.

(f) Dining room seating capacity shall be a minimum of 15 square feet per resident.

(g) A residential care home having residents requiring special diet(s) prescribed by a physician shall contract with a consulting registered/licensed dietitian to provide services to institute and monitor these special diets. Special diet menus shall be approved and signed by a registered/licensed dietitian.

(h) A residential care home licensed for twenty (20) beds or more, and/or having residents who require special diets, shall designate an employee who is properly trained to supervise menu planning, food preparation, food inventory, food distribution, and health issues related to diet.

(i) A residential care home providing special diets shall ensure that each resident is offered the correct diet.

(j) A residential care home shall be in compliance with Chapter 257 of this Title, regarding storage, preparation, and serving of food (including milk and ice). A residential care home may use residential equipment provided that the equipment must maintain hot and cold temperatures as required in OAC 310:257.

[Source: Amended at 27 OK Reg 2549, eff 7-25-2010]

SUBCHAPTER 11. STAFFING REQUIREMENTS

Section

310:680-11-1. Requirements

310:680-11-1. Requirements

Residential care homes shall employ sufficient personnel appropriately qualified and trained to provide the essential services of the home.

(1) Sufficient number of persons.

(A) Each residential care home shall have one (1) person who is administratively responsible for the home.

(B) There shall be at least one (1) person in charge of the home and its operation on duty in the home whenever residents are present.

(C) There shall be a minimum of 3/4 hour of personnel per day per resident based on average daily census.

(D) All residential care homes shall have a signed, written agreement with a registered nurse to act as a consultant. Documentation of the use of the nurse consultant shall be maintained in the home.

(2) Staff qualifications.

(A) Each residential care home shall have a person designated as "Administrator," who is at least 21 years old and has obtained a residential care administrator's certificate of training from an institute of higher learning whose program has been reviewed by the Department.

(B) All personnel who have the responsibility for administering or monitoring medication to residents shall obtain a certificate of training in medication administration from an institution of higher learning whose program has been reviewed by the Department. (Currently licensed physicians, registered nurses and licensed practical nurses shall be deemed to meet the medication administration training requirement.)

(C) All other staff shall have training and/or experience relevant to their job description.

(D) Personnel responsible for providing professional services must be appropriately certified, registered, or licensed.

(3) Staff training. In order to ensure all homes maintain a level of competency necessary to meet the needs of each individual served in the home, personnel must complete the following training requirements.

(A) All employees shall be currently certified in first-aid and cardiopulmonary resuscitation (Red Cross training or equivalent). Proof of certification and training shall be kept on file in the home. First-Aid and CPR certificates shall be renewed annually, or as required to be kept current.

(B) Administrators shall have sixteen (16) hours of job-related training annually. First-aid and CPR training do not count for the sixteen (16) hours. All training shall be

documented and the record kept in the home.

(C) Direct care staff who are responsible for administering or monitoring medication shall annually be required to receive at least eight (8) hours of training by the administrator of

the home in patient reporting and observation, record keeping, independent or daily living skills, leisure skills and recreation, human relations and such other training relevant to residential care program and operation.

(D) All direct care staff shall begin eight (8) hours of inservice by the administrator of the home or other person designated by the administrator of the home within ninety (90) days of employment and completed within twelve (12) months of employment. Eight (8) hours of inservice shall be required annually thereafter.

(E) All residential care programs shall provide a new employee orientation program which includes instruction in policies and procedures regarding the areas of abuse and neglect, resident rights, confidentiality, procedure for handling emergencies, and job descriptions.

(4) **Personnel practices**

(A) Residents shall not supervise other residents.

(B) The behavior of staff reflects sensitivity to the needs of the individuals served for privacy and dignity. For example, confidentiality and normal sensibility are exercised in speaking about an individual, and undignified displays, exhibitions, or exposure of individuals served, whether deliberate or unintentional, do not occur.

