



ADMINISTRATIVE
RULES OF
MONTANA



ADMINISTRATIVE RULE OF MONTANA
HEALTHCARE FACILITIES
37.100.1 subchapter
Adult Foster Care Homes

RULE

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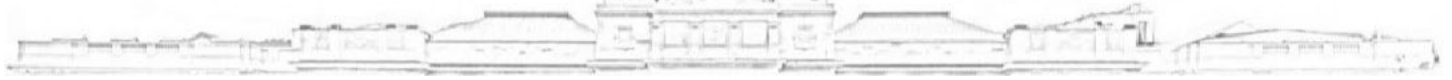
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37.100.101 ADULT FOSTER CARE HOMES (AFCH): PURPOSE

- (1) The purpose of these rules in this subchapter is to establish licensing requirements for adult foster care homes (AFCH).
- (2) The purpose of an AFCH is to offer in a home-like safe environment, light personal care, custodial care, and supervision to aged or disabled adults who require assistance in meeting their basic needs. Residents' needs are to be addressed in a manner that supports and enables residents to maximize their ability to function at the highest level of independence possible.
- (3) An AFCH is limited to light personal care, custodial care, and supervision and does not provide skilled nursing care except as provided for in ARM 37.100.136.
- (4) The licensing requirements for operating an AFCH do not apply to persons in a mutual or shared living arrangement.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-101, 50-5-103, 50-5-215, 50-5-216, MCA

History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1989 MAR p. 2207, Eff. 12/22/89; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.102 ADULT FOSTER CARE HOMES (AFCH): DEFINITIONS

- (1) "Abuse" means any willful, negligent, or reckless mental, physical, sexual, or verbal mistreatment, or the misappropriation of personal property of any person receiving care in an AFCH.
- (2) "AFCH" means a private home or other facility that offers, except as provided in 50-5-216, MCA and ARM 37.100.136, only light personal care, custodial care, and supervision to four or fewer disabled adults, or aged persons who are not related to the owner or manager of the home by blood, marriage, adoption, or who are not under full guardianship of the owner or manager.
- (3) "Aged person" means a person who is at least 60 years old.
- (4) "Applicant" means a person who is applying for an AFCH license.
- (5) "Case plan" means a document created by the resident's case manager, or a representative from a placement agency which identifies supports and services that are necessary for the resident to achieve independence, dignity, and personal fulfillment while in the AFCH.
- (6) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled adult to provide for the basic needs of food and shelter and having a specific person available to help the adult meet these basic needs.
- (7) "Department" means the Department of Public Health and Human Services.
- (8) "Disabled adult" means a person 18 years of age or older who has been determined to be disabled as defined by ARM 37.100.302, 37.100.402, and 37.86.3503.
- (9) "Exploitation" means an act taken by a person who has the trust of an AFCH resident to obtain control of or to divert to the advantage of another, the ownership, use, benefit, or possession of the resident's money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of depriving the AFCH resident of the ownership, use, benefit, or possession of his or her money, assets, or property.
- (10) "Incident report" means a written report documenting an unusual occurrence, accident, or illness involving a resident.
- (11) "License" means the document issued by the department that authorizes a person to operate an AFCH.
- (12) "Light personal care" means assisting the aged person or disabled adult in accomplishing such personal hygiene tasks as bathing, dressing, hair grooming, and supervision of self-medication.
 - (a) "Assisting" means supervision of the resident in personal hygiene tasks with only occasional "hands on" assistance.

- (b) "Supervision" means guidance of a person as he carries out activities of daily living, including reminding a resident to maintain his medication schedule as directed by his practitioner, reminding him of important activities to be carried out, assisting him in keeping appointments, and being aware of his general whereabouts even though he may travel independently about the community.
- (13) "Mutual or shared living" means that each party shares in the monetary and household responsibilities.
- (14) "Neglect" means failure to provide for the biological and psychosocial needs of any person receiving care in an AFCH, failure to report abuse, or failure to exercise supervisory responsibilities to protect patients from abuse and neglect. The term includes, but is not limited to:
 - (a) deprivation of food, shelter, appropriate clothing, medical care, or other services;
 - (b) failure to follow a prescribed care plan or medical treatment; or
 - (c) failure to respond to a resident in an emergency situation by indifference, carelessness, or intention.
- (15) "Practitioner" means an individual licensed by the Department of Labor and Industry who has assessment, admission, and prescription authority.
- (16) "PRN medication" means an administration scheme, in which a medication is not routine, is taken as needed, and requires the licensed practitioner or individual resident's cognitive assessment and judgment for need and effectiveness.
- (17) "Provider" means a person who operates or is licensed to operate an AFCH. The provider may be involved in the direct care of residents in the AFCH.
- (18) "Resident" means anyone accepted for care in an AFCH.
- (19) "Resident agreement" means a signed, dated, written document drawn up between the resident, the resident's legal representative or caseworker, and the provider. The resident agreement lists all charges, services, refunds, and discharge criteria.
- (20) "Resident's legal representative" or "resident's representative" means the resident's guardian, or, if no guardian has been appointed, then the resident's family member or other appropriate person acting on the resident's behalf.
- (21) "Responsible person" means the resident, resident's legal representative, or any other person identified by the resident or resident's legal representative, as specified in the resident's agreement.
- (22) "Restraint" means a personal restriction that immobilizes or reduces the freedom of movement of an individual's arms, legs, or head.
- (23) "Serious incident" means:
 - (a) a suicide attempt;
 - (b) use of excessive physical force by the provider or staff;
 - (c) physical or sexual assault of a resident by another resident, provider, or staff;
 - (d) injury to a resident which requires emergency medical care;

- (e) falls or accidents that injure a resident;
 - (f) known or suspected abuse or neglect of a resident by the provider or staff;
 - (g) unusual behavioral episodes; or
 - (h) the death of a resident.
- (24) "Skilled nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed registered nurse on a 24-hour basis.
- (25) "Staff" means any person whether paid or unpaid, other than the provider, who is employed by the provider and is providing care to residents in an AFCH.
- (26) "Survey" means a detailed study to determine if applicant or provider meets all applicable licensing requirements.
- (27) "Third party services" means care and services provided to a resident by individuals or entities who have no fiduciary interest in the facility.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-101, 50-5-103, 50-5-215, 50-5-216, MCA

History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1989 MAR p. 2207, Eff. 12/22/89; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.105 PROCEDURES FOR OBTAINING SERVICES

(REPEALED)

Authorizing statute(s): 53-5-304, MCA

Implementing statute(s): 53-5-303, MCA

History: NEW, Eff. 12/31/72; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1990 MAR p. 2278, Eff. 12/28/90; TRANS, from DFS, 1998 MAR p. 667; REP, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.110 GENERAL

