

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HUMAN SERVICES
BUREAU OF HUMAN SERVICES LICENSING
Community Homes for Individuals with Mental Retardation
(55 Pa.Code Chapter 6400)

Q/A - Regulatory Clarifications – April 2016

The clarifications and interpretations below will remain on the Department's web site until the information is included in the next updated Regulatory Compliance Guide (RCG).

Regulation: § 6400.18(a) – Reporting of Unusual Incidents

§ 6400.18(a) - An unusual incident is abuse or suspected abuse of an individual; injury, trauma or illness of an individual requiring inpatient hospitalization; suicide attempt by an individual; violation or alleged violation of an individual's rights; an individual who is missing for more than 24 hours or who could be in jeopardy if missing at all; alleged misuse or misuse of individual funds or property; outbreak of a serious communicable disease as defined in 28 Pa. Code § 27.2 (relating to specific identified reportable diseases, infections and conditions); an incident requiring the services of a fire department or law enforcement agency; and any condition that results in closure of the home for more than 1 day.

Question: What are some examples of "communicable diseases" as defined in 28 Pa. Code § 27.2 (relating to reportable diseases)?

ANSWER: In accordance with 28 Pa. Code § 27.2 (relating to reportable diseases), the following diseases, infections and conditions are reportable within 24 hours after being identified by symptoms, appearance or diagnosis:

Animal bite; Anthrax; Arboviruses; Botulism; Cholera; Diphtheria; Enterohemorrhagic E. coli; Food poisoning outbreak; Haemophilus influenzae invasive disease; Hantavirus pulmonary syndrome; Hemorrhagic fever; Lead poisoning; Legionellosis; Measles (rubella); Meningococcal invasive disease; Plague; Poliomyelitis; Rabies; Smallpox; Typhoid fever.

In accordance with 28 Pa. Code § 27.2 (relating to reportable diseases), the following diseases, infections and conditions are reportable within 5 working days after being identified by symptoms, appearance or diagnosis:

AIDS; Amebiasis; Brucellosis; CD4 T-lymphocyte test result with a count of less than 200 cells/ μ L or a CD4 T-lymphocyte percentage of less

than 14% of total lymphocytes (effective October 18, 2002); Campylobacteriosis; Cancer; Chancroid; Chickenpox (varicella) (effective January 26, 2005); Chlamydia trachomatis infections; Creutzfeldt-Jakob Disease; Cryptosporidiosis; Encephalitis; Giardiasis; Gonococcal infections; Granuloma inguinale; Guillain-Barre syndrome; HIV (Human Immunodeficiency Virus) (effective October 18, 2002); Hepatitis, viral, acute and chronic cases; Histoplasmosis; Influenza; Leprosy (Hansen's disease); Leptospirosis; Listeriosis; Lyme disease; Lymphogranuloma venereum; Malaria; Meningitis (All types not caused by invasive Haemophilus influenza or Neisseria meningitis); Mumps; Pertussis (whooping cough); Psittacosis (ornithosis); Rickettsial diseases; Rubella (German measles) and congenital rubella syndrome; Salmonellosis; Shigellosis; Staphylococcus aureus, Vancomycin-resistant (or intermediate) invasive disease; Streptococcal invasive disease (group A); Streptococcus pneumoniae, drug-resistant invasive disease; Syphilis (all stages); Tetanus; Toxic shock syndrome; Toxoplasmosis; Trichinosis; Tuberculosis; suspected or confirmed active disease; and Tularemia.

Regulation: § 6400.33(f) - Rights of the Individual

§ 6400.33(f) - An individual has the right to receive, purchase, have and use personal property.

Question: Are kitchens and refrigerators permitted to be kept locked or made inaccessible to individuals due to behavioral concerns?

ANSWER: Kitchens and refrigerators may not be kept locked. Homes may apply for a waiver of the regulation if an individual or individuals have a medical diagnosis (such as Prader-Willi; etc.) where this restriction would be necessary as per the individual's physician.

Regulation: § 6400.33(h) - Rights of the Individual; § 6400.70 - Telephone

§ 6400.33(h) - An individual has the right to reasonable access to a telephone and the opportunity to receive and make private calls, with assistance when necessary.

§ 6400.70 - A home shall have an operable, noncoin-operated telephone with an outside line that is easily accessible to individuals and staff persons.

Question: Are telephones permitted to be kept locked or made inaccessible to individuals?

ANSWER: Telephones may not be kept locked or made inaccessible to individuals at any time. Telephones need to be kept unlocked and accessible so that they can be used immediately in the event of an emergency. If a home is having an issue with an individual making excessive calls to 911, the home should apply for a waiver of regulation.

Regulation: § 6400.64(a) – Sanitation

§ 6400.64(a) - Clean and sanitary conditions shall be maintained in the home.

Question: Does a shared bar of soap constitute an unsanitary condition?