(C) The home shall have written personnel policies and procedures which address such issues as: job description, terms of employment, authorized leave procedures, grievance procedures, and professional conduct.

SUBCHAPTER 13. MEDICATION STORAGE AND ADMINISTRATION

Section

310:680-13-1. Medications

310:680-13-2. Bulk nonprescription drugs

310:680-13-1. Medications

Correct medication and pharmacy techniques and principles shall be used when medications are administered or monitored. The home shall comply with the following:

(1) Storage and Maintenance.

(A) Medications shall be stored in an area that is locked, is well lighted, and room temperature not to exceed 86° Fahrenheit.

(B) Medications requiring refrigeration shall be kept in a refrigerator with a temperature range of 36° Fahrenheit (2° C) to 48° Fahrenheit (8° C) and separate from food and other items. A method of locking these medications shall be provided.

(C) Medications shall not be stored with any other non-drug item.

(D) Each individual's medications shall be kept separate.

(E) Externally applied medications shall be stored separately from medications taken internally.

(F) The medication of each resident shall be kept or stored in the original container.

(G) The medication area shall have a work counter and shall be kept clean and well organized.

(H) Hand washing facilities with hot and cold water shall be in close proximity to the medication area.

(I) Any unusual resident reaction to medication shall be reported to the physician at once and documented in the resident's record.

(J) No prescribed medication or over-the-counter medication for one (1) resident may be administered to or allowed in the possession of another resident.

(K) All prescription medication shall be clearly labeled to include the resident's full name, physician's name, prescription number, strength of drug, dosage, directions for use, date of issue, quantity, and name, address, and phone number of pharmacy or physician dispensing the drug.

(L) Resident's first and last name shall be on all over-the-counter drugs used. The home shall have a written policy to identify resident ownership of over-the-counter medication.

(M) All drugs shall be kept locked, and documented when taken by the resident.

(N) Documentation of medication ordered by the physician to be administered as circumstances may require (p.r.n.) shall be done immediately after administration and shall include date, time, dose, drug, route, and person responsible for administration.

(O) Only the person responsible for administering or

monitoring medications shall have possession of the key to the locked medication area.

(P) Labels on containers shall be legible and firmly affixed.

(Q) No one shall alter labels on prescription containers. If a medication dosage change is made by the physician, then the container must be flagged at that time showing a label change is to be made.

(R) An individual inventory record and documentation for accountability shall be maintained for each Schedule II drug prescribed for each resident.

(S) Schedule II drugs shall be kept in a separate locked box within the locked medication area.

(T) All new or refilled prescription medication shall be counted upon receipt in the home and documented in each resident's medication record.

(U) Discontinued medications may be kept up to three (3) months and must be separated from the current medications within the locked medication area.

(V) The home shall have a written policy for safe disposal of discontinued medications and it shall be an approved method by the State Department of Health. Documentation shall be retained in the individual resident's record. Over-the-counter medications shall be destroyed in the presence of two (2) residential care home staff persons. Documentation shall include the name of the medication, the amount destroyed, the method of destruction, and shall be retained in the individual resident's record.

(W) When a resident is admitted to a home, or returns to a home from a temporary leave, the medications brought into the home shall be counted and documented by the person admitting the resident and countersigned by the resident or responsible party.

(X) When a resident is discharged, moves, or goes on a temporary leave from the home, the unused prescription shall be sent with the resident or with the responsible party. The resident record shall contain documentation of quantities of medication sent, as well as the signature of the resident or the responsible party receiving the drugs and of the staff person of the home that counted them.

(Y) Unused drugs prescribed for residents who have died shall be kept for one (1) month and then shall be destroyed in accordance with Item (V) of this subsection.

(Z) The R.N. shall do a documented medication review on every resident in the home quarterly.

(AA) Each residential care home shall have a first-aid kit for emergency use.

(2) Administration of medications.

(A) Only persons who meet requirements for administration of medications shall administer medications.