(REPEALED)

Authorizing statute(s): 53-5-304, MCA

Implementing statute(s): 53-5-303, MCA

History: NEW, Eff. 12/31/72; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1990 MAR p. 2278, Eff. 12/28/90; TRANS, from DFS, 1998 MAR p. 667; REP, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.119 ADULT FOSTER CARE HOMES (AFCH): APPLICATION OF OTHER RULES

- (1) To the extent that other licensure rules in ARM Title 37, chapter 106, subchapter 3 conflict with the terms of this subchapter, the terms of this subchapter apply to an AFCH.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA

History: NEW, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.120 ADULT FOSTER CARE HOMES (AFCH): LICENSE REQUIRED

- (1) Every AFCH must be licensed by the department.
- (2) Any person, group, or corporation that establishes or operates an AFCH without a license from the department is in violation of law and subject to prosecution.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-111, 50-5-112, 50-5-113, 50-5-201, 50-5-215, MCA

History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1989 MAR p. 2207, Eff. 12/22/89; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.121 ADULT FOSTER CARE HOMES (AFCH): LICENSES

- (1) The department may issue a license for a period of one to three years in duration for an AFCH, under ARM 37.100.121, to any license applicant meeting all of the requirements established by these rules and the governing statutes.
- (2) The department will determine whether an applicant meets the requirements after conducting a licensing survey.
- (3) The department will renew the license on the expiration date of the current license if:
 - (a) the provider makes written application for renewal at least 30 days prior to the expiration date of the current license; and
 - (b) the provider continues to meet all requirements established by these rules, as determined by the department after a licensing survey.
- (4) An AFCH may be licensed to care for four or fewer aged persons or disabled adults in need of such care, and must not care for more residents than the number allowed by their license.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-204, 50-5-215, MCA

History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1990 MAR p. 2278, Eff. 12/28/90; AMD, 1996 MAR p. 921, Eff. 4/5/96; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.122 ADULT FOSTER CARE HOMES (AFCH): LICENSE RESTRICTIONS

- (1) A license is not subject to sale, assignment, or other transfer, voluntary or involuntary.
- (2) A license is valid only for the premises and person covered under ARM 37.100.136, for which the original license was issued.
- (3) The license remains the property of the department and should be returned to the department upon closing or transfer of ownership.
- (4) The address for returning the license is Department of Public Health and Human Services, Quality Assurance Division, Licensure Bureau, 2401 Colonial Drive, P.O. Box 202953, Helena, MT 59620-2953.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-201, 50-5-215, 50-5-216, MCA

History: NEW, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.125 ADULT FOSTER CARE HOMES (AFCH): LICENSING PROCEDURES

- (1) An applicant must apply for an AFCH license prior to the operation of such home or prior to the expiration of a current license.
- (2) Application for a license upon forms provided by the department and accompanied by the required fee must be made to the Department of Public Health and Human Services, Quality Assurance Division, Licensure Bureau, 2401 Colonial Drive, P.O. Box 202953, Helena, MT 59602-2953.
- (3) Upon receipt of an application for license or renewal of license, the department will conduct a licensing survey to determine if the home and applicant meet all licensing requirements for licensure as established by these rules. Within 45 days of receipt of a complete application the department will make a final determination of whether the home will be licensed.
- (4) If the department determines that an application or accompanying information is incomplete or erroneous, the department will notify the applicant of the specific deficiencies or errors. The department will not issue a license until it receives all required information.
- (5) Upon completion of the licensing survey, the department will notify the applicant or provider, in writing, whether they have met the licensing requirements. If the facility has any deficiencies that need to be corrected, the applicant or provider must submit an acceptable plan of correction within ten business days.
- (6) Each applicant or provider must report to the department any changes which would affect the current accuracy of information provided on the application prior to the effective date of the change.
- (7) If an initial application is denied, an applicant who does not meet the standards set forth in these rules can reapply when those standards are met.
- (8) A provider must report a change of address to the department at least three weeks prior to moving. The department will then evaluate whether the new residence meets the licensing requirements before the provider may operate an AFCH in the new residence.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-203, 50-5-215, MCA

History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1989 MAR p. 2207, Eff. 12/22/89; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.130 ADULT FOSTER CARE HOMES (AFCH): LICENSE DENIAL, REVOCATION, OR SUSPENSION

- (1) The department may deny, revoke, or suspend an AFCH license by written notification to the provider for any of the following reasons:
 - (a) the provider is not in compliance with licensing requirements established by this subchapter;
 - (b) the provider has made misrepresentations to the department, either negligent or intentional;
 - (c) the provider, staff, or other persons in the home have been named as a perpetrator in a substantiated report of abuse, neglect, or exploitation of a child or adult;
 - (d) the provider, staff, or other persons in the home pose a risk or threat to the safety or welfare of any resident of the home;
 - (e) any AFCH resident requires physical restraint;
 - (f) any AFCH resident will need to be carried from the home during any emergency that requires evacuation unless under the direct care of a hospice provider; or
 - (g) any AFCH resident is totally incontinent or is incontinent and unable to manage their incontinence with more than minimal supervision.
- (2) If any violation of the licensing requirements by a provider, staff, or person in the home places a resident in imminent risk of injury or harm, the license may be immediately revoked.
- (3) If the department finds that a current provider who is operating an AFCH is out of compliance with the standards set forth in these rules, the department will not revoke or deny renewal of the license if all the following conditions are met:
 - (a) the standards out of compliance do not eminently threaten the life or health of the residents;
 - (b) the standards out of compliance can be corrected within 30 days;
 - (c) the provider submits a written corrective action plan within ten days of the department's notification of noncompliance specifying how compliance will be made within 30 days of receipt of the notification of noncompliance; and
 - (d) the department approves the corrective action plan.

Implementing statute(s): 50-5-103, 50-5-207, 50-5-215, MCA

History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1989 MAR p. 2207, Eff. 12/22/89; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.135 ADULT FOSTER CARE HOMES (AFCH): FAIR HEARING

- (1) Any person aggrieved by an adverse department action denying, revoking or suspending a license may request a fair hearing in accordance with ARM 37.5.304, 37.5.305, 37.5.307, 37.5.310, 37.5.311, 37.5.313, 37.5.318, 37.5.322, 37.5.325, 37.5.328, 37.5.331, 37.5.334, and 37.5.337.
- (2) The provider will cease operation of the AFCH pending the fair hearing in those instances where the revocation or suspension of the license is based upon actions that the department has determined places any resident in imminent risk of harm or injury.

