

Virginia Administrative Code
Title 22. Social Services
Agency 30. Department For Aging And Rehabilitative Services
Chapter 120. Adult Services Approved Providers

22VAC30-120-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Activities of daily living" or "ADLs" means bathing, dressing, toileting, transferring, bowel control, bladder control, and eating/feeding. A person's degree of independence in performing these activities is part of determining the appropriate level of care and services.

"Adult" means any individual 18 years of age or older, or younger than 18 if legally emancipated.

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult as defined in § 63.2-1603 of the Code of Virginia.

"Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in § 63.2-1603 or the adult's funds, property, benefits, resources, or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such fund, property, benefits resources, or other assets. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to the adult's detriment or an intentional failure to use the financial resources of an adult in a manner that results in the neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against the adult's will for another's profit, benefit, or advantage if the adult did not agree or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or perform such services.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults.

"Adult foster care provider" means a provider who gives room and board, supervision, and special services in the provider's own home to an adult with a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults. Care provided for more than three adults requires licensure as an assisted living facility by the Virginia Department of Social Services.

"Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances that the adult is not able to provide for himself or is not being provided services necessary to maintain the adult's physical and mental health and that the failure to receive such necessary services impairs or threatens to impair the adult's well-being. However, no adult shall be considered neglected solely on the basis that such adult is receiving religious nonmedical

treatment or religious nonmedical nursing care in lieu of medical care, provided that such treatment or care is performed in good faith and in accordance with the religious practices of the adult, and there is a written or oral expression of consent by that adult.

"Assistant" means any individual who is responsible to assist an approved provider in caring for adults. Assistants shall meet the standards set forth in this chapter.

"Chore provider" means a provider who performs nonroutine, heavy home maintenance tasks for adults, including minor repair work on furniture and appliances in the adult's home; carrying coal, wood, or water; chopping wood; removing snow; yard maintenance; and painting.

"Companion provider" means a provider who assists adults with activities such as light housekeeping, companionship, shopping, meal preparation, transportation, laundry, money management, and ADLs.

"Department" means the Virginia Department for Aging and Rehabilitative Services.

"Health care professional" means a physician or other health care practitioner licensed, accredited, or certified to perform specific health care services consistent with the laws of the Commonwealth.

"Homemaker provider" means a provider who gives instruction in or, where appropriate, performs activities such as personal care, household management, household maintenance, nutrition, consumer, or hygiene education.

"In-home provider" means an individual who provides care in the home of the adult. In-home providers are companion, chore, and homemaker providers.

"Instrumental activities of daily living" or "IADLs" means meal preparation, light housekeeping, shopping, money management, laundry, using the telephone, and home maintenance. An adult's degree of independence in performing these activities is part of determining an adult's service needs.

"Local department" means the local department of social services of any county or city in this Commonwealth.

"Local department-approved provider" means a provider that is not subject to licensure by the Virginia Department of Health and is approved by a local department to provide in-home or adult foster care services to adults.

"Personal care services" means the provision of nonskilled services to the adult, including ADLs, and may include IADLs, to maintain the adult safely in the adult's home.

"Personal toiletries" means hygiene items provided to the individual by the adult foster care provider, including deodorant, razor, shaving cream, shampoo, soap, toothbrush, and toothpaste.

"Responsible person" means an individual who is authorized by state law to make decisions concerning the adult and to receive information about the adult.

"Significant change" means a change in an adult's condition that is expected to last longer than 30 calendar days. It does not include short-term changes that resolve with or without

intervention, a short-term acute illness or episodic event, or a well-established, predictive, cyclic pattern of clinical signs and symptoms associated with a previously diagnosed condition for which an appropriate course of treatment is in progress.

Statutory Authority

§51.5-131 of the Code of Virginia.

Historical Notes

Former 22VAC40-771-10, derived from Virginia Register Volume 24, Issue 2, eff. November 1, 2007; amended and renumbered as 22VAC30-120-10, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; Volume 33, Issue 26, eff. September 21, 2017; Volume 39, Issue 19, eff. June 8, 2023.

22VAC30-120-20. Local department-approved providers.

A. This chapter applies to local department-approved providers and shall not apply to facilities or organizations licensed or regulated by the Virginia Department of Health . A local department shall not approve a provider that does not meet the standards set forth in this chapter.

