



ADMINISTRATIVE RULES OF MONTANA

37.100.102 ADULT FOSTER CARE HOMES (AFCH): DEFINITIONS

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

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

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

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

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

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