(B) The person responsible for medication administration must personally prepare the dosage, observe the resident swallowing the medication, and chart the medication.

(C) The person administering the medication shall maintain an accurate written record of medications administered.

(D) Charting the administration of medications shall be done within an hour after it is taken and correct procedures followed to assure that medications are not documented by memory.

(E) All medications shall be administered according to label directions.

(F) A resident who has been determined by his physician as capable of self-administering medication may retain the medications in a safe location in the resident's room. The facility shall develop and follow policies for accountability. Scheduled medications shall not be authorized for self-administration. A resident who has been declared legally incompetent is not eligible for self-administration of medications.

(3) **Monitoring of medications.**

(A) Only persons who have completed an approved course in medication administration shall monitor medications.

(B) An accurate written record of medication monitoring shall be made by the individual monitoring the medication. This record must identify the individual responsible for the drug monitoring.

(C) Charting the monitoring of medication shall be done within an hour after it is taken and correct procedure followed to assure that medications are not documented by memory.

(D) All medications monitored shall be taken according to label directions.

[**Source:** Amended at 11 Ok Reg 911, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2649, eff 6-25-94]

310:680-13-2 Bulk nonprescription drugs

A facility may maintain nonprescription drugs for dispensing on an as needed basis from a common or bulk supply only if all of the following are accomplished.

(1) **Policy of facility.** The facility must have and follow a written policy and procedure to assure safety in dispensing and documentation of medications given to each resident.

(2) **Acquisition.** The facility shall maintain records which document the name of the medication acquired, the acquisition date, the amount and the strength received for all medications maintained in bulk.

(3) **Dispensing.** Only licensed nurses, physicians, pharmacists or medication aide technicians (MAT) may dispense for administration these medications and only upon the written order for nonscheduled dosage regimens, as needed, dosing from a physician as documented in the record of the resident.

(4) **Storage.** Bulk medications shall be stored in the medication area and not in resident rooms.

(5) **Records.** The facility shall maintain records of all bulk

medications which are dispensed on an individual signed medication administration record (MAR).

(6) **Labeling.** The original labels shall be maintained on the container as it comes from the manufacturer or licensed repackager or on the unit-of-care (blister packs) package.

(7) **Package size.** The maximum size of packaging shall be established by the facility in its policy and procedures and shall insure that each resident receives the correct dosage; provided however, that no liquid medication shall be acquired nor maintained in a container larger than 16 fluid ounces.

(8) **Allowed nonprescription drugs.** Facilities may have drugs from each of the following categories for bulk dispensing. No other categories may be maintained as bulk medications.

- (A) Oral analgesics.
- (B) Antacids.
- (C) Laxatives.

[**Source:** Added at 11 Ok Reg 911, eff 12-17-93, (emergency); Added at 11 Ok Reg 2649, eff 6-25-94]

SUBCHAPTER 15. RESIDENTS' FUNDS

Section

- 310:680-15-1. Resident's contract
- 310:680-15-2. Protection of residents' funds
- 310:680-15-3. Guardianship

310:680-15-1. Resident's contract

(a) A written contract shall be executed between a resident or his/her guardian or responsible party, or if the resident is a minor, his parent, and a home or its agent within one hundred twenty (120) days from the time a resident is admitted to a home, or at the expiration of the period of previous contract, or when the source of payment for the resident's care changes from private to public funds or from public to private funds, or when the terms of the contract are changed.

(b) A copy of the contract form shall be given to the resident and to the resident's representative, if any, at the time of the resident's admission to the residential care home.

(c) A copy of the contract for a resident who is supported by nonpublic funds other than the resident's own funds shall be made available to the person providing the funds for the resident's support.

(d) The contract shall be written in clear and unambiguous language and shall be printed in type no smaller than standard typewriter pica or elite type. The general form of the contract shall be prescribed by the Department.

(e) The contract shall specify:

(1) The terms of the contract.

(2) The services to be provided under the contract and the charges for the services.

