

485.13 Certified long-term care ombudsmen.

(a) (1) An operator must not restrict or prohibit the access to the residents of the facility nor interfere with the performance of the official duties of a duly authorized ombudsman certified by the State Office for the Aging.

(2) Such access shall be permitted for at least 10 hours between 9 a.m. and 8 p.m. daily.

(3) In addition to the access permitted under paragraph (2) of this subdivision, an operator shall not restrict access at other times if the ombudsman is seeking to investigate a complaint or is responding to a specific request of a resident.

(4) The operator shall not interfere with the privacy and confidentiality of the visits between the resident and the ombudsman.

(5) An operator may not retaliate nor take reprisals against any resident, employee or other person for having filed a complaint with or having provided information to a duly authorized ombudsman.

(b) (1) The operator shall not restrict or prohibit access to resident records maintained by the operator, provided that:

(i) the person seeking access has been specially designated as a records access ombudsman by the director of the State Office for the Aging; and

(ii) the resident or, where appropriate, a committee for an incompetent, has given express written consent.

(2) Access to records shall be permitted between 9 a.m. and 5 p.m., Monday through Friday.

(3) The operator shall designate a member or members of staff who shall be responsible for providing access to such records and, where necessary, interpretation of such records.

(4) Records access ombudsmen shall have the right to photocopy onsite such records; however, records shall not be removed from the facility by the ombudsman.

(5) The operator may charge a reasonable fee, not to exceed \$1 per page, for photocopying.

(6) Disclosure to a duly designated records access ombudsman, pursuant to the express written consent of a resident, shall not, based solely on such disclosure, give rise to any claim as to a breach of confidentiality by the operator.

(7) Nothing in this section shall be construed to permit access to a physician's records, clergy records, or to other community service agency records, which are not maintained by the operator as part of the resident's records.

(c) The operator shall require anyone seeking access to the facility or to resident records as an authorized ombudsman to show identification and to sign a visitor's register or like record.

485.14 Access to adult-care facilities.

a) An operator shall not restrict or prohibit access to the facility by:

(1) family members, guardians, friends of an individual resident and legal representatives, legal counsels and case managers;

(2) individuals representing community organizations or service agencies who will provide, free of charge, a service or educational program to residents; or

(3) an employee or representative of any public or private not-forprofit corporation, community organization or association whose primary purposes for visiting include assisting residents in resolving problems and complaints concerning their care and treatment, and in securing adequate services to meet their needs.

The operator shall make available a common area of the facility for such visits.

(b) Such access shall be permitted for at least 10 hours between 9 a.m. and 8 p.m. daily.

(c) The operator may require anyone seeking access to the facility to sign a visitor's register or like record.

(d) The operator shall not interfere with confidential visits with residents and persons assured access under this section.

(e) Persons assured access under this section shall not enter the living area of any resident without identifying themselves to the resident, stating the purpose of the visit, and receiving the permission of the resident and the resident's roommate to enter the living area.

(f) A resident shall have the right to terminate or deny any visit from persons assured access under this section.

(g) Notwithstanding subdivision (a) of this section, the operator may restrict or prohibit access to the facility or interfere with confidential visits with residents by individuals who the operator has reasonable cause to believe would directly endanger the safety of such residents.

(h) If the operator denies access for reasonable cause, the operator shall:

(1) record a written statement of the incident, including the reasons for denial, the date and time and identification of the individuals involved;

(2) maintain the statement at the facility; and

(3) make such statement available upon request to the resident involved and persons denied access.

(i) If the operator of a facility denies access, the person denied access may bring an action in Supreme Court in the county in which the facility is located for an order granting such person access to such facility. If the court finds that such denial was made in bad faith, the operator of the facility shall be liable for all costs, including reasonable attorney's fees, and the court may, in its discretion, assess a civil penalty not to exceed \$50 per day for each day such access was denied.

485.2 Definitions.

(a) Adult-care facility shall mean a family-type home for adults, a shelter for adults, a residence for adults or an adult home, which provides temporary or long-term residential care and services to adults who, though not requiring continual medical or nursing care as provided by facilities licensed or operated pursuant to article 28 of the Public Health Law or articles 19, 23, 29 and 31 of the Mental Hygiene Law, are, by reason of physical or other limitations associated with age, physical or mental disabilities or other factors, unable or substantially unable to live independently.

(b) Adult home shall mean an adult-care facility established and operated for the purpose of providing long-term residential care, room, board, housekeeping, personal care and supervision to five or more adults unrelated to the operator.

(c) Enriched housing program shall mean an adult-care facility established and operated for the purpose of providing long-term residential care to five or more adults, primarily persons 65 years of age or older, in community-integrated settings resembling independent housing units. Such program shall provide or arrange the provision of room, and provide board, housekeeping, personal care and supervision.

(d) Residence for adults means an adult-care facility established and operated for the purposes of providing long-term residential care, room, board, housekeeping, case management, activities and supervision to five or more adults, unrelated to the operator, who are unable or substantially unable to live independently.