Authorizing statute(s): 2-4-201, 50-1-202, 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-208, 50-5-215, MCA

History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1988 MAR p. 1254, Eff. 6/24/88; TRANS, from DFS, 1998 MAR p. 667; AMD, 2000 MAR p. 1653, Eff. 6/30/00; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.136 ADULT FOSTER CARE HOMES (AFCH): LIMITATIONS ON CARE PROVIDED

- (1) Except as provided in this rule and pursuant to 50-5-216, MCA, the types of care offered by Adult Foster Care Homes (AFCH) are limited to light personal care, custodial care, and supervision. An adult in the care of an AFCH must not be:
 - (a) in need of skilled nursing care;
 - (b) in need of medical, physical, or chemical restraint;
 - (c) nonambulatory or bedridden;
 - (d) incontinent to the extent that bowel or bladder control is absent; or
 - (e) unable to self-administer medications.
- (2) To continue the continuity of care, an AFCH may be licensed to provide care for an adult receiving state-funded services through the developmental disabilities program of the department or an adult who resided in the home before reaching 18 years of age, even though the adult is:
 - (a) in need of skilled nursing care;
 - (b) in need of medical, physical, or chemical restraint;
 - (c) nonambulatory or bedridden;
 - (d) incontinent to the extent that bowel or bladder control is absent; or
 - (e) unable to self-administer medications.
- (3) A resident of an AFCH licensed under (2) must have a certification in the form of a signed statement, renewed on an annual basis, from a physician, a physician's assistant-certified, a nurse practitioner, or a registered nurse, whose work is unrelated to the operation of the home and who has actually visited the home within the year covered by the statement and certifies that:
 - (a) the services available to the resident in the home or in the community, or services that may be brought into the home from the community, including nursing services or therapies, are appropriate for meeting the health care or other needs of the resident; and
 - (b) the health care status of the resident does not necessitate placing the resident in a more intensive residential service setting.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-101, 50-5-103, 50-5-215, 50-5-216, MCA

History: NEW, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.137 ADULT FOSTER CARE HOMES (AFCH): RESIDENT RIGHTS

- (1) The facility must comply with the Montana Long-Term Care Residents' Bill of Rights, found at 50-5-1101 through 50-5-1107, MCA. This includes the posting of the facility's statement of resident rights in a conspicuous place. Prior to or upon admission of a resident, the AFCH must explain and provide the resident with a copy of the Montana Long-Term Care Residents' Bill of Rights.
- (2) The provider will write and adhere to a statement applicable to all residents in the AFCH, including as a minimum the rights listed in 50-5-1104, MCA. This statement will be provided to each resident and his or her legal representative upon admission to the AFCH. Signed copies must be retained in the resident file and copies made available to the resident and resident's legal representative, if applicable.
- (3) This written statement must include information that all residents have the right to:
 - (a) be treated as an adult with respect and dignity;
 - (b) be informed of their medical condition and the right to consent to or refuse treatment;
 - (c) receive appropriate care, services, and prompt medical care, as needed;
 - (d) participate in community organizations and activities;
 - (e) have medical and personal information kept confidential;
 - (f) a safe and secure environment;
 - (g) be free from discrimination in regards to race, color, national origin, sex, or religion;
 - (h) be provided the opportunity to voluntarily practice their own religion, attend religious services of their choice in the community, and to visit with representatives of their faith;
 - (i) identify with their cultural heritage;
 - (j) the opportunity for bathing and personal grooming, as desired;
 - (k) dress according to personal taste;
 - (l) write and send mail at their own expense without censorship and receive unopened mail;
 - (m) daily private access to a telephone;
 - (n) have visitors within reasonable visiting hours; and
 - (o) be encouraged and assisted to exercise constitutional and legal rights including the right to vote.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA

History: NEW, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.138 ADULT FOSTER CARE HOMES (AFCH): BACKGROUND CHECKS

- (1) The provider, staff, and any adult residing in the home must have a state of Montana criminal background check, and, if applicable, a tribal criminal background check and state protective service background check prior to receiving an AFCH license or working at the AFCH.
- (2) If an applicant has lived outside the state within the past five years, the AFCH provider must complete background checks in every state that the applicant has resided within the past five years.
- (3) The department will deny or revoke a license upon finding that:
 - (a) the provider, staff member, or anyone residing in the AFCH has been convicted by a court of competent jurisdiction of a felony or misdemeanor involving homicide, sexual intercourse without consent, sexual assault, aggravated assault, assault on a minor, assault on an officer, assault with a weapon, kidnapping, aggravated kidnapping, prostitution, robbery, or burglary;
 - (b) the provider, staff member, or anyone residing in the home has a conviction for a crime pertaining to children and families, including but not limited to child abuse or neglect, incest, child sexual abuse, ritual abuse of a minor, felony partner and family member assault, child pornography, child prostitution, Internet crimes involving children, felony endangering the welfare of a minor, felony unlawful transactions with children, or aggravated interference with parent-child contact;
 - (c) the provider or staff member or anyone residing in the home has, within the previous five years, a felony conviction of a drug-related offense, including but not limited to use, distribution or possession of controlled substances, criminal possession of precursors to dangerous drugs, criminal manufacture of dangerous drugs, criminal possession of imitation dangerous drugs with the purpose to distribute, criminal possession, manufacture of or delivery of drug paraphernalia, or driving under the influence of alcohol or other drugs;
 - (d) the provider, staff member, or anyone residing in the home has been named as a perpetrator in a substantiated report of child abuse or neglect; or
 - (e) the provider, staff member, or anyone residing in the home has been convicted of abuse, sexual abuse, neglect, or exploitation of an elderly person or a person with a developmental disability.
- (4) The department may deny or revoke a license upon finding that the provider, staff member, or anyone residing in the home has a conviction for a misdemeanor partner and family member assault, misdemeanor endangering the welfare of a child, misdemeanor unlawful transaction with a child, or a crime involving an abuse of the public trust.

