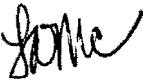


HHS COMMITTEE #2  
October 18, 2012

**MEMORANDUM**

October 16, 2012

TO: Health and Human Services Committee

FROM: Linda McMillan, Senior Legislative Analyst 

SUBJECT: **Worksession: Executive Regulation 2-12, Group Residential Care Facilities (Department of Health and Human Services)**

**Expected for this session:**

Uma Ahluwalia, Director, Department of Health and Human Services  
Kathy Schnoonover, Licensing and Regulatory Services, DHHS

On September 20, 2012 the County Council received proposed Executive Regulation 2-12, Group Residential Care Facilities. This is promulgated as a method (2) regulation. If the Council does not approve or disapprove the proposed regulation within 60 days, the regulation automatically takes effect. The Council may extend its time for consideration.

The proposed regulation updates the current regulation to reflect the enactment of Bill 40-11, Developmentally Disabled Adults – Licensing. County licensing of group homes for developmentally disabled adults is no longer required. These group homes are licensed by the State of Maryland, continue to be inspected by the Fire Marshal for fire safety compliance, and are visited regularly by client case managers. County licensing was determined to be a duplication of effort and added cost to providers.

In addition, the proposed regulation removes references to certain terminology (such as “exceptional person”) and requirements (such as community notification) that the court previously determined violated the Fair Housing Act. While DHHS has not enforced these provisions since the court ruled, the regulation had not been updated.

**The Executive’s memo is attached at ©1-2. A clean copy of the regulation is at ©3-10 and a bracketed and underlined version is at ©11-27. Council staff recommends approval.**




OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

MEMORANDUM

September 20, 2012

TO: Roger Berliner, President  
County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Executive Regulation 2-12, Group Residential Care Facilities--  
Method 2 Approval

I am submitting for Council's review and approval Executive Regulation 2-12, Group Residential Care Facilities. This regulation applies to all group homes licensed pursuant to Chapter 23A of the Montgomery County Code. As of August 1, 2012, the Department of Health and Human Services (DHHS) licenses and inspects 216 group homes in the following categories. All of these group homes are also subject to licensure requirements by the State:

1. Group Homes for Minors (11)
2. Therapeutic Group Homes for Youth (2)
3. Group Homes for Adults with Chronic Mental Illness (28)
4. Small Group Homes providing Assisted Living Services to Adults (175)<sup>1</sup>

This regulation will supersede the existing group home regulation—Executive Regulation 59-91—which was last revised in 1992. Revision of that regulation is necessary for two reasons:

1. Council recently enacted Bill 40-11, Developmentally Disabled Adults—Licensing. This legislation revised the list of facilities exempted from the provisions of Chapter 23A of the Montgomery County Code. As adopted, the law exempts group homes for adults with developmental disabilities from the County's local licensure and other requirements for group homes. In order to conform the regulation to Bill 40-11, all references to group homes for the developmentally disabled have been removed from the regulation.

<sup>1</sup>Large assisted living facilities—those with 17 or more beds—are licensed pursuant to Chapter 23A of the Montgomery County Code and are not subject to this regulation.

2. In 1993, a federal court ruling made clear that certain provisions in the County's group home law and Executive Regulation 59-91 violated provisions of the Fair Housing Act Amendments of 1988.<sup>2</sup> Since that time, our Licensure and Regulatory staff in DHHS has taken care not to enforce those provisions that were deemed unenforceable by the court. Staff practice was informed by guidance from the Office of the County Attorney.

During consideration of Bill 40-11, we learned that the published Executive Regulation had never been formally revised and, as a consequence, it still contains provisions that are invalid in light of the court ruling in *Potomac Group Home*. DHHS staff has worked with the County Attorney to remove any provisions in the regulation that would appear to be in conflict with federal law.

Staff has also made changes to reflect current departmental practice concerning the complaint process, updated citations and definitions, and removed outdated guidance on the use of corporal punishment and physical restraint. Finally, staff has replaced references to specific State regulations with a broader provision requiring compliance with all applicable State laws and regulations.

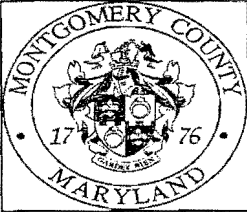
Executive Regulation 2-12 was advertised in the June 2012 edition of the Montgomery County Register. DHHS received no comments on the proposed regulation. Please direct any questions or requests for additional information to Pat Brennan at 240-777-1344.

IL:gh

Attachments

---

<sup>2</sup> *Potomac Group Home v. Montgomery County*, 823 F.Supp. 1285 (1993). The provisions at issue involved the definition of "exceptional" persons, community notification of proposed group home sites, and community representation on public program review boards set up to evaluate program applications submitted by potential group home operators.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

Montgomery County regulation on:

## GROUP RESIDENTIAL CARE FACILITIES

Issued by: County Executive

Regulation No. 2-12

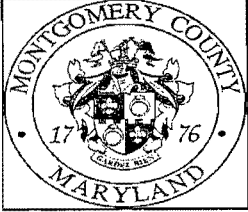
Authority: Montgomery County Code Section 23A-6  
Council Review: Method (2) under Code Section 2A-15  
Register Vol. 29, Issue 6

Sunset Date: None

**Summary:** This regulation supersedes Executive Regulation 59-91 in order to comply with Federal law and County Bill No. 40-11 which removed the county licensure requirement for group homes for developmentally disabled adults.

**Staff contact:** Kathy Schoonover  
Phone: 240-777-3832  
E-mail: [kathy.schoonover@montgomerycountymd.gov](mailto:kathy.schoonover@montgomerycountymd.gov)

**Background Information:** This regulation implements Chapter 23A, Montgomery County Code concerning operating standards for Group Residential Care Facilities in Montgomery County in order to protect the health and welfare of the residents.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

## Section 1. Definitions.

**Applicant** - A person applying for a group residential care facility license.

**Department** - The Department of Health and Human Services.

**Director** - The Director of the Department of Health and Human Services, or the Director's designee unless otherwise specified.

**Facility** - A group residential care home which houses three or more unrelated individuals located in a residential zone. It may accommodate a maximum of 16 residents, including supervisory staff. Facility does not include a bona fide foster home for children nor adult foster care or respite care homes for not more than three foster care or respite care clients certified or determined eligible for services by the Department of Health and Human Services, nor does it include group homes for developmentally disabled adults which are licensed by the Maryland Department of Health and Mental Hygiene, Developmental Disabilities Administration.