B. This chapter is applicable to the following providers:

1. Adult foster care providers; and
2. In-home providers.

C. The local department may accept provider applications even when the local department has a sufficient number of approved providers for that service or does not offer the type of service. If the local department chooses to contract with an agency or organization licensed or regulated by the Virginia Department of Health to provide in-home providers , the local department shall inform the provider applicant of the local department's choice to contract with a licensed or regulated agency or organization. However, if the local department approves its own providers and the adult identifies an individual to be a provider, the local department shall initiate the approval process for that individual as long as the service is offered by that locality. The individual identified by the adult shall meet the standards set forth in this chapter.

D. Prior to approving an adult foster care provider that is not approved by the local department in the jurisdiction where the provider is located, the local department wanting to approve the provider shall seek written permission from the local department in the jurisdiction where the adult foster care provider is located.

E. Local departments may use an approved in-home or adult foster care provider from another jurisdiction without initiating the approval process when the local department obtains written permission and a copy of the approval documents from the local department that approved the in-home or adult foster care provider.

Statutory Authority

§51.5-131 of the Code of Virginia.

Historical Notes

Former 22VAC40-771-20, derived from Virginia Register Volume 24, Issue 2, eff. November 1, 2007; renumbered as 22VAC30-120-20, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; amended, Virginia Register Volume 39, Issue 19, eff. June 8, 2023.

22VAC30-120-30. Standards for providers and other persons.

A. Age requirements include:

1. All local department-approved providers shall be at least 18 years of age.
2. Any assistant to a local department-approved provider shall be at least 18 years of age.

B. Criminal record background checks and additional requirements include:

1. An individual applying to become an in-home or adult foster care provider shall identify any criminal convictions and consent to a criminal record search. The local department shall obtain criminal history record information from the Central Criminal Records Exchange of any individual the local department is considering approving as an in-home or adult foster care provider. The local department may also obtain a criminal records search on all adult household members residing in the home of an individual the local department is considering approving as an adult foster care provider. A new criminal record background check shall be required at the time of provider renewal.
2. Convictions of any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 of the Code of Virginia shall prohibit any individual from being approved as a local-department approved provider. In addition, if the provider or, for adult foster care and adult day services, the assistant, spouse of the provider, or other adult household members who come in contact with adults in care, has been convicted of any other felony or misdemeanor that, in the judgment of the local department jeopardizes the safety or proper care of adults, the provider shall be prohibited from being approved as a provider of services to adults.
3. Conviction of any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 of the Code of Virginia will result in the revocation of the in-home or adult foster care provider's approval. The local department shall terminate the provision of services by an in-home provider or the adult shall be removed from the adult foster care home immediately if any adult in the home has been convicted of any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 of the Code of Virginia.
4. If approval as a local department-approved provider is denied because of information obtained through a Central Criminal Records Exchange search, the local department, upon request, shall provide a copy of the information obtained to the individual who is the subject of the search. Except as provided by law, further dissemination of the criminal history record information is prohibited.

C. Interview, references, and employment history requirements include:

1. The provider shall participate in interviews with the local department.
2. The provider shall provide at least two references from persons who have knowledge of the provider's ability, skill, or experience in the provision of services and who shall not be related

to the provider.

3. The provider shall provide information on the provider's employment history.

4. The local department shall use the interviews, references, and employment history to assess that the provider is:

- a. Knowledgeable of and physically and mentally capable of providing the necessary care for adults;
- b. Able to sustain positive and constructive relationships with adults and relate to adults with respect, courtesy, and understanding;
- c. Capable of handling emergencies with dependability and good judgment; and
- d. Able to communicate and follow instructions sufficiently to ensure adequate care, safety, and protection for adults.

5. For adult foster care providers, at least one interview shall occur in the home where the care is to be provided. All adult household members shall be interviewed to ensure that they understand the demands and expectations of the care to be provided.

6. For homemaker providers, the local department shall further use the interview, references, and employment history to assess that the provider has knowledge, skills, and ability, as appropriate, in:

- a. Home management and household maintenance;
- b. The types of personal care of older adults or adults with a disability permitted by regulation;
- c. Nutrition education and meal planning and preparation, including special diets; and
- d. Personal hygiene and consumer education.

7. For adult foster care providers, the local department shall further use the interview, references, and employment history to assess that the provider has sufficient financial income or resources to meet the basic needs of the adult foster care provider's own family and has the knowledge, skills, and abilities to care for adults, including:

- a. Provision of a furnished room in the home that meets applicable zoning, building, and fire safety codes.
- b. Housekeeping services based on the needs of the adult.
- c. Nutritionally balanced meals and snacks, including extra portions and special diets as necessary.
- d. Provision of clean bed linens and towels at least once a week and as needed by the adult.
- e. Assistance with personal hygiene including bathing, dressing, oral hygiene, hair grooming and shampooing, care of clothing, shaving, care of toenails and fingernails, arranging for haircuts as needed, care of needs associated with menstruation or occasional

bladder or bowel incontinence.

f. Provision of personal toiletries.

g. Assistance with the following: care of personal possessions, care of personal funds if requested by the adult and adult foster care home's policy permits it, use of telephone, arranging transportation, obtaining necessary personal items and clothing, making and keeping appointments, and correspondence.

h. Securing health care and transportation when needed for medical treatment.

i. Providing social and recreational activities as required by the local department.

j. General supervision for safety.