- (5) The provider or staff member or anyone residing in the home who is charged with physical or sexual violence against any person, or any felony drug-related offense and awaiting trial may not provide care or be present in the facility pending the outcome of the criminal proceeding.
- (6) The AFCH is responsible for assuring that the persons covered by this rule have met these requirements before providing care.
- (7) The provider, staff member, or anyone residing in the home must not pose any potential threat to the health, safety, and well-being of the residents in care.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA

History: NEW, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.139 DISCHARGE CRITERIA

- (1) The provider will not discharge or transfer a resident from the AFCH without prior planning, including:
 - (a) providing a written 30-day prior notice to the resident or resident's legal representative; and
 - (b) maintaining a record that includes:
 - (i) the date of discharge;
 - (ii) the reason for discharge;
 - (iii) the disposition of money, valuables, and medications held for safekeeping; and
 - (iv) a forwarding address of the resident or the resident's legal representative.
- (2) A resident may be involuntarily discharged in less than 30 days for the following reasons:
 - (a) the resident has a medical emergency;
 - (b) the resident exhibits behavior that poses an immediate danger to self or others; or
 - (c) the resident has not resided in the facility for 30 days.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA

History: NEW, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.140 ADULT FOSTER CARE HOMES (AFCH): ENVIRONMENTAL REQUIREMENTS

- (1) The AFCH must be located close to community resources.
 - (a) The AFCH must be accessible to transportation (e.g., bus, train, or car).
 - (b) The AFCH must be in reasonable proximity to shopping areas, churches, senior centers, medical and dental clinics, and hospitals.
- (2) The AFCH must have an adequate and safe water supply. A public water supply must be used, if available.
 - (a) If a nonmunicipal water source is used, coliform sampling must be done before licensing and, at least, two separate times per year. The sampling schedule must include collection in the two time periods that the water source is most likely to be contaminated, such as in April through June and September through October or as directed by the local health authority.
 - (b) The water samples must be tested for coliform bacteria and action taken to ensure potability.
 - (c) Water test records must be retained for three years.
 - (d) Nonpotable water sources must be marked "not for human consumption."
 - (e) Bottled and packaged potable water must be obtained from a licensed and approved source and must be handled and stored in a way that protects it from contamination.
- (3) The AFCH must be connected to a public sewer system, if available. If septic tanks or other nonmunicipal sewage systems are used, they must be in good working order.
 - (a) The AFCH must repair or replace the sewage system whenever:
 - (i) it fails to accept sewage at the rate of application;
 - (ii) seepage of effluent from or ponding of effluent on or around the system occurs;
 - (iii) contamination of a potable water supply or state waters is traced to the system; or
 - (iv) a mechanical failure occurs.
- (4) Mop water or soiled cleaning water must be disposed of immediately after use in a utility sink or a toilet.
- (5) The AFCH must be equipped with a telephone landline. Telephone numbers of the hospital, police department, fire department, ambulance, and poison control center must be posted by each

telephone. The provider must notify the department, the residents' case managers, and the residents' legal representative within 24 hours any time the AFCH phone number is changed.

- (6) The provider must keep the home clean and in good repair and the premises must be kept free from objects, materials, and conditions which constitute a danger to the residents.
- (7) All operable windows that may be left open must be fitted with insect screens.
- (8) A minimum of ten foot-candles of light must be available in all rooms and hallways, with the following exceptions:
 - (a) all reading lamps must have a capacity to provide a minimum of 30 foot-candles of light;
 - (b) all toilet and bathing areas must be provided with a minimum of 30 foot-candles of light;
 - (c) general lighting in food preparation areas must be a minimum of 50 foot-candles of light; and
 - (d) hallways must be illuminated at all times by at least a minimum of five foot-candles of light at the floor.
- (9) The AFCH must make adequate provisions for laundering of residents' personal laundry.
 - (a) A mechanical washer and a hot air dryer must be available.
 - (b) Soiled linens and clothing must be stored in closed containers prior to laundering in an area that is separate from food, storage, kitchen, and dining areas.
 - (c) Sheets and pillowcases must be laundered at least weekly, and more often, if soiled.
 - (d) All bed linens, towels, and washcloths must be dried in the dryer.
 - (e) Clean laundry must be protected from contamination from soiled laundry.
 - (f) Anyone who handles soiled laundry must wash their hands before handling clean laundry.
- (10) The facility must be equipped to provide an adequate amount of hot water for a resident's use between the temperature range of 110° through 120° F at the fixture.
- (11) There must be no more than three residents in any bedroom and each room must include:
 - (a) floor to ceiling walls;
 - (b) one door which can be closed to allow privacy for residents;
 - (c) exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules, each resident's bedroom must have 80 square feet per each bed placed in that bedroom;
 - (d) at least one window which can be opened from the inside without the use of tools;
 - (e) a mirror appropriate for grooming;
 - (f) an adequate closet or wardrobe, lighting sufficient for reading and other resident activities, bureau or dresser or equivalent, and at least one chair with arms in each bedroom for every two residents;
 - (g) an individual bed for each resident at least 36 inches wide and 72 inches long with comfortable springs in good condition, a clean protected mattress not less than 5 inches thick or 4 inches if of a synthetic construction and a pillow;

- (h) a provider must provide washable bedding for each bed, which includes two sheets, a pillow case, minimum of one blanket, and a bedspread; and
 - (i) a provider must have a linen supply for twice the number of beds in the home.
- (12) An AFCH must provide distinct living and sleeping areas. All areas must be well lighted, heated, and ventilated.
- (a) The home must have a living or day room area for use by a resident and his visitors.
 - (b) The living and sleeping areas for a resident must not be in separate wings, units, or buildings.
 - (c) A living room, dining room, or other room not ordinarily used for sleeping must not be used for sleeping by residents, providers, or other persons living in the home.
- (13) One toilet, sink, and bath or shower must be provided for each six individuals in the AFCH. At least one toilet and sink must be available on each floor where residents' bedrooms are located.
- (a) Light switches must be located by the door in all bathrooms.
 - (b) Bathrooms must be vented to outside or have an outside window.
 - (c) Every bathroom door must be designed to permit the opening of the locked door from the outside in an emergency.
 - (d) Bathtubs and showers must be equipped with a nonskid surface and sturdy grips.
 - (e) The use of a commode/movable toilet must only be temporary, less than 30 days, and be accompanied by the resident's practitioner's order. Commodes/movable toilets must be emptied frequently and cleaned and sanitized daily, or more often if necessary.
- (14) The kitchen must be equipped properly to prepare and serve adequate meals.
- (a) Waste must be kept in leakproof, nonabsorbent containers with close fitting covers for garbage, refuse, and other solid waste.
 - (b) Waste must be removed from the kitchen daily and from the premises at least weekly.
 - (c) Poisonous compounds, caustics, and other dangerous material must not be kept in the food preparation area.
 - (d) The kitchen must be maintained in a clean and sanitary condition.
- (15) The AFCH must be heated by centralized heating or its equivalent. Temperature of all rooms must be between 68° F through 76° F in the daytime and 60° F through 76° F during sleeping hours.
- (a) If the heating mechanism is located in the basement of the home, the separation must include at least a 1 3/4 inch solid wood core door or equivalent to create a floor separation between the basement and the first floor.
 - (b) Flame producing water heaters must be installed with the same protection as the heating mechanism.
 - (c) The use of space heaters in an AFCH is prohibited.
 - (d) Factory mutual and underwriter's laboratories approved permanent, fixed type electrical heating, such as recognized panel or baseboard fixed type may be utilized in any location.