(e) Shelter for adults shall mean an adult-care facility established and operated for the purposes of providing temporary residential care, room, board, supervision, information and referral, and, where required by the department or otherwise deemed necessary by the operator, social rehabilitation services, for adults in need of temporary accommodations, supervision and services. Such definition shall not include facilities providing such temporary residential services to fewer than 20 persons, unless such facility is operated by a social services district.

(f) Family-type home for adults shall mean an adult-care facility established and operated for the purpose of providing long-term residential care, room, board, housekeeping, supervision and/or personal care to four or fewer adults unrelated to the operator.

485.6 Application

(b) Character and competence. (1) Determination of the adequacy of the applicant's character, competence and standing in the community of the proposed program, shall be made on assessment and verification of the information submitted by the applicant or solicited from other sources by the department, and shall be based upon such factors as financial status, education, experience, past or current performance in the management and operation of adult care facilities or like services to dependent adults; past business associations; letters of personal recommendation; information acquired through credit review, review of related public documents, public comment, or collateral contacts.

Section 486.1 - General provisions

(b) Inspection and supervision of adult care facilities shall be undertaken by the department to ascertain whether all applicable provisions of law and regulations are being complied with.

(c) Inspection and supervision of adult care facilities shall include inquiry by the department into:

- (1) general management and financial condition of the facility;
- (2) operator's methods of administration;
- (3) the development, implementation and updating of quality assurance activities for each area of operation of an adult home and residence for adults.
- (4) methods of, and the equipment and physical plant for, providing residential care and services for residents;
- (5) qualifications and general conduct of operators and employees;
- (6) condition of grounds, buildings and other property;
- (7) whether the laws and regulations regarding residents' rights are obeyed; and
- (8) any other matter relating to the management of the facility and care of residents.

486.2 Inspection

(i) A written report of inspection shall be sent to the operator, and shall include:

(1) a statement attesting that of the areas reviewed, if no violations or findings are noted in a given area, then said area(s) shall be deemed to be in compliance with applicable requirements;

(2) identification of any areas which are in violation of applicable requirements, including areas found in violation as a result of failure in systemic practices and procedures; and

(3) directions as may be appropriate as to the manner and time in which compliance with applicable requirements of law or regulations of the department shall be effected.

(j) Upon receipt of the report of inspection, but in no case later than 30 days following the date of issuance, the operator shall:

(1) correct the violations; or

(2) in the event that correction requires more than 30 days, submit an acceptable plan for correction.

(k) The operator shall notify the department, in writing, within one week after completion of corrective action.

(l) The operator shall post the inspection report for the most recent complete or summary inspection, and any related follow-up inspection reports, conspicuously in a public area of the facility which is accessible to residents and visitors.

Section 486.3 - Inspection of uncertified facilities

486.3 Inspection of uncertified facilities. (a) For the purposes of assessing whether an uncertified facility is an adult care facility subject to the certification and inspection of the department, the department may, inspect any facility which reasonably appears to the department to be an adult care facility. The needs of the residents, the care and services provided, the physical plant and the administration of the facility may be assessed in accord with applicable law and regulation.

(b) Upon arrival at the facility for purposes of conducting an inspection pursuant to this section, the department representative must give verbal notice to the operator, administrator or other person in charge that the inspection will be conducted unless such person objects to the inspection, and that if such person does object, the department is empowered to request the Attorney General to apply for a court order granting the department access to the facility.

(c) Denial of access. If access to the facility is denied to the department representatives by the operator, administrator or other person in charge, the department is authorized to request the Attorney General to apply, without notice to the operator, administrator or chairman of the board of directors of a not-for-profit facility, to the Supreme Court in the county in which the facility is located for an order granting the department access to such facility.

**TOPIC: Closing of a Family-Type Home
REGULATIONS: 18NYCRR 489.4(h) and 485.5**

POLICY:

Family-Type Homes can close voluntarily or can have their certificates suspended or revoked by OCFS. If operators wish to close a home, they must notify the local department of social services in writing at least 120 days before the expected closing date.

RESPONSIBILITY:

Family-Type Home Operator

PROCEDURE: Voluntary Closure

1. Sends written notice to the local department of social services at least 120 days before the expected closing date describing plans for closing the home.
2. Must wait for local department of social services approval before beginning to close.
3. The plan must describe how and when:
 - a. residents and their families will be notified.
 - b. their needs and preferences will be discussed with them.
 - c. residents will be assisted in visiting and moving to other appropriate settings.
 - d. the home will be maintained in compliance with regulations until all residents are moved.

**Local Department of
Social Services**

1. Reviews closing plan and notifies operator of approval or any changes to be made.
2. Assists operator in assessing residents and finding appropriate placement for them.
3. Obtains the operating certificate from the operator and forwards it to the Office of Children and Family Services.