**Group residential care** - The provision of shelter, board, facilities, resources for daily living, personal guidance and direction, and related supportive activities within a residential home environment.

**Licensee** - Any person to whom a facility license has been issued in accordance with the provisions of Chapter 23A and these regulations.

**Person** - Any individual; partnership; firm; public, private, profit, or nonprofit corporation; association; governmental agency; or other legal entity.

**Resident** - Any individual who because of physical, emotional, mental, familial issues, or is under the jurisdiction of the Juvenile Court, and has a need for supervision or assisted living services.

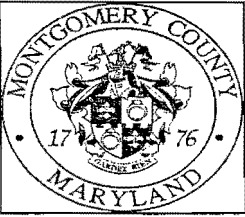
**Staff Director** - The person who is legally responsible for the overall operation of the facility and is directly responsible for compliance with all applicable laws and regulations.

**Unrelated individuals** - Anyone who is not a son, daughter, grandson, granddaughter, father, mother, grandfather, grandmother, brother, sister, step-mother, step-father, step-son, step-daughter, husband, wife, or in-law of the licensee, owner, operator, or lessee of the group residential care facility.

## Section 2. Program and Administrative Requirements

All existing or new facilities must comply with the provisions of these regulations in order to secure and maintain program certification.

A. Applicable laws



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

Any group residential facility licensed or regulated by the state and licensed by Montgomery County must comply with all applicable federal, state, and local laws and regulations.

B. Staff Director: The licensee, if not serving as the Staff Director of the facility, must appoint a responsible person of legal age as Staff Director. The licensee must furnish to the Department, in writing, the full name, age, home address, and telephone number of the appointee.

C. Registry

1. The licensee must maintain a permanent registry of the facility's residents. The registry must contain the following information on each resident:
  - a. date of admission;
  - b. registration or entry number;
  - c. name of resident's physician; and
  - d. name, address, and telephone number of the person to be contacted in case of emergency.
2. A separate registry may be kept by the licensee which must include the name of the resident which corresponds to the registration or entry number in the permanent registry.

D. Restriction on Admission

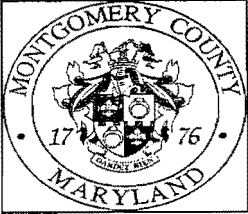
A licensee must admit to a facility only individuals who meet the definition of resident. Facilities licensed under these regulations must not admit a resident who requires nursing or domiciliary care, as defined in Chapter 25 of Montgomery County Code, 2004 as amended.

E. Employee's Health Record

The licensee must establish and maintain an individual health record on each staff member that must be retained with the staff member's employment record.

Pre-employment Medical Examination. Prior to being employed as a staff member in a licensed facility:

1. Each person must be examined by a licensed physician and must take either a chest x-ray or an intradermal tuberculin test (mantoux test). A chest x-ray is required for all positive reactions to intradermal tuberculin tests. Positive x-rays must be reported to the local health officer by the Staff Director of the facility.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

2. Each person must have a signed statement from a licensed physician indicating that he or she is free of tuberculosis in its communicable stage, free of all communicable diseases, and in good health.

F. Reports and Action Required

Any occurrence, such as fire, smoke, epidemic outbreaks, poisoning, or other unusual occurrences which threaten the welfare, safety, or health of any resident must be immediately reported to the Department of Health and Human Services. The licensee must furnish such information related to the occurrence as the Director may require.

G. Communicable Diseases

The licensee must provide for arrangements to transfer a resident suffering from active tuberculosis to an appropriate health care facility.

### Section 3. Program Certification Requirements

Program certification is the certificate issued annually by the Director for a program which is in compliance with these regulations. A program which is not in compliance with these regulations and cannot meet the minimum requirements for certification must be denied a certificate. In the case of denial of program certification, the Director must inform the applicant in writing of the reasons for denial. No facility may alter or change its scope of program from that certified unless it has prior written approval from the Director. All programs must meet the following requirements for certification:

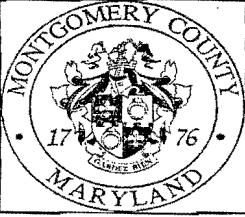
A. Complaint Procedures

1. Complaint Procedure at the Facility

As part of the program statement, the licensee must develop and describe the mechanism(s) and procedure(s) whereby residents can have easy and convenient access to the person designated by the licensee with whom complaints or grievances must be filed. Any person registering a complaint or grievance must be advised by the licensee that attempts will be made at the facility to resolve those complaints or grievances communicated to the responsible facility staff person.

2. Complaint Procedure at the Department of Health and Human Services

The complainant must be advised by the licensee that if a grievance or complaint, whether originally filed in oral or written form, is not satisfactorily resolved at the facility, the grievance or complaint must then be forwarded to the Director for resolution or conciliation. The procedure for conciliation of the grievance or complaint before the Director is as follows:



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

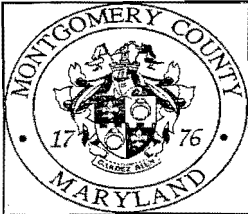
<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

- a. All complaints or grievances must be in writing, signed by the complainant, and addressed to the Director. A copy of the written complaint must be sent to the licensee or Staff Director of the facility in question.
- b. The licensee or Staff Director must investigate the complaints or grievances described in the written complaint and must respond in writing to the Director within seven days of receipt of the complaint. A copy of the response must be sent to the complainant. The response must contain statements concerning the validity of the alleged complaint or grievance and any action or alternative solutions proposed by the licensee to alleviate such complaint or grievance.
- c. The complainant must respond to the answer of the licensee or Staff Director and indicate the acceptability of the response provided under subsection b. This response must be sent by the complainant to the Director in writing within seven days of receipt of the facility's answer. A copy of the response must be sent to the licensee or Staff Director of the facility.
- d. Any complainant who is dissatisfied with the licensee's response must receive notification of additional complaint procedures at either the County or State.

## B. Inspections of Facility Records

1. To fulfill the responsibilities of program certification, the Director may, at any reasonable time, with or without a complaint being filed, visit or inspect any facility licensed under Chapter 23A in order to determine whether such facility is in compliance with applicable requirements of the law and regulations relating to program certification, and to ensure that the facility meets current certification standards. This is accomplished by a continuing review, which includes a review of the facility's records, observation of the Staff Director's work with residents, and periodic evaluation of the program and service. The Director has full power to conduct investigations, including the right of entry into the facility at all reasonable times.
2. The facility must maintain records on each resident. Program reports must be available and open to inspections by the Director at any reasonable time. The licensee must keep such records by name, number or code so long as the licensee can properly identify each resident.
3. All records about residents maintained by licensees are confidential and must be properly secured. The licensee must comply with all laws and regulations that protect the privacy and security of records and information about residents. The licensee must have a policy and procedure on protecting the rights of privacy concerning the records of each resident. Such policy or procedure must be in writing, clearly stated, and must include guidelines for access to these records and procedures for use of these records.





# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

## Section 4. Program Certification Process

At the time an application for a license is submitted, the applicant must furnish to the Director a separate program statement in a format approved by the Director. The program statement must describe the following:

- A. The program purpose, goals, and objectives.
- B. The means to accomplish the goals and objectives.
- C. The needs and capabilities of the population served.
- D. The proposed budget, resources, and procedures to meet those needs.
- E. Proposed operating methods and procedures for medication management, transportation, social and recreational services, 24 hour supervision, personal care services, and food services.
- F. Client admission and retention criteria.
- G. Qualifications and experience of the applicant and personnel operating the group home.
- H. Emergency preparedness.

## Section 5. Safety Procedures

### A. Evacuation Plan

Each licensee must develop an evacuation plan for use in case of fire or other emergencies. Copies of this plan must be posted in conspicuous locations and all residents must be fully acquainted with the plan.

- 1. Fire drills must be held at least once a month. The Staff Director must keep a record of the drills.
- 2. The purpose of the fire drills must be to familiarize employees and residents with the evacuation plan.
- 3. The assistance of local fire officials should be sought in developing a satisfactory plan of fire drills.

### B. Communication

There must be a telephone in the building to summon help promptly in case of fire or other emergencies. Pay stations or locked telephones do not meet this requirement.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

C. Transportation

For facilities served by private access roads, the licensee must be responsible for maintaining such roads in passable condition at all times.

**Section 6. Health and Sanitation Requirements**

Facilities must be in conformance with all applicable provisions of the Montgomery County Code and Executive Regulations, including, but not limited to: housing, zoning, and permitting services.

**Section 7. Fire Safety Requirements**

Every applicant must provide a statement from the County Fire Marshall that the home meets all appropriate *Life Safety Code* standards.

A. The following additional requirements are applicable to facilities housing 6 or fewer residents:

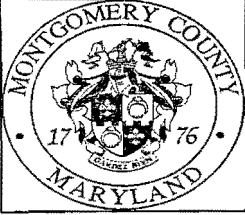
1. The facilities must comply with the National Fire Protection Association life safety requirements for one and two family dwellings as outlined in the National Fire Protection Association (NFPA) 101, *Life Safety Code*, 2009 Edition, as amended, unless otherwise required in this regulation; and
2. Household fire warning equipment must be provided as specified in the National Fire Protection Association (NFPA) 72, *National Fire Alarm Code*, 2007 Edition, Chapter 11, entitled Single-and Multiple-station Alarms and household Fire Alarm systems.

B. The following additional requirements are applicable to facilities housing more than 6 residents but not more than 16 total persons including staff:

1. The National Fire Protection Association life safety requirements for lodging and rooming houses as indicated in NFPA Standard No. 101, *Life Safety Code*, 2009 Edition as amended; and
2. Requirements for smoke detection equipment in accordance with NFPA 72, *National Fire Alarm Code*, 2007 Edition.

**Section 8. Severability**

If a court holds that part of this regulation is invalid, the invalidity does not affect the other parts.



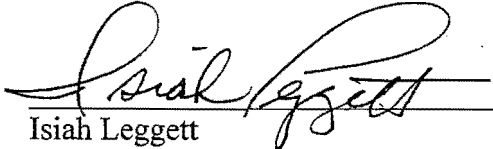
# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

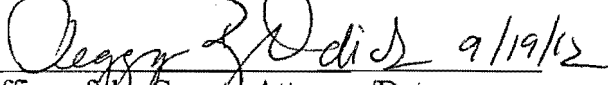
<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

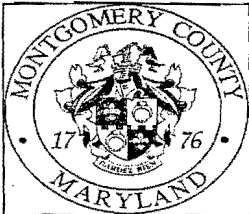
## Section 9. Effective Date

This regulation takes effect 30 days after approval by the County Council

  
\_\_\_\_\_  
Isiah Leggett  
County Executive

Approved as to form and legality:

  
\_\_\_\_\_  
Office of the County Attorney/Date  
PEGGY Z ODICK



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

Montgomery County regulation on:

## GROUP RESIDENTIAL CARE FACILITIES

Issued by: County Executive

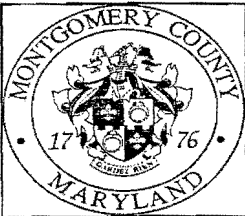
Regulation No. 2-12

Authority: Montgomery County Code Section 23A-6  
Council Review: Method (2) under Code Section 2A-15  
Register Vol. 29, Issue 6  
Sunset Date: None

**Summary:** This regulation supersedes Executive Regulation 59-91 in order to comply with Federal law and County Bill No. 40-11 which removed the county licensure requirement for group homes for developmentally disabled adults.

**Staff contact:** Kathy Schoonover  
Phone: 240-777-3832  
E-mail: [kathy.schoonover@montgomerycountymd.gov](mailto:kathy.schoonover@montgomerycountymd.gov)

**Background Information:** This regulation implements Chapter 23A, Montgomery County Code concerning operating standards for Group Residential Care Facilities in Montgomery County in order to protect the health and welfare of the residents.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

[Sec. 1 Regulation]

## Section [I:] 1. Definitions.

Applicant - A person applying for a [Group Residential Care Facility] group residential care facility license.

[Board - One of the specific program review boards which are convened on an ad hoc basis with a rotating membership to consider a specific program application.]

Department - The Department of Health and Human Services.

[Developmentally disabled person - Someone with a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, dyslexia resulting from the preceding diseases, or any other conditions closely related to mental retardation in terms of intellectual and adaptive problems.]

Director - The Director of the Department of Health and Human Services, or [his/her] the Director's designee unless otherwise specified.

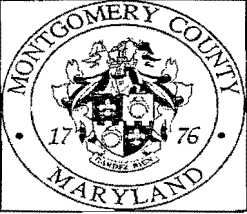
[Exceptional person - Any individual who because of emotional, mental, familial, or social differences has a need for supervision or assisted community living. Examples of such persons include developmentally disabled persons, drug-dependent persons, alcoholics, elderly persons, and juveniles under the jurisdiction of the Juvenile Court. Such individuals must be capable of proper judgment in taking action for self-preservation under emergency conditions and must be mobile and independently capable of exiting from a building, following instructions, and responding to an alarm.]