- (e) In existing homes where an American Gas Association (AGA) approved sealed combustion wall heater has been installed in accordance with both the AGA and the manufacturer's recommendations, approval will be given if the unit is located on an outside wall, obtains combustion air directly from the outside, and vents products of combustion directly to the outside.
- (f) The use of wood burning stoves or fireplaces is prohibited unless documentation is available showing that proper installation and inspection have taken place by a qualified inspector.
 - (i) Documentation will be required upon initial licensure or initial installation and annually, thereafter.
 - (ii) Documentation must be kept for three years and be available for inspection.
- (g) Storage of combustible materials is prohibited in areas containing the heating mechanism, water heater, or incinerator.
- (h) The heating mechanism must be inspected by the provider at least yearly and necessary maintenance and repairs made.
- (i) At least one carbon monoxide detector is required on each level of the AFCH.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-204, 50-5-215, MCA

History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1989 MAR p. 2207, Eff. 12/22/89; AMD, 1996 MAR p. 921, Eff. 4/5/96; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.141 ADULT FOSTER CARE HOMES (AFCH): FIRE SAFETY

- (1) A smoke detector approved by a recognized testing laboratory, which is properly maintained and regularly tested, must be located on each level of the AFCH and in all sleeping areas and common living areas with the exception of the kitchen and bathrooms.
- (2) If individual battery-operated smoke detectors are used, the following maintenance is required:
 - (a) smoke detectors must be tested at least once a month to ensure that they are operating correctly;
 - (b) new operating batteries must be installed at least once each calendar year; and
 - (c) documentation demonstrating required maintenance must be kept on-site for a period of 24 months.
- (3) A workable portable fire extinguisher, with a minimum rating of 2A10BC, must be located on each floor of the home. Fire extinguishers must be:
 - (a) mounted on the wall not to exceed five feet from handle to floor and no closer than four feet from the floor;
 - (b) no more than 75 feet from each other;
 - (c) inspected, recharged, and tagged at least once a year by a person certified by the state to perform such services; and
 - (d) not obstructed or obscured from view.
- (4) No unvented fuel-fired heating devices are allowed in the home.
- (5) No stove or combustion heater will be so located as to block escape or be located under a stairway in case of malfunctioning of the stove or heater.
- (6) Exits are defined as a means of egress or passage to safe ground outside a building.
 - (a) Every room used for sleeping, living, or dining must have at least two exits that are remote from one another, at least one of which must be a door or stairway providing a means of unobstructed travel to the street or ground level outside of the building. Of these two exits, one may be an egress window which meets the criteria in (6)(c)(i) through (iv).
 - (b) All exits must be maintained in unobstructed, easily traveled condition at all times, free of ice and snow on the outside.
 - (c) Every floor of the AFCH that is utilized for resident activities will have two remote exits. Of these two exits, one may be a window which meets the following criteria found in the

National Fire Protection Association Unified Facilities Criteria (NFPA UFC) 101 or Section 1025 International Building Code (IBC) (2006):

- (i) emergency escape and rescue openings must be a minimum net clear opening of 5.7 square feet;
 - (ii) minimum net clear opening of not less than 24 inches in height and 20 inches in width;
 - (iii) window openings must not be greater than 44 inches from the floor; and
 - (iv) window openings must be operational from the inside without use of keys or tools.
- (d) Stairways in a basement may only be used as an exit if they provide a means of unobstructed travel to the outside of the building.
 - (e) Doors which form a part of a required exit must be at least 36 inches in width in new construction and at least 30 inches in width in existing facilities. In all cases, exit doors must be of adequate width for wheelchairs.
 - (f) Traffic to and from any room must not be through a resident's bedroom.
 - (g) The first floor of an AFCH must have at least two separate and independent exits leading to the outside.
 - (h) Homes accommodating residents, who regularly require wheelchairs, must be equipped with ramps located at each exit to the outside. A ramp must not exceed 1 foot of rise in 12 feet of run.
 - (i) The required path of travel to the outside must not be through rooms that are subject to locking or otherwise controlled by a person other than the person seeking to escape.
- (7) Access to rooms that are occupied by residents must not be by means of a trap door, ladder, or folding stairs.
 - (8) Every door that can be locked must have a means to open the door from the outside in case of emergencies. Locks on closet doors must be openable from both sides.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA

History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.145 ADULT FOSTER CARE HOMES (AFCH): OTHER SAFETY REQUIREMENTS

- (1) Rugs must be attached to the floor or made of nonskid material.
- (2) Corridors must be well lighted, uncluttered, and at least three feet wide.
- (3) Stairways and ramps must have sturdy banisters.
 - (a) Open stairways should be protected by gates unless gates do not enhance the safety of the residents.
 - (b) Stairs and ramps must be provided with nonslip tread and will be at least three feet wide.
- (4) A provider or staff must have either visual or auditory contact, at least every 30 seconds, with any resident who is able to bathe unassisted but has a condition which may render them physically or mentally helpless, or both.
- (5) Extension cords may not be used as permanent wiring.
- (6) All appliances, lamp cords, and exposed light sockets must be suitably protected to prevent accidents or electrocution.
- (7) All areas occupied by residents must be well lighted. Night lights must be provided for each resident. Light switches must be located at the door.
- (8) The yard area must be kept free from all hazards, nuisances, refuse, and litter.
- (9) All guns must be kept in locked storage and ammunition must be kept in locked storage separate from the gun.
- (10) The provider must ensure the residence is equipped with accessible first-aid supplies including a first-aid kit with sufficient supplies available at all times. A first-aid kit must:
 - (a) be readily available on-site as well as in all vehicles used by the AFCH;
 - (b) meet the standards of an appropriate national organization for the activity being conducted and the location and environment being used;
 - (c) be reviewed with new staff for contents and use; and
 - (d) be inventoried on a quarterly basis and restocked as needed.
- (11) Policies and procedures must be in place for the safe use and storage of fuels and all heat sources.
 - (a) All alcohol, detergents, chemical sanitizers, and related cleaning compounds and other chemicals must be stored in their original properly labeled container in a safe location.