486.4 Enforcement.

- (a) Enforcement shall mean the action(s) undertaken or initiated by the department to assure that adult care facilities are established and operated in compliance with all applicable provisions of law and regulation.
- (b) Enforcement actions undertaken by the department include, but are not limited to:
- (1) issuance of notice of intention to initiate enforcement;
 - (2) conduct of hearings to determine if an operator has failed to comply with applicable law and regulation;
 - (3) determination, after hearing, that civil penalties should be imposed;
 - (4) determination, after hearing, to revoke, suspend or limit an operating certificate;
 - (5) issuance of a commissioner's order, or an order approved by a justice of the Supreme Court, requiring an operator to immediately remedy conditions dangerous to residents;
 - (6) temporary suspension or limitation of an operating certificate upon finding that resident health and safety are in imminent danger;
 - (7) request to the Attorney General to seek an injunction against an operator for violations or threatened violations of law or regulation; or
 - (8) request to the Attorney General to take such action as is necessary to collect civil penalties, seek criminal prosecution, or to bring about compliance with any outstanding hearing determination or order.
- (c) The operating certificate of any facility may be revoked, suspended or limited upon a determination by the department, after a hearing in accordance with procedures set forth in Part 493 of this Title, that the operator has failed to comply with the requirements of State or local laws or regulations applicable to the operation of such facility.
- (d) An operating certificate may be temporarily suspended or limited without a hearing for a period not in excess of 60 days upon written notice to the facility that the department has found that the public health, or an individual's health, safety or welfare is in imminent danger. If the department schedules an expedited hearing to begin during the suspension period, in a proceeding to suspend, revoke or limit the operating certificate, as set forth in section 493.8 of this Title, the temporary suspension will remain in effect until the hearing decision is issued.
- (e) Any order or determination to limit an operating certificate shall specify the manner in which the operating certificate is to be limited. An operating certificate may be found subject to one or more of the following limitations:

(1) a limitation on the period of time for which such certificate remains effective, contingent on a determination that specified violations have been corrected or specified conditions have been met;

(2) a limitation on the number of persons for which such facility is authorized to provide care;

(3) a prohibition against the admission of new residents after a specified date; or

(4) a limitation on the type(s) of service to be provided.

(f) Violations or threatened violations of law or the regulations of the department, by any facility subject to the inspection and supervision of the department, may be enjoined by the Supreme Court. The Attorney General may seek such an injunction, in the name of the people, upon the request of the department. Service in such an action shall state the nature of the violation and shall be accomplished in the manner prescribed by the Civil Practice Law and Rules; provided, however, that an ex parte temporary restraining order may issue, notwithstanding the Civil Practice Law and Rules, if the court finds, on motion and affidavit, that such violation may reasonably be expected to result in imminent danger to the public health or to the health, safety or welfare of any individual in a facility subject to the department's inspection and supervision. The court, after a hearing, may issue a preliminary injunction or a permanent injunction enjoining a facility from admitting new residents, or directing the department and such facility to arrange for the transfer of residents to other facilities, or any other injunctive relief the court may deem necessary.

(g) Whenever the commission, after investigation, finds that any person, agency or facility subject to this regulation is causing, engaging in or maintaining a condition or activity which constitutes a danger to the physical or mental health of the residents of a facility subject to the inspection and supervision of the department, and that it, therefore, appears to be prejudicial to the interests of such residents to delay action for 30 days until an opportunity for a hearing can be provided in accordance with the provisions of this section, the commissioner shall order the person, agency or facility, by written notice setting forth the basis for such finding, to discontinue such dangerous condition or activity or take certain action immediately or within a specified period of less than 30 days. The commissioner shall, within 30 days of issuance of the order, provide the person, agency or facility an opportunity to be heard and to present any proof that such condition or activity does not constitute a danger to the health of such residents.

(h) Any official, operator or his agent, designee or employee of a facility who intentionally refuses to admit any officer or inspector of the department, or intentionally refuses or fails to furnish the information required by the department or any officer or inspector, shall be guilty of a misdemeanor.

486.7 Schedule of penalties

(e) Penalties for Part 489 of this Title.

Penalty

per

violation per day, except

Department regulations as noted

489.3 (a) \$ 50

(b) (1) 50

(6) 30

(7) 30

(9) 30

(10) 30

(11) 30

(c) 30

489.7(a) \$ 30

(b) (1) 30

(2) 30

(3) 30

(4) 30

(5) 30

(6) 30

(7) 30

(8) 30

(9) 30

(10) 30

(11) 30

(12) 30

(13) 30

(14) 30

(15) 30

(16) 30

(17) 30

(18) 30

(19) 30

(c) 50

489.5 Inspection and enforcement.

(2) A complete unannounced inspection of each certified family-type home must be conducted at least annually. Additional inspections must be conducted by the social services district when necessary to ensure the health, safety and well-being of the residents.

5. B. Does anyone who lives in your household have disabilities? No Yes
 (If yes, indicate name of individual, nature and extent.)