Facility - A group residential care home which houses three or more unrelated [exceptional persons] individuals located in a residential zone. It may accommodate a maximum of [14] 16 residents, including supervisory staff [and exceptional persons]. Facility does not include a bona fide foster home for children nor [Adult Foster Care or Respite Care Homes] adult foster care or respite care homes for not more than three foster care or respite care clients certified or determined eligible for services by the Department of [Social] Health and Human Services, nor does it include group homes for developmentally disabled adults which are licensed by the Maryland Department of Health and Mental Hygiene, Developmental Disabilities Administration.

Group residential care - The provision of shelter, board, facilities, resources for daily living, personal guidance and direction, and related supportive activities within a residential home environment.

Licensee - Any person to whom a facility license has been issued in accordance with the provisions of Chapter 23A and these regulations.

Person - Any individual; partnership; firm; public, private, profit, or nonprofit. corporation; association; governmental agency; or other legal entity.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

Resident – Any individual who because of physical, emotional, mental, familial issues, or is under the jurisdiction of the Juvenile Court, and has a need for supervision or assisted living services.

Staff Director - The person who is legally responsible for the overall operation of the facility and is directly responsible for compliance with all applicable laws and regulations.

Unrelated individuals - Anyone who is not a son, daughter, grandson, granddaughter, father, mother, grandfather, grandmother, brother, sister, step-mother, step-father, step-son, step-daughter, husband, wife, or in-law of the licensee, owner, operator, or lessee of the group residential care facility.

## Section [II:] 2. Program and Administrative Requirements

All existing or new facilities must comply with the provisions of these regulations in order to secure and maintain program certification.

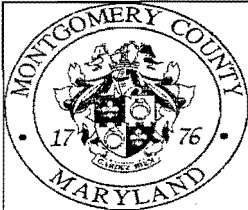
### A. Applicable laws

Any group residential facility licensed or regulated by the state and licensed by Montgomery County must comply with all applicable federal, state, and local laws and regulations.

[A.]B. Staff Director: The licensee, if not serving as the Staff Director of the facility, must appoint a responsible person of legal age as Staff Director. The licensee must furnish to the Department, in writing, the full name, age, home address, and telephone number of the appointee.

### [B.]C. Registry

1. The licensee must maintain a permanent registry of the facility's residents. The registry must contain the following information on each [exceptional person] resident:
  - a. date of admission;
  - b. registration or entry number;
  - c. name of resident's physician; and
  - d. name, address, and telephone number of the person to be contacted in case of emergency.
2. A separate registry may be kept by the licensee which must include the name of the [exceptional person] resident which corresponds to the registration or entry number in the permanent registry.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

**[C.]D. Restriction on Admission**

A licensee must admit to a facility only [residents] individuals who meet the definition of [exceptional persons] resident. Facilities licensed under these regulations must not admit a [person] resident who requires nursing[, personal,] or domiciliary care, as defined in Chapter 25 of Montgomery County Code, [1984] 2004 as amended.

**[D.]E. Employee's Health Record**

The licensee must establish and maintain an individual health record on each staff member that must be retained with the staff member's employment record.

**[1.] Pre-employment Medical Examination.** Prior to being employed as a staff member in a licensed facility:

**[a.]1.** Each person must be examined by a licensed physician and must take either a chest x-ray or an intradermal tuberculin test (mantoux test). A chest x-ray is required for all positive reactions to intradermal tuberculin tests. Positive x-rays must be reported to the local health officer by the Staff Director of the facility.

**[b.]2.** Each person must have a signed statement from a licensed physician indicating that he or she is free of tuberculosis in its communicable stage, free of all communicable diseases, and in good health.

**[2.] Annual Physical Examination**

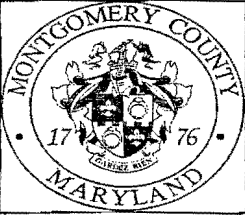
Each staff member must have an annual physical examination by a licensed physician who must certify that the staff member is in good health. This certification must be placed with the staff member's employment record.]

**[E.]F. Reports and Action Required**

Any occurrence, such as fire, smoke, epidemic outbreaks, poisoning, or other unusual occurrences which threaten the welfare, safety, or health of any resident must be immediately reported to the Department of Health and Human Services. The licensee must furnish such information related to the occurrence as the Director may require.

**[F.]G. Communicable Diseases**

The licensee must provide for arrangements to transfer a resident suffering from active tuberculosis [or any other communicable disease or infection] to an appropriate health care facility.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

## Section [III:] 3. Program Certification Requirements

Program certification is the certificate issued annually by the Director for a program which is in compliance with these regulations. A program which is not in compliance with these regulations and cannot meet the minimum requirements for certification must be denied a certificate. In the case of denial of program certification, the Director must inform the applicant in writing of the reasons for denial. No facility may alter or change its scope of program from that certified unless it has prior written approval from the Director. All programs must meet the following requirements for certification:

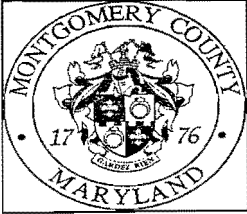
### A. [Community Notification and] Complaint Procedures

#### [1. Notification

a. At the time of application for licensure, the facility must certify, as a part of the program statement required in Section V of these regulations, that it has made the necessary written notifications of the proposal to establish such a facility. The notifications must be made to the adjacent and opposite property owners, and, when affected, a municipality or a neighborhood civic organization. The notice must include the following information:

- (1) that the facility is filing an application pursuant to Chapter 23A of the Montgomery County Code, 1984, as amended, for licensing of a Group Residential Care Facility;
- (2) the name of the proposed facility;
- (3) its location;
- (4) the kind of facility being planned;
- (5) the type of exceptional persons to be housed;
- (6) the number of staff and residents who will live in the house;
- (7) the name, phone number, and address of the person(s) associated with the facility to whom inquiries or grievances may be addressed;
- (8) the person(s) or office(s) in the County government who can answer questions, give information, or receive comments regarding such application; and
- (9) notice that the County government person(s) or offices(s) will be available for receiving continuing input from the residents of the neighborhood surrounding the facility.





# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

- b. At the time of application for license renewal, oral or written notice of the application, including any changes, must be sent to the adjacent and opposite property owners, and, when affected, a municipality or a neighborhood civic organization. If the notice is given orally, the licensee must submit an affidavit to the Department that such notice was given. The notice must include the information required in Subsection A.1.a. of these regulations.]

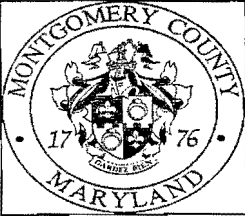
[2.]1. Complaint Procedure at the Facility

As part of the program statement, the licensee must develop and describe the mechanism(s) and procedure(s) whereby residents [and organizations in the community] can have easy and convenient access to the person designated by the licensee with whom complaints or grievances must be filed. Any person [or organization] registering a complaint or grievance must be advised by the licensee that attempts will be made at the facility to resolve those complaints or grievances communicated to the responsible facility staff person. [The resources of the Department of Health will be available to aid in the conciliation process at any time.]

[3.]2. Complaint Procedure at the Department of Health and Human Services

The [community] complainant must be advised by the licensee that if a grievance or complaint, whether originally filed in oral or written form, is not satisfactorily resolved at the facility, the grievance or complaint must then be forwarded to the Director for resolution or conciliation. The procedure for conciliation of the grievance or complaint before the Director is as follows:

- a. All complaints or grievances must be in writing, signed by the complainant, and addressed to the Director. A copy of the written complaint must be sent to the licensee or Staff Director of the facility in question.
- b. The licensee or Staff Director must investigate the complaints or grievances described in the written complaint and must respond in writing to the Director within seven days of receipt of the complaint. A copy of the response must be sent to the complainant. The response must contain statements concerning the validity of the alleged complaint or grievance and any action or alternative solutions proposed by the licensee to alleviate such complaint or grievance.
- c. The complainant must respond to the answer of the licensee or Staff Director and indicate the acceptability of the response provided under subsection b. This response must be sent by the complainant to the Director in writing within seven days of receipt of the facility's answer. A copy of the response must be sent to the licensee or Staff Director of the facility.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

- d. [The Director, after receipt of the letters outlined in subsections a. through c., must issue a decision either that the complaint or grievance is without merit, or that the actions or solutions proposed by the licensee or Staff Director are adequate and resolve the dispute. The Director may conduct a formal hearing to resolve or conciliate the complaint or grievance. Following such hearing, the Director must issue a decision regarding the dispute.] Any complainant who is dissatisfied with the licensee's response must receive notification of additional complaint procedures at either the County or State.

[B. Maternity Care

Each licensee of a facility that houses females must submit a statement describing the facility's policies on accepting residents who are pregnant and retaining residents who become pregnant at the time of application for a license or renewal of a license. If a facility will accept or retain residents who require maternity care, the program statement must include a description of planning, counseling, care, or other services that will be offered to these residents.]

[C. Corporal Punishment and Physical Restraint as Part of the Program Statement

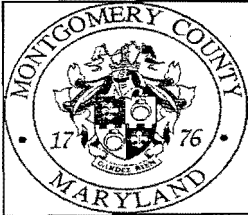
1. For facilities which house residents under the age of eighteen years, the licensee must state that the facility will adhere to the following guidelines for acceptable discipline:

a. Behavioral Limits and Controls

In order for a child to get along with family, friends, and community, certain limits on behavior must be set by the licensee or his designee. Staff members working with children must clearly understand the limits to be set, believe in their effectiveness, and adhere to them consistently. Limits or controls must be appropriate to the child's age, capabilities, living situation, and level of maturity, and change as the child grows and matures. Behavioral limits facilitate the development of self-control and must be selected with the best interests of the child in mind, not just for the convenience of the facility.

b. When Limits of Behavior are Broken

First, a positive restatement of the limit is to be used. Limits must be communicated in language appropriate to the child. They should be phrased positively where possible, and may need to be repeated for maximum understanding. It is useful to have behavior limits agreed upon, written down, and available for staff, parents, and children. If a child questions the limit, a simple explanation should be given. The limit is to be restated with conviction and argument is to be avoided. If this is insufficient, the staff member must take steps to help the child regain control.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

c. Punishment

Punishment should be used only in a situation where other means are ineffective and where children can benefit by the experience of facing the consequences of unacceptable behavior, not as an end in itself, but as part of a learning process.

Deprivation of special privileges can be a useful and appropriate form of punishment, provided that the program provides sufficient extra activities and privileges that the child considers desirable enough to want and to take part in or have. No child must be deprived of what he is entitled to, especially that which is essential to his development or treatment, e.g., food and parental visits. Reparation for damage may, within reason, be required. The child who earns money may be expected to pay for damages for destroyed property, or to repair it.

Removal from the group and group activities may be necessary to protect the child from hurting himself or others. When isolation is selected as the most advisable form of intervention, it should be handled as isolation from a situation. It is essential for the child to have an adult nearby and in contact with him.

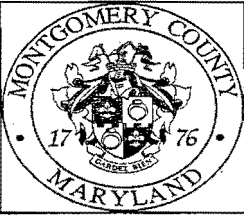
Physical restraint of a child, or interference by a staff member in a fight between children, is at times necessary or desirable.

Humiliating or degrading punishment, including ridicule, sarcasm, shaming, scolding, or punishment in the presence of the group or another staff member, which undermines the child's self-respect must be avoided.

Corporal punishment, including slapping, spanking, paddling, marching, standing rigidly in one spot, or any kind of physical discomfort must not be used.

2. For facilities which house residents eighteen years of age and over:

- a. The licensee must state that the staff must not use, as routine disciplinary measures, either corporal punishment or physical restraint. However, if the facility has a policy of using corporal punishment or physical restraint in exceptional circumstances, this policy must be explained in the program statement.
- b. The Director must be informed within 24 hours if any unusual or disruptive behavior of a resident necessitates contacting appropriate governmental authorities.
- c. Residents must not be kept behind doors which require keys to open or sliding bolts to secure. Residents who have a tendency to wander may be confined to their rooms by screen doors or folding gates when the attending physician so orders. When these



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

methods are used, the solid core door must not be removed.]