(3) The services that may be provided to supplement the contract and the charges for the services.

(4) The sources liable for payments due under the contract.

(5) The amount of deposit paid.

(6) The rights, duties, and obligations of the resident, except that the specification of a resident's right may be furnished on a separate document.

(f) The contract shall designate the name of the resident's representative, if any.

(g) The contract shall provide that if the resident dies, or is compelled by a change in physical or mental health to leave the residential care home, the contract and all obligations under it shall terminate immediately. All charges shall be prorated as of the date on which the contracts terminates, and, if any payments have been made in advance, the excess shall be refunded to the resident.

310:680-15-2. Protection of residents' funds

To protect each resident's funds, the residential care home:

(1) Shall reserve a portion of each resident's monthly income in an amount not less than twenty-five dollars (\$25.00) as a

personal needs allowance for use by the resident, or for use on behalf of the resident by his guardian or other representative designated by the resident.

(2) Shall at the time of admission, provide each resident and his representative with a written statement explaining the resident's rights regarding personal funds and listing services for which the resident will be charged, and obtain a signed acknowledgment from each resident and his representative that he has received the statement.

(3) May accept funds from a resident for safekeeping and managing, if the home receives written authorization from the resident or his guardian; such authorization shall be attested to by a witness who has no pecuniary interest in the facility or home or its operations, and who is not connected in any way to the home personnel or the administrator in any manner whatsoever.

(4) Shall maintain and allow each resident and responsible party access to a written record of all financial arrangements and transactions involving the individual resident's funds.

(5) Shall provide each resident and his representative with a written itemized statement on request, of all financial transactions involving the resident's funds.

(6) Shall keep any funds received from a resident for safekeeping in an account separate from the home's funds and shall maintain such funds as required by the Department and other regulations.

(7) Shall return to the resident, upon written request by the resident or his guardian, if court appointed, all or any part of the resident's funds given the home for safekeeping, including the interest accrued from deposits.

(8) Shall place any monthly allowance to which a resident is entitled in that resident's personal account, or give it to the resident, unless the home has written authorization from the resident or the resident's guardian or, if the resident is a minor, to handle it differently.

(9) Unless otherwise provided by State Law, upon the death of a resident, shall provide the administrator or executor of the resident's estate with a complete accounting of all the resident's personal property including any funds of the resident being held by the residential care home.

(10) If the residential care home is sold, shall provide the buyer a written verification by a public accountant of all residents' monies and properties being transferred, and obtain a signed receipt from the new owner.

310:680-15-3. Guardianship

Any owner, operator, administrator or employee of a facility subject to the provision of the Residential Care Act shall not be appointed guardian of a resident of such facility unless the owner, operator, administrator or employee is the spouse of the resident or a relative of the resident within the second degree of consanguinity and is otherwise eligible for appointment.

**SUBCHAPTER 17. INVOLUNTARY TRANSFER OR
DISCHARGE OF RESIDENT**

Section

- 310:680-17-1. Transfer or discharge of resident
- 310:680-17-2. Notice of involuntary transfer or discharge
- 310:680-17-3. Hearing on involuntary transfer or discharge
- 310:680-17-4. Transfer by the department

310:680-17-1. Transfer or discharge of resident

A residential care home shall not involuntarily transfer or discharge a resident except for medical reasons, for the resident's safety, or for the safety of other residents, or for nonpayment for the resident's stay, unless limited by the Federal Social Security Act.

310:680-17-2. Notice of involuntary transfer or discharge

(a) Involuntary transfer or discharge of a resident from a residential care home shall be preceded by a minimum written notice of ten (10) days. The ten-day requirement shall not apply in any of the following instances:

- (1) When an emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the attending physician.
- (2) When the transfer or discharge is necessary for the physical safety of other residents as documented in the resident's record.