5. C. Person(s) responsible for providing substitute care whenever applicant(s) is away from home.

Name	Address	Phone No.	Hours Per Week	Relationship	Age

6. Do you currently, or will you in the future accept Mental Hygiene discharges in the home? No Yes

7. The following documents must be submitted to your county social services district within 120 days after the application is signed. The documents required by 7.c, 7.d, and 7.e must be signed and dated within 90 days of the date of submittal.

- a. Certification of Child Support Obligations (Form 4505);
- b. Proof of Coverage or No Need for Worker's compensation and Disability Benefits;
- c. Physician's Statement indicating the applicant(s) and designated responsible substitute caretaker(s) providing 20 or more hours of care per week are in good health and capable of providing the residents with adequate care and services (Form 3239);
- d. Fire Inspection Report (Form 4388 Fire/Safety Inspection Report is recommended);
- e. Lab Report which meets the standards of the New York State Department of Health on the quality of your drinking water if a municipal source is not available;
- f. Sketch of Floor Plan indicating room usage, resident bedroom dimensions and locations of exits, interior stairways, smoke detectors and fire extinguishers;
- g. Detailed Description of Plan for Emergency Evacuation of Residents (Section 489.10(b)(5) of Office regulations) which includes how residents will be evacuated; where residents will assemble outside the home to assure everyone has been accounted for; and what plan for services has been made if the residents are unable to re-enter the home;
- h. Statement of Education, Experience and Community Activities for each applicant; and (OCFS-LDSS-7014 2/2005)
- i. Statement of Employment listing names and addresses of former employers within the past five years for each applicant.

8. List 2 Character References

Name	Address	Zip Code	Telephone No.	Relationship

9. The applicant(s) represents that all of the above is true and the buildings, equipment, staff, standards of care and records to be employed in the operation of this proposed family type home for adults will comply with applicable provisions of law and regulations of the State Office of Children and Family Services and that any license or permit required by law for the operations of said home has been or will be issued by the appropriate agency, prior to operation.

SIGNATURE (APPLICANT 1):	DATE:
SIGNATURE (APPLICANT 2):	DATE:

ATTACHMENT II

FACILITY NAME: _____

FACILITY ADDRESS: _____

- 1. Do you house and care for adults? Yes No
- 2. How many beds for guests do you have? _____
- 3. How many residents do you have at this time? _____
- 4. What people do you accept in your home? (For example, former mental hospital patients, veterans, elderly.)

5. Do your residents receive assistance or supervision in the following areas from you, your staff, or anyone else?

	<u>How Many?</u>	<u>Who Assists Them?</u>
a. Dressing	_____	_____
b. Walking	_____	_____
c. Bathing	_____	_____
d. Personal Hygiene	_____	_____
e. Self-administered medications	_____	_____
f. Eating	_____	_____

- 6. Do the residents receive any mental health services? Yes No
- 7. Do the residents receive any medical or nursing services from you or your staff? Yes No
- 8. Do you feel that all your residents would be able to function independently on their own without any supervision by you, your staff, or anyone else? Yes No
- 9. Do you feel that all your residents would be able to function independently on their own if only room, meals, and housekeeping were provided? Yes No
- 10. Describe any other services that you provide to your residents (for example, laundry, housekeeping, etc.)

FAMILY-TYPE HOME FOR ADULTS
DISTRICT CERTIFICATION CHECKLIST PRIOR TO STATE SUBMISSION

DSS-2865 Application for Approval FTHA
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The forms needed for each type of application: new, renewal, change, etc., are listed at the top of the application.

- Do I have each of the sections required for the type of application I am making?
(See top of form.)
- Has every section of the application form been completed for new and renewal applications?
- Do I have the required supplementary documentation?
- In Section 1.A, are only the applicant and co-applicant listed?
- Could someone figure the annual gross income of each applicant from what is shown in Section 2 of the application?
- Is there sufficient income to meet household expenses other than that which will be received from the residents?
- If Section 3 is yes, is a statement attached from the licensing agency regarding the quality of care previously provided by the applicant?
- If Section 4 is yes, have I submitted information required by 18 NYCRR 485.5(o) regarding the conviction?
- In Section 5, are all members of the household listed including the operator(s), the operator's family, the residents and boarders?
- In Section 5, are residents called residents and boarders specified as boarders?
- Is this a single operator?
- If so, are substitute caretakers listed in Section 5.C?
- In Section 5.C., are any substitutes providing 20 or more hours of service per week?
- If so, have I attached a DSS-3239 Medical Evaluation (Operator) for each of them?
- Is the application signed?
- Is the application signed by all co-operators?
- Is the application dated?
- Is the DSS-2865B completed and attached to the application?

LDSS-4505 Certification of Child Support Obligations
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- Have I included this form with my submission to the State?
- Is there a form for each applicant/co-applicant?
- What is the response that has been circled?
- Is the form signed?
- Is the form dated?
- Is the form notarized?