### [D.]B. Inspections of Facility Records

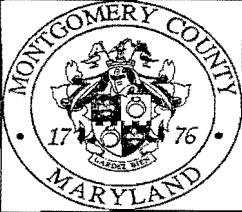
1. To fulfill the responsibilities of program certification, the Director may, at any reasonable time, with or without a complaint being filed, visit or inspect any facility licensed under Chapter 23A in order to determine whether such facility is in compliance with applicable requirements of the law and regulations relating to program certification, and to ensure that the facility meets current certification standards. This is accomplished by a continuing review, which includes a review of the facility's records, observation of the Staff Director's work with residents, and periodic evaluation of the program and service. The Director has full power to conduct investigations, including the right of entry into the facility at all reasonable times.
2. The facility must maintain records on each [exceptional person] resident. Program reports must be available and open to inspections by the Director at any reasonable time. The licensee must keep such records by name, number or code so long as the licensee can properly identify each [exceptional person] resident.
3. All records [relative to each exceptional person] about residents [must be] maintained by licensees are confidential and must be properly secured [so as to protect their confidentiality from a professional standpoint and in accordance with any applicable law(s)]. The licensee must [submit, as part of the program statement,] have a policy and procedure on protecting the rights of privacy concerning the records of each [exceptional person] resident. Such policy or procedure must be in writing, clearly stated, and must include guidelines for access to these records and procedures for use of these records.

### [Section IV: Additional Facility Requirements

In addition to the requirements already set forth in these regulations, and depending upon the type of exceptional persons housed in the facility, the licensee must meet the following requirements:

- A. For facilities designed primarily for the care, custody, or control over a child alleged or adjudicated as delinquent or in need of supervision, licensed by the Juvenile Services Agency, under C.O.M.A.R. 16.06.01 - Standards for Juvenile Care Facilities - the following sections of 10.25.03 are applicable to the licensee for Montgomery County Program Certification:

- .13 Accountable Organization
- .14 Medical Certification



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

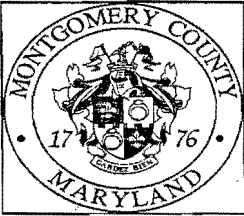
<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

- .15 Financial Structure
- .16 Staff
- .19 Programs for Youth
- .20 Program Components of the Juvenile Care Facility Required]

[B. For facilities primarily for children whose parents, for any reason, have relinquished their care to others, whether the parents have requested service voluntarily or the child has been referred for placement by the court, licensed by the Maryland State Department of Human Resources, Social Services Administration, or by the Montgomery County Department of Social Services as a Child Care Facility under C.O.M.A.R. 7.02.23 License for Residential Care of Children, all of 7.02.23 is applicable to the licensee for Montgomery County certification.]

[C. For facilities for developmentally disabled persons licensed by the Maryland State Department of Health and Mental Hygiene, Developmental Disabilities Administration, under C.O.M.A.R. 10.22.03 - Regulations Governing Community Residential Services for Mentally Retarded and Non-Retarded Developmentally Disabled Individuals, the following sections of 10.22.03 are applicable to the licensee for Montgomery County Program Certification:

- .02 Requirements for Applying for and Obtaining a License
  - B. To Obtain a License or Certificate as a Residential Services Agency (1) through (22)
  - C. Requirements for Obtaining a License
    - (9) Procedures for Admission, Transfer, Suspension
    - (11) A procedure at each site for arranging meals
    - (16) A policy and procedure approved by the MRDDA for administering medications
- .04 Requirements for Maintaining a License or Certificate
  - D. Maintenance of Records
  - E. Develop IPPs
- .05 Required Services for Residential Services Programs
  - A. Habilitation (1) through (10)



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

B. Medical (1) through (4)

C. Dental (1) through (2)]

[D. For facilities for the treatment of emotionally disturbed children and adolescents, licensed by the Maryland State Department of Health and Mental Hygiene, under C.O.M.A.R. 10.21.07 - Regulations Governing Therapeutic Group Homes - the following sections of 10.21.07 are applicable to the licensee for Montgomery County Program Certification:

.03 Licensure

C. Action or New Application (2)(a)(iii)

B. Application (2) (a) through (g)

.05 Operation of a Therapeutic Group Home

B. Staff Requirements (1) through (9)

.10 Residential Care and Supervision

E. Injurious. Physical or Emotional Treatment

.11 Medical Care A. through G.

.13 Records

A. Maintenance of Records

B. Records for each Resident (1) through (7)]

[E. For facilities for the treatment and rehabilitation of drug abusers certified under Maryland State Department of Health and Mental Hygiene, Addictions Administration, C.O.M.A.R. 10.23.02 - Regulations Governing Residential Drug-Free Treatment and Rehabilitation Programs - the following sections of 10.23.02 are applicable to the licensee for Montgomery County Program Certification:

.04 Compliance with State and Local Laws, Ordinances, Regulations or Orders

.06 Essential Requirements of Program

.07 Records



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

- .10 Clinical Records
- .11 Physician Services
- .12 Drugs and Medication
- .13 Confidentiality of Records
- .17 Management Responsibilities
- .18 Admission and Discharge
  - A. Physical Condition of Residents
  - B. Termination
- .19 Federal Regulations]

[F. For facilities known as half-way houses and shelters for the treatment and rehabilitation of alcoholic persons, certified by Maryland Department of Health and Mental Hygiene Alcoholism Control Administration under C.O.M.A.R. 10.47.01 - Certification of Alcoholism and Alcohol Abuse Facilities - the following sections of 10.47.01 are applicable to the licensee for Montgomery County Program Certification:

- .04 Certification Requirements
- .05 Types of Certification
- .11 Personnel Policies and Procedures
- .13 Treatment Policies and Procedures]

[G. For facilities serving the mentally disabled and licensed by State of Maryland Department of Health and Mental Hygiene, under C.O.M.A.R. 10.21.04 - Regulations Governing Group Homes for the Mentally Disabled - the following sections of 10.21.04 are applicable to the licensee for Montgomery County Program Certification:

- .05 Care and Treatment A. through C.
- .06 Admissions and Discharges A. through B.
- .08 Physical Setting A., B. and J.]



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

## Section [V:]4. Program Certification Process

### [A. Program Statement]

At the time an application for a license is submitted, the applicant must furnish to the Director a separate program statement in a format approved by the Director. The program statement must describe the following:

- [1.] A. [the] The program purpose, goals, and objectives[:].
- [2.] B. [the] The means to accomplish [these] the goals and objectives[:].
- [3.] C. [the nature of the exceptional persons to be housed] The needs and capabilities of the population served[:].
  - D. The proposed budget, resources, and procedures to meet those needs.
- [4.] E. [the proposed] Proposed operating methods and procedures[, including a policy statement on the use of corporal punishment and physical restraint] for medication management, transportation, social and recreational services, 24 hour supervision, personal care services, and food services[:].
- [5.] F. [the] Client admission [policy] and retention criteria[:].
- [6. the policy on admitting and retaining pregnant residents and the services to be offered to such residents;]
- [7.] G. [staff qualifications] Qualifications and experience of the applicant and personnel operating the group home[:].
- [8. mechanism for community involvement; and
9. such other information as the Director may require.]