(b) The written notice of involuntary transfer or discharge shall contain an explanation of the reasons for transfer or discharge and inform the resident and resident's representative, if any, of the right to request a hearing by the Department if they are aggrieved by the decision.

(c) Written notice of involuntary transfer shall be sent to the resident and to an advocate for the resident if no resident's representative exists.

310:680-17-3. Hearing on involuntary transfer or discharge

A resident who is aggrieved by an involuntary transfer or discharge may request a hearing by the Department within five (5) days of receipt of the notice. Decisions reached in a hearing shall be binding on all parties, unless appealed to the Commissioner of Health.

310:680-17-4. Transfer by the Department

(a) The Department shall initiate the transfer or discharge of a resident in any of the following situations:

- (1) When the resident's health care needs are not being met according to a licensed medical authority.
- (2) When the transfer or discharge is necessary for the

physical safety of other residents as observed or as documented in the records.

(3) When it is determined that a resident's rights have been violated or the resident has been unduly taken advantage of in fiscal matters, or has been physically, mentally, or sexually abused.

(b) The resident's wishes, in all situations, will be given careful consideration in determining whether or not the health or safety aspects involved outweigh the trauma of a resident being transferred or discharged.

SUBCHAPTER 19. RESIDENTS RIGHTS AND RESPONSIBILITIES

Section

- 310:680-19-1. Posting and distribution
310:680-19-2. Statement provisions

310:680-19-1. Posting and distribution

Each residential care home shall have posted in a conspicuous, easily accessible place in each residential care home, and shall provide to each resident or resident's representative, prior to or upon admission, a copy of rights and responsibilities.

310:680-19-2. Statement provisions

(a) A statement of rights and responsibilities shall include but not be limited to the following:

(1) Every resident's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and the residential care home shall encourage and assist in the exercise of these rights.

(2) Every resident shall have the rights to have private communications and consultations with the physician, attorney, or any other person of his choice, and may send and promptly receive, unopened, his personal mail.

(3) Every resident shall have the right, without fear of reprisal, to present grievances on behalf of himself or others to the residential care home's staff or administrator, to governmental officials, or to any other person and to join with other residents or individuals within or outside of the facility to work for improvements in resident care.

(4) Every resident shall have the right to manage his own financial affairs, unless the resident or his representative, if any, delegates the responsibility, in writing to the residential care home pursuant to the program certification requirements. The resident and his representative, in any, shall have at least a quarterly accounting of any personal financial transactions undertaken in his behalf by the residential care home during any period of time such responsibilities have been delegated to the residential care home.

(5) Every resident shall have the right to receive adequate and appropriate medical care consistent with established and recognized medical practice standards within the community. Every resident shall be fully informed by his attending physician of his medical condition and proposed treatment in terms and language that the resident can understand, unless medically contraindicated, and to refuse medication and treatment after being fully informed of and understanding the consequences of such actions.

(6) Every resident shall receive respect and privacy in his medical care program. Case discussion, consultation, examination, and treatment shall remain confidential and shall be conducted discreetly. Personal and medical records shall be

confidential.

(7) Every resident shall have the right to retain and use his personal clothing and possessions, unless medically contraindicated, and shall have the right to security in the storage and use of such clothing and possessions.

(8) Every resident shall have the right to receive courteous and respectful care and treatment and a written statement of the services provided by the residential care home, including those required to be offered on an as-needed basis, and a statement of related charges, including any costs for services not covered under medicare or medicaid, or not covered by the residential care home's basic per diem rate.

(9) Every resident shall be free from mental and physical abuse, and from physical and chemical restraints as provided by the program certification standards.

(10) Every resident shall receive a statement of the facility's regulations and an explanation of the resident's responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of the other residents.

(11) No resident shall be required to perform services for a residential care home. Regular participation in shared household tasks shall not be construed to mean "services for a residential care home" when said tasks are included as part of a training, habilitation, or rehabilitation plan for the resident pursuant to the program certification requirements for the residential care home and are performed as a part of normal shared household tasks.