FAMILY-TYPE HOME FOR ADULTS
DISTRICT CERTIFICATION CHECKLIST PRIOR TO STATE SUBMISSION

Proof of Coverage or No Need for Worker's Comp. and Disability Coverage

- Have I included this form with my submission to the State?
- Are the applicant's name and address listed on the form?
- If any substitutes are listed on the application, do I have a form proving the applicant has coverage for the substitutes for Worker's Comp. and Disability?
- Is the Worker's Comp. form signed/stamped by an official from Worker's Comp. and not just the applicant(s)?

DSS-3239 Medical Evaluation (Operator/Substitutes)

- Have I included this form with my submission to the State?
- Are the applicant's name and address listed on the form?
- Is the date of exam on the form? (The date the form was signed is not important.)
- Is the date of exam within 90 days after the date of the application?
- Has the physician signed the form?
- Does the applicant/substitute have any problems which could prevent him/her from providing care?

DSS-4388 Fire/Safety Inspection Report

- Have I included this form with my submission to the State?
- Are the applicant's name and address listed on the form?
- Was the form completed by an appropriate reviewer, i.e: fire department, building department, code enforcement officer or other approved local authority?
- Is the form signed?
- Is the form dated?
- Is the date within 90 days after the date of the application?
- Does the inspection report show any violations or problems which must be corrected?
- If so, did I have a re-review performed to determine whether the violations were corrected?
- Is the re-review signed and dated?

FAMILY-TYPE HOME FOR ADULTS
DISTRICT CERTIFICATION CHECKLIST PRIOR TO STATE SUBMISSION

Laboratory Report of the Quality of Water

- Does this applicant have well water or a municipal water supply?
- If well water, does the lab chosen have an ID number from the NYSDOH?
- Is a lab report included with my submission to the State?
- Are the applicant's name and address listed on the form?
- Is the form dated?
- Is this report dated within 90 days after the date of the application?

Sketch of Floor Plan

- Have I included a floor plan with my submission to the State?
- Are the applicant's name and address on the floor plan?
- Am I providing the State with a floor plan for the entire house, not just one floor?
- Is the floor plan marked showing room usage? Particularly, are the resident rooms marked?
- Does the plan show the location of exits, stairways, smoke detectors and fire extinguishers?
- Does each resident room show all the dimensions necessary to determine the size of the bedroom?
- Do the single rooms measure 85 square feet?
- Do the double rooms allow for 70 square feet for each resident?
- Do I need to apply for a waiver for an undersized room?
- Is that waiver included in this submission?
- Are there sufficient bedrooms to meet the resident capacity and the family needs?
- Is there a toilet and lavatory for every 6 occupants of the home?
- Is there a minimum of one tub or shower for every 8 occupants of the home?

Plan for Emergency Evacuation of Residents

- Have I included an emergency evacuation plan with my submission to the State?
- Are the applicant's name and address on the evacuation plan?
- Does the plan state how the residents will be evacuated from the home?
- Does the plan state where the residents will congregate outside the home to ensure everyone has escaped safely?
- Does the plan state what the applicant will do in the event the residents are unable to return to the home?

FAMILY-TYPE HOME FOR ADULTS
DISTRICT CERTIFICATION CHECKLIST PRIOR TO STATE SUBMISSION

Statement of Each Applicant's Education, Experience and Community Activity

- Have I included this information with my submission to the State?
- Are the applicant's name and address on the form?
- Do I have the education, experience and community activity listed for each applicant and co-applicant?

DSS-2867 Survey Report

N.B. This form is required for each application submitted, including changes.

- Have I included this form with my submission to the State?
- Are the applicant's name and address on the form?
- For initial applications, is the date of this survey within 45 days after the date of the application?
- Is the entire household constellation shown on the first page of the survey?
- Has the district's recommendation for approval or disapproval been included on Page 1?
- Does the survey show the applicant is in compliance with all items listed in the survey?
- If local waivers have been given for any items, has this been noted on the form?

Letter that Accompanies the Application Submission to the State

- Have I enclosed a letter to accompany my submission to the State?
- Are the applicant's name and address shown on the letter?
- Does the letter state the type of action(s) the district wants taken on the application, that is: is it a certification, renewal or change, and if a change, what type?
- Does the letter include my district's approval or disapproval of the application?
- If we are requesting disapproval, have I listed the specific regulations and the reason why?

6. District Inspection of Required FTHA Postings

At each inspection, the district must verify that following are posted conspicuously in the home:

DSS-2882 FTHA Operating Certificate

DSS-3720 Report of Inspection

Emergency Numbers

those telephone numbers to be contacted in the case of an emergency must be posted next to the telephone.

Publication 1345 Resident Rights in FTHA (poster).