### H. Emergency preparedness.

### [B. Program Review Board]

1. It is the responsibility of the Board to consider, review, and evaluate the program statement of an applicant under the provisions of Chapter 23A, Montgomery County Code, 1984, as amended, Sec. 23A-10, and Sec. 23A-6(d)(1), and recommend it for certification, recertification or denial of certification to the Director. The Board must make a recommendation within 50 days from the date of its receipt of the facility's application.





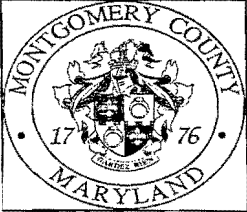
# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

2. Convening of the Program Review Board is mandatory in all cases except:
  - a. Those cases where the Director has made a prior determination that a program review has been accomplished by another agency with jurisdiction over the specific program considered; or
  - b. In the case of facility license renewal applications, when the Board may be convened for program evaluation at the discretion of the Director.
3. The Board must consist of at least 7 members with varying memberships, appointed by the Director. Board members must be representatives from:
  - a. County and State agencies concerned with the type of facility under consideration;
  - b. Civic, charitable and social organizations with a continuing interest in the provision of such care for those exceptional persons involved in the specific program under consideration;
  - c. When affected, a representative of a municipality or neighborhood civic organization; and
  - d. Appropriate representatives from Montgomery County Health Department, Montgomery County Public Schools, Montgomery County Department of Social Services, other County Departments specialists relevant to the program under review, e.g., nutritionist, recreation specialist, nurse, etc., and other persons as deemed appropriate.
4. No less than 4 members of the Board constitutes a quorum.
5. All actions of the Board must be taken by resolution in which at least a majority of those participating in the action must concur.
6. The Board must keep minutes of its proceedings, meetings, and hearings.
7. The Director must have full authority to certify as approved or disapproved the program for a group residential facility and must ensure that the program statement review and evaluation process is conducted in an expeditious manner and must promptly forward the results of such process to the Director. Notice of the evaluation must be forwarded to the relevant State agency involved in the program.]

Section [VI:] 5. Safety Procedures



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

**A. Evacuation Plan**

Each licensee must develop an evacuation plan for use in case of fire or other emergencies. Copies of this plan must be posted in conspicuous locations and all residents must be fully acquainted with the plan.

1. Fire drills must be held at least once a month. The Staff Director must keep a record of the drills.
2. The purpose of the fire drills must be to familiarize employees and residents with the evacuation plan.
3. The assistance of local fire officials should be sought in developing a satisfactory plan of fire drills.

**B. Communication**

There must be a telephone in the building to summon help promptly in case of fire or other emergencies. Pay stations or locked telephones do not meet this requirement.

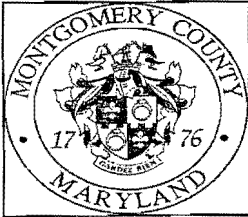
**C. Transportation**

For facilities served by private access roads, the licensee must be responsible for maintaining such roads in passable condition at all times.

**Section [VII:] 6. Health and Sanitation Requirements**

- [A.] Facilities must be in conformance with [the] all applicable provisions of the Montgomery County [Housing] Code and Executive Regulations, including, but not limited to: housing, zoning, and permitting services.
- [B.] Refrigeration capable of maintaining 0°F. or below for freezing foods, and 45°F. or below for refrigeration, must be provided for the preservation of perishable foods. All refrigeration and frozen food storage units must have reliable thermometers.
- C. Unless a three compartment sink is provided, an approved domestic type dishwasher must be installed. Dishwashers must provide wash water temperature of at least 140°F., and a final rinse temperature of 180°F. or greater.
- D. Facilities must be kept free of rodents and insects, adequately furnished, and in a neat, clean, and orderly condition at all times.]

**Section [VIII:] 7. Fire Safety Requirements**



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

Every applicant must provide a statement from the County Fire Marshall that the home meets all appropriate Life Safety Code standards.

[A. The following minimum requirements are applicable to all facilities:

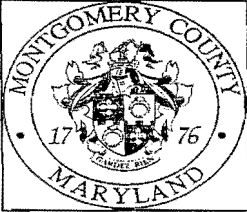
1. There must be a door on each opening into every sleeping room of suitable design to control the spread of smoke.
2. A minimum of one 2 ABC rated fire extinguisher must be suitably located.
3. All inside trash containers must be constructed of a non-combustible material.
4. At no time must residents be kept behind locked doors preventing their unimpeded egress in case of an emergency.]

[B.]A. The following additional requirements are applicable to facilities housing 6 or fewer [exceptional persons] residents:

1. The facilities must comply with the National Fire Protection Association life safety requirements for one and two family dwellings as outlined in [NFPA No. 101, as amended 1985 Edition] the National Fire Protection Association (NFPA) 101, Life Safety Code, 2009 Edition, as amended, unless otherwise required in this regulation; and
2. Household fire warning equipment must be provided as specified in the National Fire Protection Association (NFPA) 72, National Fire Alarm Code, 2007 Edition, Chapter 11, entitled Single-and Multiple-station Alarms and household Fire Alarm systems. [Standard entitled "Household Fire Warning Equipment", No. 74, 1984 Edition. The installation of this equipment must conform to the minimum requirements listed in Table 2.4.3 under the heading of "Level IV".]

[C.]B. The following additional requirements are applicable to facilities housing more than 6 [exceptional persons] residents but not more than [14] 16 total persons including staff:

1. The National Fire Protection Association life safety requirements for lodging and rooming houses as indicated in NFPA Standard No. 101, [as amended 1985 Edition] Life Safety Code, 2009 Edition as amended; and
2. Requirements for smoke detection equipment in accordance with NFPA [Standard 74, 1984 Edition] 72, National Fire Alarm Code, 2007 Edition.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

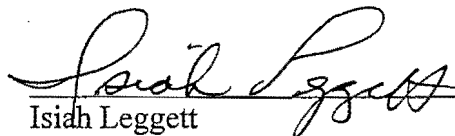
<b>Subject</b> Group Residential Care Facilities	<b>Number</b> 2-12
<b>Originating Department</b> Department of Health and Human Services	<b>Effective Date</b>

[Sec. 2. Severability] Section 8. Severability

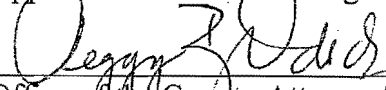
If a court holds that part of this regulation is invalid, the invalidity does not affect the other parts.