ANSWER: Yes, a shared bar of soap is considered an unsanitary condition. Bar soap will not be cited as an unsanitary condition if there is a separate bar clearly labeled for each individual who shares a bathroom.

*This Q/A replaces the Q/A released in January 2015.

Regulation: § 6400.70 – Telephone

§ 6400.70 - A home shall have an operable, noncoin-operated telephone with an outside line that is easily accessible to individuals and staff persons.

Question: Is a community home required to have a landline telephone?

ANSWER: Yes, it is required. Homes must be equipped with a telephone that will work in the event of a power outage. If a landline telephone is cordless or web-based, a functioning cell phone must be present on the premises. A home may not only use a cell phone.

Regulation: § 6400.71 – Emergency Telephone Numbers

§ 6400.71 - Telephone numbers of the nearest hospital, police department, fire department, ambulance and poison control center shall be on or by each telephone in the home with an outside line.

Question: If an individual does not have the ability to contact emergency personnel, is it still required to have emergency telephone numbers posted on or by each telephone?

ANSWER: Emergency phone numbers should be posted on or by each telephone regardless if individuals in the home have the ability to contact emergency personnel. The posting of emergency telephone numbers also aids staff and visitors of the home in an emergency situation as well.

Regulation: § 6400.72(a) – Screens, Windows and Doors

§ 6400.72(a) - Windows, including windows in doors, shall be securely screened when windows or doors are open.

Question: Do operable windows need screens even when closed?

ANSWER: Yes; windows need screens if they are able to be opened.

Regulation: § 6400.110(e) - Smoke Detectors and Fire Alarms

§ 6400.110(e) - If the home serves four or more individuals or if the home has three or more stories including the basement and attic, there shall be at least one smoke detector on each floor interconnected and audible throughout the home or an automatic fire alarm system that is audible throughout the home. The requirement for homes with three or more stories does not apply to homes licensed in accordance with this chapter prior to November 8, 1991.

Question: Do wireless fire systems still meet the regulation in terms of being “interconnected”?

ANSWER: Yes, as long as the wireless fire system communicates with the other fire devices in the home.

As a reminder, smoke detectors and fire alarms shall be of a type approved by the Department of Labor and Industry or listed by Underwriters Laboratories.

Regulation: § 6400.112(a) - Fire Drills

§ 6400.112(a) - An unannounced fire drill shall be held at least once a month.

Question: Is a fire drill considered unannounced if a staff member who sets off the alarm also participates in the drill? Is a drill also considered unannounced if an administrator calls an employee at an unpredictable time and instructs them to set off the fire alarm and evacuate individuals?

ANSWER: In both situations the fire drill is considered to be unannounced.

Regulation: §§ 6400.141(a); 181(a) – Individual Physical Examination; and Assessment

§ 6400.141(a) - An individual shall have a physical examination within 12 months prior to admission and annually thereafter.

§ 6400.181(a) - Each individual shall have an initial assessment within 1 year prior to or 60 calendar days after admission to the residential home and an updated assessment annually thereafter. The initial assessment must include an assessment of adaptive behavior and level of skills completed within 6 months prior to admission to the residential home.

Question: Does BHSL allow any grace periods for completing physical exams or assessments?

ANSWER: Yes. "Annually" means at least once every 12 months. A 15-day flex or grace period is allowed for any item that has a time requirement of one year or more. This includes, but is not limited to:

- Individual physical evaluations (§ 6400.141)
- Documentation of evacuation times and fire-safe areas (§ 6400.112(d))
- Completion of ANNUAL Individual Assessments (§ 6400.181(a))

Unless there is a specific grace period or timeline specified in the applicable section, a 5-day flex or grace period is allowed for any item that has a time line of less than one year. This does **NOT** apply to the following:

- Inspecting fire extinguishers (§ 6400.111(f))
- Conducting fire drills (§ 6400.112(a))

The grace period on timelines does NOT apply to INITIAL documentation or to the following regulations:

- Criminal history record checks (§ 6400.21)
- Initial physical examinations (§ 6400.141(a))
- Initial assessments (§ 6400.181(a))

➤ Initial ISPs (§ 6400.182(d)(1))

Grace periods do not apply to initial documentation requirements for new admissions and new hires.

Regulation: § 6400.141(c)(7), (8) - Individual Physical Examination

§ 6400.141(c) - The physical examination shall include:

(7) A gynecological examination including a breast examination and a Pap test for women 18 years of age or older, unless there is documentation from a licensed physician recommending no or less frequent gynecological examinations.

(8) A mammogram for women at least every 2 years for women 40 through 49 years of age and at least every year for women 50 years of age or older.

Question: If an individual has had a double mastectomy performed, is a doctor's order stating that mammograms are not necessary considered acceptable documentation for the individual to not have mammograms performed?

ANSWER: Yes; the home should also apply for a waiver of regulation. A copy of the doctor's order, assessment and ISP should be included with the home's waiver request.