**SURVEY REPORT
FAMILY-TYPE HOME FOR ADULTS**

LOCAL DISTRICT	REGION
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NAME OF APPLICANT	TELEPHONE NO.	WORKER'S NAME
ADDRESS	ZIP CODE	SURVEY DATE(S)

Section A

RATE RANGE	From	To	RESIDENT CHARACTERISTICS For each area below, fill in the number of residents in the appropriate category.					
FAMILY-TYPE HOME CAPACITY								
PRESENT OCCUPANTS:			AGE	Under 50	50-64	65-74	75-84	Over 84
Family _____			PAYMENT STATUS	SSI		HR		Private
Family Type Home Residents _____				Less than 1 year		1-4 years		Over 4 years
Other Residents _____			TIME IN HOME	Residents requiring help:				
Office of Mental Hygiene Dischargees Residing on Premises _____			PERSONAL CARE STATUS	Dressing	Walking	Bathing	Eating	
Office of Mental Retardation/ Developmental Disabilities Dischargee's on Premises _____				Taking Medication	Transfer	Toileting	Other (specify)	

Section B - Action by County Department of Social Services

EVALUATION (i.e. superior home, weaknesses exist, close supervision needed, etc.)				RECOMMENDATION	
SIGNATURE OF WORKER	DATE SIGNED	SUPERVISOR'S APPROVAL	DATE SIGNED	DATE TO R.O.	
X		X			

Section C - For State Office Use - Leave Blank

REGIONAL OFFICE RECOMMENDATION		CENTRAL OFFICE ACTION	
		Date Received _____	
		Approved _____ Disapproved _____	
		Certificate No. _____	
REVIEWED BY	DATE SIGNED	APPROVED BY	DATE SIGNED

REPORT OF INSPECTION - FAMILY TYPE HOME

Caseworker's Name: _____

County: _____

OPERATOR'S NAME:	STREET ADDRESS	CITY	DATES OF INSPECTION	Page ____ of ____
REGULATION	SPECIFIC ITEMS OF NON-COMPLIANCE AND REQUIRED CORRECTIVE ACTION			CORRECTION REQUIRED WITHIN

REPORT OF INSPECTION - FAMILY TYPE HOME

Caseworker's Name: Debbie Greenfield

County: OCES

OPERATOR'S NAME: Phoebe Smith	STREET ADDRESS 123 Main St.	CITY Albany	DATES OF INSPECTION 4/24/06	Page 1 of 3
REGULATION	SPECIFIC ITEMS OF NON-COMPLIANCE AND REQUIRED CORRECTIVE ACTION			CORRECTION REQUIRED WITHIN
489.7 (b) (9) (10)	<p data-bbox="432 386 1780 457">At the time of inspection one resident was observed to require the physical assistance of staff to walk and transfer.</p> <p data-bbox="432 529 758 555"><u>Corrective Action:</u></p> <p data-bbox="432 578 1675 747">An operator shall not accept or retain any person who: is chronically chairfast and unable to transfer or chronically requires the physical assistance of another person to transfer or chronically requires the physical assistance of another person in order to walk.</p> <p data-bbox="432 818 1730 889">Obtain a PRI evaluation for this resident and transfer to an appropriate level of care. (DG) (Previously cited 2/21/06)</p>			<p data-bbox="1856 380 1986 464">• 30 Days</p>

Section B: Investigating Uncertified Homes

Complete this section only when you are investigating uncertified homes caring for four or fewer adults who appear to be in need of personal care and/or supervision. Questions 1 through 6 should be answered for every individual in the home who appears to be in need of personal care and/or supervision. Questions 7, 8 and 9 apply to the operator and the physical plant and have to be addressed only once for each home being investigated.

FACILITY BEING INVESTIGATED:			
OPERATOR'S NAME:			TELEPHONE NO.
ADDRESS:			
RESIDENT NAME: (Last)	(First)	(MI)	DATE OF BIRTH/AGE
			SOCIAL SECURITY NUMBER: (only if readily available)
1. PAY STATUS: (private, SSI, HR)	ADMITTED FROM:	DATE ADMITTED: (length of time)	

2. Personal Care Services

Please determine if this individual requires assistance or supervision to accomplish any of the following activities. If this individual requires either assistance or supervision for any of these activities, please circle the activity, indicate whether they require assistance or supervision with that activity and identify the person who provides the assistance or supervision.

ACTIVITIES	ASSISTANCE	SUPERVISION	PROVIDED BY WHOM
Bathing			
Dressing			
Grooming			
Walking			
Eating			
Toileting			
Medication			
Injections			
Other (Specify)			

3. Supervision Services

Does this individual require supervision services in any of the areas listed below? If they do, please circle the area in which they require supervision and identify the person who provides the supervision.

SERVICES NEEDED	PROVIDED BY WHOM
Money Management	
Monitoring Appearance/Behavior	
Assistance to Medical Appointments	
Assistance in Facility/Comm. Programs	
Monitoring of Whereabouts	
Other (Specify)	

CERTIFIED MAIL-RETURN RECEIPT

Dear Mr/s:

This Office has received information that you may be housing and caring for a number of adults in your home. The information we have received indicates that you may be operating a facility subject to the inspection, regulation and certification by the New York State Office of Children and Family Services under the authority of Social Services Law, Sections 460-c and 460-d. The categories of facilities under such authority are defined in Attachment IA.