(12) Every resident shall have privacy for spousal visits. Every resident may share a room with his/her spouse, if the spouse is residing in the same residential care home.

(13) When a physician indicates it is appropriate, a residential care home shall immediately notify the resident's next of kin, or representative of the resident's death or when the resident's death appears to be imminent.

(b) No licensed facility shall deny appropriate care on the basis of the resident's source of payment as defined in the regulations.

(c) Each residential care home shall prepare a written plan and provide appropriate staff training to implement each resident's rights as stated.

**SUBCHAPTER 21. RESIDENTIAL CARE FACILITIES,
THREE (3) BEDS OR LESS**

Section

310:680-21-1. Qualifications

310:680-21-1. Qualifications

This subchapter shall be applicable to small homes serving three (3) or less residents. Homes qualifying under this subsection shall be exempt from other subsections of this Chapter except as may be specifically referenced in this subsection.

(1) **Licensure requirements.** The requirements of Subchapter 3 of this Chapter shall be applicable to homes licensed for three (3) or less beds.

(2) **Construction requirements and physical plant.** The requirements of Subchapter 5 of this Chapter shall be applicable to homes licensed for three (3) beds or less.

(3) **Environmental health and sanitary requirements.** The requirements of Subchapter 7 of this Chapter shall also be applicable to homes licensed for three (3) or less beds.

(4) **Dietary requirements.** In accordance with the needs of the residents, Subchapter 9 of this Chapter shall be applicable to small homes.

(5) **Staffing requirements.** Each small residential care home shall employ sufficient personnel appropriately qualified and trained to meet the needs of the residents.

(A) **Number of personnel**

(i) Each small home shall have a person who holds a residential care home administrator's certificate of training who is responsible for the home.

(ii) Other staff shall be employed in accordance with the needs of the residents.

(B) **Staff qualifications**

(i) The person designated as administrator shall be at least 21 years of age and of reputable and responsible character, who has obtained a certificate of training for a residential care administrator.

(ii) All other staff shall have training and/or experience relevant to their job description.

(iii) Persons responsible for providing professional services must be appropriately certified, registered, or licensed.

(C) **Staff training.** In order to ensure a level of competency to meet the needs of each individual served in the home, personnel must complete the following training requirements:

(i) All employees shall be currently certified in first-aid and cardiopulmonary resuscitation (Red Cross training or the equivalent). First Aid and CPR certificates shall be renewed as required to remain current.

(ii) Individuals who administer medications in a small residential care home shall be certified in an approved

training program for medication administration (M.A.T.).

(iii) In addition, staff who are responsible for administering medication shall annually receive at least eight (8) hours of training by the administrator of the home in patient reporting and observation, record keeping, independent or daily living skills, leisure skills and recreation, human relations and such other training relevant to residential care home programs and operations.

(iv) All small residential care homes shall provide a new employee orientation program which includes instruction in policies and procedures regarding the areas of abuse and neglect, resident rights, confidentiality, procedure for handling emergencies, and job descriptions.

(v) All direct care staff shall begin eight (8) hours of in-service within ninety days of employment and complete within twelve months of employment. Eight (8) hours of in-service shall be required annually thereafter.

(D) Personnel practices

(i) Residents shall not supervise other residents.

(ii) The behavior of the staff shall reflect sensitivity to the needs of individuals served for privacy and dignity.

(6) Medication storage and administration

(A) Storage and Maintenance

(i) Medications shall be stored in an area that is locked, is well lighted, and room temperature not to exceed 86 degrees Fahrenheit.

(ii) Medication requiring refrigeration shall be kept in a refrigerator within a temperature range of 36° Fahrenheit to 48° Fahrenheit and separate from food and other items. A method of locking these medications shall be provided.

(iii) Medications shall not be stored with any other non-drug item.

(iv) Each individual's medications shall be kept separate.

(v) Externally applied medications shall be stored separately from medications taken internally.