[Sec. 3. Effective Date] Section 9. Effective Date

This regulation takes effect 30 days after approval by the County Council

  
 \_\_\_\_\_  
 Isiah Leggett  
 County Executive

Approved as to form and legality:

 9/19/12  
 \_\_\_\_\_  
 Office of the County Attorney/Date  
 PEGGY R ODICK

**Fiscal Impact Statement**  
**Executive Regulation 2-12 – Group Residential Care Facilities**

**1. Legislative Summary**

Executive Regulation 2-12 supersedes Executive Regulation 59-91 in order to comply with Federal law and County Bill 40-11, which removed the county licensure requirement for group homes for developmentally disabled adults.

In 1993 a federal court declared in *Potomac Group Home v. Montgomery County*, 823 F. Supp.1285 (1993), that certain provisions in the County's group home law and the accompanying regulation violated provisions of the Fair Housing Act Amendments of 1988. Although the offending provisions in Executive Regulation 59-91 were never enforced after that ruling, the Regulation was never formally revised to remove the unenforceable provisions.

Proposed Regulation 2-12 removes all provisions that were struck down by the court in 1993, particularly those related to community notification and involvement in the placement of group homes. In addition, Regulation 2-12 has been updated to reflect the most current terminology and citations.

On March 16, 2012, the County Council enacted Bill 40-11, Developmentally Disabled Adults—Licensing. The law—which becomes effective as of June 15, 2012—revises the list of facilities exempted from the provisions of Chapter 23A of the Montgomery County Code. The law exempts group homes for developmentally disabled adults from the County's local licensure requirements. These group homes are subject to licensure and regulation by the State of Maryland.

Proposed Executive Regulation 2-12 removes all references to group homes for developmentally disabled adults from the Group Home regulation as they are no longer subject to local licensure.

**2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

Exempting group homes from the Regulation will result in a loss of licensing revenue of approximately \$39,100 per year in the Health Inspections: Living Facilities: Licenses revenue category as these services will no longer be provided. MCFRS will incur a revenue loss of \$11,935 per year.

There are 782 Developmentally Disabled Adult (DDA) group home beds. The Department of Health and Human Services (DHHS) collects \$50 per bed when the facility license is renewed annually (782 beds x \$50 per bed = \$39,100 per year). This will result in the loss of \$39,100 in revenue each year.

DHHS estimates 608 hours are spent annually on DDA group home inspections by six (6) environmental health specialists who conduct these inspections at 100 hours per inspector, equating to approximately one-third of a work-year. The elimination of the licensing requirement will redirect these hours to conducting State-mandated food safety inspections. The breakout and assumptions is as follows:

Number of Group Homes:	<u>217 group homes</u>
Inspection time (including travel):	<u>2.5 hours</u>
Total Annual inspections:	217 group homes x 2.5 hours per inspection = <b><u>543 inspection-hours</u></b>
Re-inspection rate:	20%
Re-inspection time:	1.5 hours
Total Re-inspections:	217 group homes x 20% re-inspection rate = 43 hours x 1.5 = <b><u>65 re-inspection-hours</u></b>
<b><u>Total: 608 annual inspection hours (543 + 65)</u></b>	<b><u>Equal to approximately 1/3 of one work-year</u></b>

Annual safety inspections of these group homes by the Montgomery County Fire and Rescue Services (MCFRS) are no longer implemented through the Executive Regulation. The inspections will continue as part of a contractual obligation on the part of the provider as a condition of receiving County funding the following fiscal year. Currently, MCFRS charges \$154 (\$140 + 10% tech fund) for inspection labor and a \$55 permit fee for each group home, for a total of \$209 per year. The current revenue from this source is \$45,353 per year (217 group homes x \$209 per group home).

Under the proposed Executive Regulation, MCFRS will waive the permit fee as these providers depend almost entirely on funding through grants and assistance provided by the State and County; the new fee will be \$154 per year for each group home, or a total of \$33,418 per year (217 group homes x \$154 per group home). Therefore, MCFRS will incur a revenue loss of \$11,935 per year (\$45,353 minus \$33,418).

**3. Revenue and expenditure estimates covering at least the next 6 fiscal years.**

The total fiscal impact to DHHS over six years is a loss of \$234,600 (\$39,100 per year x 6 years). The total fiscal impact to MCFRS over six years is a loss of \$71,610 (\$11,935 per year x 6 years). The total fiscal impact to the County over six years is \$305,610.

**4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

Not applicable. There are no personnel costs associated with this bill.

**5. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

Not applicable. This bill does not authorize future spending.

**6. An estimate of the staff time needed to implement the bill.**

Not applicable.

7. **An explanation of how the addition of new staff responsibilities would affect other duties.**

Not applicable. This bill will not increase staff responsibilities.

8. **An estimate of costs when an additional appropriation is needed.**

Not applicable.

9. **A description of any variable that could affect revenue and cost estimates.**

Not applicable.

10. **Ranges of revenue or expenditures that are uncertain or difficult to project.**

Not applicable.

11. **If a bill is likely to have no fiscal impact, why that is the case.**

Not applicable.

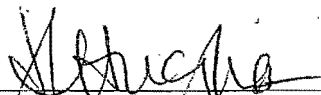
12. **Other fiscal impacts or comments.**

This Regulation has no meaningful impact on employment, personal income, investment, or other economic variables to the Montgomery County economy as a whole. This Regulation will apply to fewer facilities and therefore there will be fewer inspections and fees collected, but on a per-provider basis these changes are insignificant.

The changes to the Regulation required in order to be in compliance with federal law have already been incorporated into the Department's existing protocols since 1993 and will result in no additional fiscal impact.

**The following contributed to and concurred with this analysis:**

Clark Beil, Senior Administrator, Licensure and Regulatory Services, DHHS  
Kathy Schoonover, Nurse Administrator, Licensure and Regulatory Services, DHHS  
Michael Donahue, Assistant Chief, Montgomery County Fire and Rescue Services  
Mike Coveyou, Department of Finance  
Pofen Salem, Office of Management and Budget  
Beryl Feinberg, Office of Management and Budget  
Naeem Mia, Office of Management and Budget



Jennifer A. Hughes, Director  
Office of Management and Budget

6/5/12

Date