If you house and care for adults, we would like to have a brief, general description of the care and services you provide. Please complete and sign the short questionnaire (Attachment IB) and return it within fifteen (15) days to me at:

DDPS
Bureau of Adult Services
New York State Office of Children and Family Services
52 Washington Street, 336 North Building
Rensselaer, NY 12144

The information you provide will assist us in determining whether or not your home comes within the jurisdiction of this office.

Regardless of whether you complete and return the questionnaire, a district representative of the New York State Office of Children and Family Services will be following up on the information we have received about your home. The New York State Office of Children and Family Services and the social services district offices acting as its representatives, have the legal authority to inspect your facility any time and to assess the needs of the residents of your facility.

If you would like information on application procedures or if you have any questions, please contact me at (518) 402-3895.

Sincerely,

Debbie Greenfield
Bureau of Adult Services

Attachment

CERTIFIED MAIL- RETURN RECEIPT

Dear Mr/s:

The New York State Office of Children and Family Services (OCFS) has reviewed reports of an inspection at your facility conducted on xx/xx/xx by representatives the _____ County Department of Social Services. A Summary Report of Resident Assessments is attached.

Based on this information it appears that you are providing residential care and services to adults residing in your facility who are unable or substantially unable to live independently and that you are, therefore, operating an adult care facility as defined by Social Services Law (SSL) section 2(21). Social Services Law section 2(22) identifies an adult care facility that provides residential care and/or supervision to four or fewer adults as a family type home for adults.

Section 460-d(9) of the Social Services Law authorizes the Department to impose a fine of up to \$1000 per day for the operation of an adult care facility without an operating certificate. Additionally, pursuant to Section 461-b(2)9c, knowingly operating an adult care facility without prior written approval is a Class A misdemeanor. An Administrative Hearing will be scheduled to determine whether a fine should be imposed against you. This penalty commences thirty (30) days after your receipt of this notification and continues until you submit a complete and acceptable application for an operating certificate to the Department or close the facility as described below. A Summary of Hearing Procedures is included to give you a clear understanding of the hearing process and your rights at administrative proceedings.

If you wish to care for four or fewer residents you must submit an application to the _____ County Department of Social Services, {address}. Please contact _____ at _____ further information.

If you decide to close the facility you must submit a plan to the _____County Department of Social Services for the transfer of residents identified in the enclosed report as requiring residential care or services to appropriate certified living arrangements.

Submission of an approved closure plan within 30 days of your receipt of this letter may avoid substantial fines.

Should you have any questions regarding this correspondence please contact Debbie Greenfield at 518-402-3895.

Sincerely,

Model Statement

Closing a Family Type Home for Adults
When Operators Are Unable to Surrender the Operating Certificate

- I/We am/are no longer interested in being (a) Family Type Home operator(s) and wish to close the home.
- I/We cannot locate the operating certificate.
- I/We agree that I/we will not admit anyone to the home who requires personal care or supervision.
- I/We acknowledge that knowingly operating an unlicensed adult care facility is a class-a misdemeanor, for which I/we may be criminally prosecuted and that the Department may seek to impose a fine of \$1,000 per day for the unlicensed operation of an adult care facility.

Date

Signature of Operator

Date

Signature of Operator

Date

Signature of Local District Staff Person

My patient, _____, has the ability to self-administer medications. In accordance with 18 NYCRR 489.10(d)(2)(i-vii), family-type home for adults residents capable of self-administration are those who are able to:

1. correctly read the label on the medication container;
2. correctly interpret the label;
3. correctly ingest, inject or apply the medication;
4. correctly follow instructions as to route, time, dosage and frequency;
5. open the container;
6. measure or prepare medications, including mixing, shaking and filling syringes; and
7. safely store the medication.

Physician's Signature

Date

LDSS-2865B

**FTHA Application:
Independent/Verification Checklist**

Employment

DATE

PERSON/COMPANY CONTACTED

(Incl. Telephone #)

RESULT

Income

DATE

PERSON/COMPANY CONTACTED

(Incl. Telephone #)

RESULT

Personal References

DATE

PERSON/COMPANY CONTACTED

(Incl. Telephone #)

RESULT

1.)

2.)

3.)

Have Police Been Contacted?

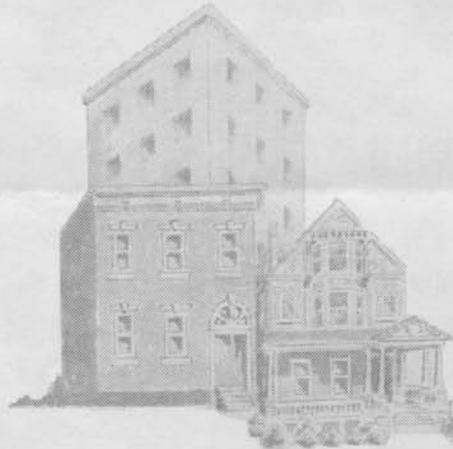
Please Note: Include information as to how applicant's character, competence and financial viability were verified.