(vi) The medication of each resident shall be kept or stored in the original container.

(vii) No prescribed medication or over-the-counter medication for one resident may be administered to or allowed in the possession of another resident.

(viii) All prescription medication shall be clearly labeled to include the resident's full name, physician's name, prescription number, strength of drug, dosage, directions for use, date of issue, quantity, and name, address, and phone number of pharmacy or physician dispensing the drug.

(ix) Resident's name shall be on all over-the-counter drugs used.

(x) All drugs shall be kept locked, and documented when taken by the resident.

(xi) Only persons responsible for administering

- medications shall have possession of the key to the locked medication area.
- (xii) Labels on containers shall be legible and firmly affixed.
- (xiii) No one shall alter labels on prescription containers. If a medication dosage change is made by the physician, then the container must be flagged showing a label change is to be made.
- (xiv) An individual inventory record and documentation for accountability shall be maintained for each Schedule II drug prescribed for each resident.
- (xv) Schedule II drugs shall be kept in a separate locked box within the locked medication area.
- (xvi) All new or refilled prescribed medication shall be counted upon receipt in the home and documented in each resident's medication record.
- (xvii) Discontinued medications may be kept up to three (3) months and must be separated from the current medications within the locked medication area.
- (xviii) The home shall have a written policy for safe disposal of discontinued medications and it shall be a method approved by the Department of Health. Documentation shall be retained in the individual resident's record.
- (xix) When a resident is admitted to a home, or returns to a home from a temporary leave, the medication brought into the home shall be counted and documented by the person admitting the resident and countersigned by the resident or responsible party.
- (xx) When a resident is discharged, moves, or goes on a temporary leave from the home, the unused medication shall be sent with the resident or the responsible party. The resident record shall contain documentation of quantities of medication sent, as well as the signature of the resident or responsible party receiving the medications and of the staff person releasing the medications.
- (xxi) Unused drugs prescribed for residents who have died shall be kept for one (1) month and then destroyed in accordance with item xix of this section of the Standards.
- (B) **Administration of medications**
- (i) Only persons who have completed an approved course in medication administration shall administer medications.
- (ii) The person responsible for medication administration shall personally prepare the dosage, observe the resident swallowing the medication, and chart the medication.
- (iii) The person administering the medication shall maintain an accurate written record of medications administered.
- (iv) Charting the administration of medications shall be done within an hour after it is taken and correct procedure followed to assure that medications are not documented by memory.

- (v) All medications shall be administered according to label directions.
- (C) **Monitoring medications**
- (i) Only persons who have completed an approved course in medication administration shall monitor medications.
- (ii) An accurate written record of medication monitoring shall be made by the individual monitoring the medication. This record must identify the individual responsible for the medication monitoring.
- (iii) Charting the monitoring of medication shall be done within an hour after it is taken and correct procedure followed to assure that medications are not documented by memory.
- (iv) All medications monitored shall be taken according to label requirements.
- (v) Records of medications monitored for residents preparing for self-administration shall be documented by the resident and acknowledged by the staff member monitoring the medication.
- (D) **Self-Administration**
- (i) Self-administration of all medications, prescription and over-the-counter, is permitted only after the resident has been monitored and documentation shows the resident capable of self-administration of medications. Monitoring shall include observation of resident taking the proper medication, in the proper dosage, at the correct time, documenting medication taken, and storing the medication in a safe manner.
- (ii) The home staff shall conduct at least a monthly documented review of the individual's self-administration program which shall include a count of each medication included in the self-administration program.
- (iii) All medications must be stored in locked containers.
- (7) **Residents' Funds.** Subchapter 15 of this Chapter shall be applicable to small residential care homes.
- (8) **Involuntary Transfer or Discharge of Residents.** Subchapter 17 of this Chapter shall also apply to small residential care homes.
- (9) **Residents' Rights.** Subchapter 19 of this Chapter shall be applicable to small residential care homes.