- (b) Combustible and flammable materials and liquids must be properly stored in their original properly labeled container so as not to create a fire hazard.
- (c) Poisonous compounds such as insecticides, rodenticide, and other chemicals bearing the EPA toxicity labels "warning" or "danger" must be kept in their original properly labeled container and under lock and key.
- (d) Poisonous or toxic chemicals may not be stored above or adjacent to food, dishes, utensils, or food-contact surfaces. They may not be used in such a manner that they could contaminate these articles.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA

History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1989 MAR p. 2207, Eff. 12/22/89; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.146 ADULT FOSTER CARE HOMES (AFCH): EMERGENCY PREPAREDNESS

- (1) Each AFCH must have written policy and procedures for emergency evacuation to be followed in the case of fire or other emergency. A provider and resident evacuation drill must be conducted at least two times annually, no closer than four months apart.
 - (a) All household members must participate in an evacuation drill.
 - (b) The provider will retain a written report including, but not limited to the date and time of the drill and those involved in the drill. The provider must retain a copy of the written report, on-site, for a period of 24 months.
- (2) A new resident will be instructed in emergency evacuation upon admission.
- (3) Emergency procedures must include a plan for removing all residents, including residents who need assistance in exiting.
- (4) New staff members must also be oriented in how to conduct an evacuation within one week of employment and before being scheduled as the only staff in the home. Documentation of this orientation must be maintained in the staff member's personnel record.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA

History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



37.100.149 ADULT FOSTER CARE HOMES (AFCH): ADDITIONAL REQUIREMENTS FOR AN AFCH LICENSED TO SERVE INDIVIDUALS WITH MENTAL ILLNESS

- (1) An AFCH licensed to serve individuals with mental illness must admit only those residents that meet the following admission criteria:
 - (a) be diagnosed with a severe disabling mental illness as defined in ARM 37.86.3503;
 - (b) be medically stable;
 - (c) must not be an immediate danger to themselves or others; and
 - (d) be able to take medications when prompted.
- (2) Documentation of the resident meeting admission criteria in (1) must be in the resident's file.
- (3) The AFCH must contract with a licensed mental health center that has an adult foster care endorsement pursuant to ARM 37.106.1906 or have a formal working relationship with a case management team providing mental health services to the resident.
- (4) The AFCH provider contracting with a mental health center must participate in residents' treatment planning as required in ARM 37.106.2016.
- (5) In addition to requirements in ARM 37.100.162, a placement agreement must set forth the terms of the resident's placement, the responsibilities of the foster care provider, the responsibilities of the mental health center or case management team, the responsibilities of the resident, and when appropriate, the responsibilities of the resident's legal guardian.
- (6) The AFCH provider contracting with a mental health center must participate in orientation as required in ARM 37.106.2004.
- (7) The AFCH will assign chores to residents only as outlined in the resident's treatment plan.
- (8) AFCH providers must have a written policy describing the consequences to the resident when violating any rules which the AFCH itself establishes.
- (9) If the house rules are violated by the resident the AFCH will submit an incident report to the mental health center or case management team within 24 hours.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA

History: NEW, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.150 ADULT FOSTER CARE HOMES (AFCH): PROGRAM

- (1) The provider must provide light personal care, custodial care, and supervision for residents, including:
 - (a) A minimum of three regular, nutritious, and well-balanced meals must be served family style per day and a minimum of two snacks offered to residents per day.
 - (b) Not more than 15 hours can elapse between the evening and morning meal.
 - (c) All perishable foods must be stored at such temperatures as will protect against spoilage. Temperatures must not register over 41° F for refrigeration and 0° to 10° F in the freezer.
 - (d) Thermometers must be kept in freezer and refrigerator compartments.
 - (e) All foods, while being stored, prepared, or served must be protected against contamination and be kept safe for human consumption.
 - (f) Home canned foods must not be used for resident's meals.
 - (g) The provider must prepare meals which comply with the special dietary needs of the resident as prescribed by the resident's practitioner.
- (2) If a resident requires assistance in bathing, the person assisting should be of the same sex whenever possible. If not possible, appropriate covering must be used to ensure the resident's privacy.
- (3) A provider, staff member, or adult member of the AFCH must always be present when a resident is in the home. Only if stated in the resident's case plan or resident's agreement can a resident be left in the home alone. This time must be no longer than four hours in a 24-hour period.
- (4) Residents must not be used as employees of the AFCH or be coerced into performing tasks such as housekeeping, laundering, and yard work for the provider or others.
- (5) The provider will transport residents to medical, dental, mental health, and other appointments related to the resident's care plan, unless the resident, case manager, or guardian has arranged for other transportation.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA

History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1989 MAR p. 2207, Eff. 12/22/89; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.151 ADULT FOSTER CARE HOMES (AFCH): MEDICATION

- (1) All residents must self-administer their own medications.
- (2) The provider is responsible for providing assistance to the resident in taking his medications, including:
 - (a) removing medication from secured storage;
 - (b) providing verbal suggestions, prompting, reminding, gesturing, or providing a written guide for self-administering medications;
 - (c) handling a prefilled, labeled medication holder, labeled unit dose container, syringe or original marked, labeled container from the pharmacy, or a medication organizer;
 - (d) opening the lid of the container for the resident;
 - (e) guiding the hand of the resident to self-administer the medication;
 - (f) holding and assisting the resident in drinking the fluid to assist in the swallowing of oral medications; and
 - (g) assisting with removal of a medication from a container for residents with a physical disability which prevents independence in the act.
- (3) Resident medication organizers may be prepared up to four weeks in advance and injectable medications as specified in (4)(c) by the following individuals:
 - (a) a resident or a resident's legal representative;
 - (b) a resident's family caregiver, who is a person related to the resident by blood or marriage or who has full guardianship; or
 - (c) as otherwise provided by law.
- (4) The individual referred to in (3) must adhere to the following protocol:
 - (a) verify that all medications to be set up carry a practitioner's current order;
 - (b) set up medications only from prescriptions in labeled containers dispensed by a registered pharmacist or from over-the-counter drug containers with intact, clearly readable labels; and
 - (c) set up injectable insulin up to seven days in advance by drawing insulin into syringes identified for content, date, and resident. Other injectable medications must be set up according to the recommendations provided by the pharmacy.