SUMMARY OF RESIDENT ASSESSMENTS
DATE
FACILITY

<u>Resident</u>	<u>Personal Care</u>	<u>Supervision</u>
Ruth	medication	bathing monitoring of whereabouts 24-hour supervision case management
John	medication bathing grooming	monitoring of whereabouts 24-hour supervision case management
Mary	medication	monitoring of whereabouts 24-hour supervision case management money management

RESIDENT RIGHTS AND PROTECTIONS IN FAMILY TYPE HOMES FOR ADULTS

New York State Office of Children and Family Services



**IF YOU FEEL THAT ANY OF THESE RIGHTS AND PROTECTIONS ARE BEING
VIOLATED, YOU MAY CONTACT**

Your COUNTY DEPARTMENT OF SOCIAL SERVICES

The home in which you are residing is in _____ County. The
_____ County Department of Social Services may be
reached at : _____

OR

The NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES

The telephone number is: (518) 473-6446

State of New York



Office of Children and Family Service

*Pursuant to the Americans with Disabilities Act,
the State will make this material available
in large print or on audiotape upon request.*

The Social Services Law gives you certain rights as a resident in a Family Type Home.

YOU HAVE THE RIGHT:

- ◆ to receive courteous, fair and respectful care and treatment, and not be physically, mentally or emotionally abused or neglected in any manner.
- ◆ to exercise your civil rights and religious liberties, and to make personal decisions, including your choice of physician, and to have the assistance and encouragement of the operator in exercising these rights and liberties.
- ◆ to have private written and verbal communications or visits with anyone of your choice, or to deny or end such communications or visits.
- ◆ to authorize those family members and other adults who will be given priority to visit, consistent with your ability to receive visitors.
- ◆ to send and receive mail or any correspondence unopened and without interception or interference.
- ◆ to present grievances or recommendations on your own behalf or on behalf of other residents to the operator, the Department of Social Services, other government officials, or any other parties without fear of reprisal or punishment.
- ◆ to join other residents or individuals inside or outside the home to work for improvement in resident care.
- ◆ to confidential treatment of personal, social, financial and health records.
- ◆ to have privacy in treatment and in caring for personal needs.
- ◆ to receive a written statement (Admission Agreement) of the services regularly provided by the operator, those additional services which will be provided if you need or ask for them and the charges (if any) for these additional services.
- ◆ to manage your own financial affairs.
- ◆ to not be coerced or required to perform work; and if you work, to receive fair compensation from the operator.
- ◆ to have recorded on the home's accident or incident report your version of the events leading to the accident or incident.

YOU HAVE THE RESPONSIBILITY:

In addition, Social Services law provides that you are responsible for obeying all reasonable rules of the home and for respecting the personal rights and property of the other residents in the home.

SOCIAL SERVICES LAW AND REGULATIONS ALSO PROVIDE OTHER PROTECTIONS. THESE IMPORTANT PROTECTIONS INCLUDE REQUIREMENTS THAT THE OPERATOR OR AN AGENT OF THE OPERATOR:

- ◆ provide to you, before or at the time of admission interview, a copy of the Admission Agreement, a copy and explanation of resident rights and protections, and a copy of any home rules relating to resident activities, and tell you of your obligation to comply with these rules.
- ◆ provide to you at least 30 days written notice of any change in the home's rate or charges for supplemental services.
- ◆ provide to you, your next of kin or representative of your choice at least 30 days written notice of the operator's intention to terminate your Admission Agreement. The notice must indicate the reason for termination and the date of termination.
- ◆ allow you to terminate your Admission Agreement, subject to the conditions for notice established in your Admission Agreement.
- ◆ guarantee that you keep, from any Supplemental Security Income (SSI) or Home Relief (HR) payments you receive a personal needs allowance to buy any items the operator is not required to provide to you.
- ◆ offer each SSI or HR recipient the opportunity to keep personal allowance funds in a home-maintained account.
- ◆ maintain complete records on your personal allowance account and upon request, or at least quarterly, show or give you a statement which has all deposits, withdrawals, and the current balance in the account.
- ◆ allow you to review upon request the local department of social services inspection report, excluding any confidential attachments, for the most recent two-year period.
- ◆ maintain a system for accepting and responding to grievances and recommendations for changes or improvement in home operations.
- ◆ allow you privacy in your room, subject to reasonable access by operator.
- ◆ allow you privacy in caring for personal needs.
- ◆ neither physically restrain you nor lock you in a room at any time.
- ◆ allow you to leave and return to the home at reasonable hours.
- ◆ neither require from you nor accept from you any gratuity (i.e. tip or gift) in any form.
- ◆ may not threaten or coerce you to work in the home against your will.
- ◆ must provide you with fair compensation for any work you voluntarily perform, subject to the approval of the local department of social services.