- (5) An accurate medication record for each resident must be kept of all medications, including over-the-counter medications, for those residents who require monitoring or assistance or both by the provider. The record must include:
 - (a) name of medication, reason for use, dosage, route, and date and time taken;
 - (b) name and telephone number of the prescribing practitioner;
 - (c) any adverse reaction, unexpected effects of medication, or medication error, which must also be reported to the resident's practitioner;
 - (d) allergies and sensitivities, if any; and
 - (e) resident specific parameters and instructions for PRN medications.
- (6) The medication record must indicate the reason for the omission of any dose of medication.
- (7) A medication record need not be kept for those residents for whom written authorization has been given by their practitioner to keep their medication, including over-the-counter medication, in their rooms and to be fully responsible for taking the medication in the correct dosage and at the proper time. The authorization must be renewed on an annual basis.
- (8) Prescription drugs must be purchased from a licensed pharmacy, labeled with the name, address, and telephone number of the pharmacy, name of the resident, name and strength of the drug, direction for use, date filled, prescription number, name of the practitioner, and expiration date. Controlled substances must have a warning label on the bottle.
- (9) All prescription and nonprescription medication must be contained in a locked storage area.
- (10) Medications requiring refrigeration must be separated from food in a clearly labeled, designated locked container.
- (11) If the resident is not able to do so, the provider must destroy all discontinued prescriptions.
 - (a) The provider will maintain a record of all destroyed or returned medications in the resident record.
 - (b) Documentation of disposition including resident's name, name of drug, quantity, and prescription number must be signed by the individual disposing of the medication.
- (12) No resident, provider, or staff member may be permitted to use another resident's medication.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA

History: NEW, 1989 MAR p. 2207, Eff. 12/22/89; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.152 ADULT FOSTER CARE HOMES (AFCH): ILLNESSES, ACCIDENTS, SERIOUS INCIDENTS, ABSENCES, OR DEATH

- (1) In case of an accident or sudden illness, the provider must immediately obtain needed care for the resident and notify the resident's legal representative within 24 hours.
- (2) Any serious incident must be reported to the department's quality assurance licensing surveyor and the resident's legal representative within 24 hours or the next business day following the incident.
- (3) The incident report must be in writing and include the following information:
 - (a) name of the resident involved in the incident;
 - (b) date, hour, place, and cause of the incident;
 - (c) description of the incident;
 - (d) effect of the incident on the resident involved and type of care given;
 - (e) name of practitioner notified and time of notification, if necessary;
 - (f) practitioner's statement regarding extent of injuries, treatment ordered, and disposition of resident involved;
 - (g) time and date guardian notified;
 - (h) time and date of notification of case manager, if the resident has a case manager; and
 - (i) corrective measures taken to avoid repetition of accident or incident.
- (4) As required by 52-3-811, MCA, any person who operates or is employed by an AFCH must report any suspected abuse, neglect, or exploitation of a resident to adult protective services.
- (5) If a resident is unexpectedly absent from the home without explanation for a period of four hours or more, the provider must notify local law enforcement, case managers, and relatives or legal representatives of the resident.
- (6) When a resident dies, the provider must immediately notify the resident's practitioner and the resident's legal representative.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA



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History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87;
TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.153 ADULT FOSTER CARE HOMES (AFCH): RECORDS

- (1) The provider must submit to the department, upon its request, any reports required by federal or state law or regulation.
- (2) The provider must maintain a record regarding each resident in the home which contains at least the following information:
 - (a) name, address, and telephone number of next of kin or legal guardian;
 - (b) name, address, and telephone number of person or agency responsible for placing the resident in the home and a copy of the resident agreement;
 - (c) date of admission;
 - (d) the name and address of the resident's practitioner and hospital;
 - (e) any incident reports regarding the resident;
 - (f) any grievance lodged by the resident;
 - (g) medication records as described in ARM 37.100.151;
 - (h) a signed medical authorization form by the resident or resident's legal representative allowing the provider to obtain needed medical information regarding the resident;
 - (i) documentation of medical appointments or consultations and results;
 - (j) a signed copy of the resident rights statement as required in ARM 37.100.137; and
 - (k) a copy of the resident's treatment plan or case plan, if placed through the Mental Health Foster Care Program or the department's Developmental Services Division.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-204, 50-5-215, MCA

History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1989 MAR p. 2207, Eff. 12/22/89; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.157 ADULT FOSTER CARE HOMES (AFCH): THIRD PARTY PROVIDERS

- (1) It is recognized that residents may require temporary in-home services from third party providers. The following third party services are allowed in an AFCH:
 - (a) If the provider who is the only service provider in the home becomes temporarily incapacitated for two weeks or less, a home attendant, personal care attendant, or other qualified person may come into the home to provide the needed services.
 - (b) If a resident's practitioner prescribes temporary in-home skilled nursing services for less than 30 days to prevent the resident's hospital confinement, skilled nursing services may be provided in the AFCH for a period not to exceed 30 days.
 - (c) If a current resident requires hospice services, such services may be provided in the AFCH for an indefinite period.
- (2) The third party in-home skilled nursing services as outlined in (b) must not exceed two hours per day per resident.
- (3) The day and hour limits established in this rule are not limitations on the availability of services from any state or federally funded in-home service programs, but are established to ensure that AFCHs provide light personal care and custodial services, not skilled nursing services.
- (4) Payment from third party in-home services is the responsibility of the resident.
- (5) Documentation of the services provided to the resident must be retained in the resident record.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA

History: NEW, 1989 MAR p. 2207, Eff. 12/22/89; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



37.100.161 ADULT FOSTER CARE HOMES (AFCH): RESIDENT'S FUNDS

- (1) Residents must have access to and use of their personal funds. Exceptions are subject to provisions of the resident's case plan.
- (2) A provider may handle a resident's finances only if no other responsible person is available and willing to do so.
 - (a) The maximum value of money accepted by the provider for safekeeping must not exceed \$100.00 per resident.
 - (b) A resident's funds must be kept separate and apart from all funds and monies of the provider and treated as a trust obligation of the provider.
- (3) The provider is responsible for maintaining a written record of each resident's personal property and personal financial transactions, except for those residents who are capable of handling their own financial affairs or those residents whose financial affairs are handled by a relative, guardian, or conservator.
- (4) A current monthly record of the income, source of income, and expenses for each resident, except those residents who are capable of handling their own financial affairs, must be maintained by the AFCH provider.
 - (a) The provider must ensure that the resident's personal money and personal property is not appropriated or misused by any person. Any unethical use of a resident's money or property by another must be reported to adult protective services pursuant to 52-3-811, MCA.
- (5) Transactions prohibited:
 - (a) A provider, staff, or any person living in the home must not borrow money, property, or other valuables from a resident.
 - (b) Sales or other financial transactions between a provider, staff, or any person living in the home are prohibited.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA

History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



37.100.162 ADULT FOSTER CARE HOMES (AFCH): RESIDENT AGREEMENT

- (1) The provider must enter into a written agreement with the prospective resident or the resident's legal representative prior to admission to the home. The provider must give the prospective resident or the resident's legal representative a copy of the agreement and must explain the agreement in full. The agreement must include at least the following items:
 - (a) a statement explaining light custodial care provided to the resident, as well as the limitations of an AFCH;
 - (b) a statement describing specific services the AFCH will provide;
 - (c) a statement describing transportation of the resident to and from medical appointments and activities;
 - (d) a statement explaining the resident's responsibilities including, but not limited to house rules, the grievance policy, and policy regarding pets;
 - (e) a statement explaining specific charges that will be made to the resident for care and an itemized statement of what expenses in addition to the cost for care will be charged to the resident including fines, penalties, or late fees that will be assessed against the resident;
 - (f) a statement that the agreed-upon provider rate will not be changed unless 30 days advance written notice is given to the resident or resident's legal representative, or both;
 - (g) criteria for requiring transfer or discharge of the resident;
 - (h) the provider's policy for refunding payment in the event of the resident's absence, discharge, or transfer from the AFCH and the provider's policy for refunding security deposits; and
 - (i) signature of AFCH provider, resident, and legal representative.
- (2) A copy of the agreement must be filed in the resident's file.
- (3) When there are changes in services, financial arrangements, or requirements governing the resident's conduct and care, a new resident agreement must be executed or the original agreement must be updated by addendum. New agreements and any addenda must be signed and dated by the provider, the resident, and the resident's legal representative.
- (4) If there is a question as to whether the aged or disabled adult can be adequately cared for in an AFCH, the provider must contact the resident's practitioner for an evaluation and written recommendation stating that placement in the AFCH is the most appropriate level of care for the resident and that the resident meets the criteria set in ARM 37.100.136.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA

History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1989 MAR p. 2207, Eff. 12/22/89; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.165 ADULT FOSTER CARE HOMES (AFCH): GENERAL REQUIREMENTS FOR PROVIDERS AND STAFF

- (1) Providers and staff must be at least 18 years of age or older.
- (2) Providers and staff must be in good physical and mental health.
- (3) An applicant, provider, staff, and each adult living in the AFCH must complete a "personal statement of health for licensure" form provided by the department. Forms must be submitted to the department with the initial application for licensure or application for license renewal.
- (4) The department may request an evaluation of the applicant, provider, staff, or any person living in the home if there are grounds to believe they have engaged in behaviors which may place residents at risk of harm.
- (5) An applicant, provider, staff, or any adult living in the home must complete a "release of information" form provided by the department to conduct a criminal, protective services, and, if applicable, a tribal criminal and protective services background check.
- (6) No individual in the AFCH may pose a risk to the safety and well-being of the residents.
- (7) A provider must maintain a current CPR/First-Aid Certification.
 - (a) Staff must obtain a current CPR/First-Aid Certification within 30 days of hire. Certification must be kept current.
- (8) An AFCH must include at least one adult who lives in the home on a permanent basis and who is not engaged in employment outside the home. Exceptions may be granted by the department if there is adequate provision for alternative care.
- (9) The provider and staff must:
 - (a) share information about the residents with the department and the resident's legal representation; and
 - (b) cooperate with any resident's practitioner in assisting the resident in following the practitioner's recommendations for the resident.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA

History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1989 MAR p. 2207, Eff. 12/22/89; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.170 ADULT FOSTER CARE HOMES (AFCH): GRIEVANCES

- (1) The provider must have a written grievance policy which outlines the procedures to be followed by a resident in presenting a grievance to the family concerning his care in the home.
- (2) A resident's written grievance report must be maintained in the resident's record.
- (3) The report must include the nature of the complaint, the date of the complaint, and a statement indicating how the issue was resolved.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA

History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.171 ADULT FOSTER CARE HOMES (AFCH): COMMUNICABLE DISEASE CONTROL

- (1) The AFCH must develop and implement an infection prevention and control program. At a minimum:
 - (a) The provider will develop, implement, and review, at least annually, written policies and procedures regarding infection prevention and control which must include, but not be limited to, procedures to identify high-risk individuals and what methods are used to protect, contain, or minimize the risk to residents, staff, and visitors.
 - (b) The provider is responsible for the direction, provision, and quality of infection prevention and control services.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA

History: NEW, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.172 ADULT FOSTER CARE HOMES (AFCH): PETS

- (1) When pets are kept on the premises, the provider must write and adhere to procedures for their care and maintenance. The AFCH will consult with the local health department and care for all pets as recommended by them.
- (2) When animals are kept at the AFCH, the following conditions must be met:
 - (a) proof of current vaccinations must be kept on file at the AFCH;
 - (b) pets not confined in enclosures must be under control;
 - (c) pets must not present a danger to residents, staff, or visitors;
 - (d) pets may not be permitted in food preparation, storage, or dining areas during meal preparation time or during meal service or in an area where their presence would create a significant health or safety risk to others; and
 - (e) caregivers and residents must wash their hands after handling animal food and animal waste.
- (3) The AFCH will not keep or bring in ferrets, turtles, iguanas, lizards, or other reptiles, psittacine birds (birds of the parrot family), or any wild or dangerous animals.
- (4) The AFCH may allow exceptions for reptiles if the animals are kept behind a glass wall in a tank or container where the animal cannot be easily touched while inside the tank.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, MCA

History: NEW, 2014 MAR p. 1098, Eff. 5/23/14.



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37.100.175 ADULT FOSTER CARE HOMES (AFCH): PROHIBITED PRACTICES

- (1) An AFCH must not subject any resident to restraint, isolation, corporal punishment, personal humiliation, or the withholding of meals, water, clothing, mail, or visits.
- (2) A provider, staff, or any person living in the home is prohibited from providing skilled nursing care except as provided for in ARM 37.100.136.
- (3) Licensed day care services provided to adults or children cannot be provided in the AFCH.
- (4) Foster care services to children cannot be provided in the AFCH with the following exceptions:
 - (a) the AFCH resident lived in the home prior to the age of 18;
 - (b) services are provided pending adoption as defined in 41-1-103, MCA; or
 - (c) kinship foster care provided pursuant to 52-2-602, MCA.
- (5) Smoking is prohibited in an AFCH by residents or individuals residing or visiting in the home pursuant to the Montana Indoor Clean Air Act, 50-40-104, MCA.

Authorizing statute(s): 50-5-103, 50-5-215, MCA

Implementing statute(s): 50-5-103, 50-5-215, 50-5-216, MCA

History: NEW, 1985 MAR p. 289, Eff. 3/29/85; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1990 MAR p. 2278, Eff. 12/28/90; AMD, 1992 MAR p. 800, Eff. 4/17/92; TRANS, from DFS, 1998 MAR p. 667; AMD, 2014 MAR p. 1098, Eff. 5/23/14.