D. Training requirements include:

1. The local department shall provide basic orientation to any approved provider.

2. The provider shall attend any orientation and training required by the local department. The provider shall bear the cost of any required training unless the local department subsidizes the cost for all local department-approved providers.

E. Medical requirements include:

1. The in-home provider, an assistant, the adult foster care provider, and all other adult household members in the adult foster care home who come in contact with adults receiving care shall submit a statement from a health care professional that the individual submitting the statement is believed to be free of tuberculosis in a communicable form.

2. The provider and assistant shall submit the results of a physical and mental health examination when requested by the local department.

F. All adult foster care providers shall notify the local department within one business day of changes in the household composition that may affect approval of the provider.

G. The provider shall have the capability to perform the requirements of the position, have the moral and business integrity and reliability to ensure good faith performance and be determined by the local department to meet the requirements of the position.

H. Any provider who causes the local department to make an improper payment by withholding information or providing false information shall be required to repay the amount of the improper payment. Failure to repay any improper payment shall result in a referral for criminal or civil prosecution.

Statutory Authority

§51.5-131 of the Code of Virginia.

Historical Notes

Former 22VAC40-771-30, derived from Virginia Register Volume 24, Issue 2, eff. November 1, 2007; renumbered as 22VAC30-120-30, Virginia Register Volume 30, Issue 1, eff. October 9,

2013; amended, Virginia Register Volume 33, Issue 26, eff. September 21, 2017; Volume 39, Issue 19, eff. June 8, 2023.

22VAC30-120-40. Standards of care for local department-approved providers.

A. The provider shall provide care that does not discriminate on the basis of race, ethnicity, sex, national origin, age, religion, disability, or impairment.

B. Supervision requirements include:

1. The provider shall have a plan for seeking assistance from police, the fire department, and medical professionals in an emergency.
2. A responsible adult or an approved assistant shall always be available to provide appropriate care for the adult in case of an emergency.
3. The adult foster care provider shall inform the local department prior to an extended absence. An extended absence shall be defined as greater than one calendar day. Each adult foster care provider shall identify to the local department a substitute provider who will provide care during the adult foster care provider's extended absence. Each substitute provider shall also meet the standards set forth in this chapter.
4. The provider shall ensure that adequate care and supervision are provided to each adult and that the adult's health, safety, and well-being are protected.
5. The provider shall notify the local department within 24 hours of any significant changes in the adult's mental or physical condition.

C. The following standards apply to food provided to adults by adult foster care providers:

1. Adults shall receive nutritionally balanced meals and snacks appropriate to the length of time in care each day, the daily nutritional needs of each adult, and the time of day care is provided.
2. Adults shall receive special diets if prescribed by a health care professional or in accordance with religious or ethnic requirements, the adult's preferences, or other special needs.
3. Adequate drinking water shall be available at all times.

D. Requirements for transportation of adults include:

1. As part of the service, only the approved provider or assistant shall provide transportation for the adult and shall have a valid driver's license and automobile liability insurance. When the approved provider or assistant is unable to provide transportation for the adult, the approved provider shall coordinate and assist the adult in obtaining backup transportation.
2. The vehicle used to transport adults shall have a valid license and inspection sticker.
3. The vehicle operator shall ensure that all passengers use safety belts in accordance with Virginia law.

E. Requirements for medical care include:

1. The provider shall have the name, address, and telephone number of each adult's health care professional and responsible person easily accessible.
2. The provider shall be able to meet the identified needs of the adult as assessed by the local department before providing services or continuing to provide services to the adult.
3. The adult foster care provider shall not administer medications. The adult foster care provider shall:
 - a. Ensure that the adult receives prescription medications only in accordance with the prescription label and with the adult's responsible person's written consent, as applicable;
 - b. Document all medications taken by adults, including over-the-counter medications;
 - c. Ensure that the adult receives over-the-counter medications only with the adult's or the adult's responsible person's written consent, as applicable;
 - d. Keep medications separate from food except those items that must be refrigerated;
 - e. Report all major injuries to and accidents experienced by the adult to the local department and the adult's responsible person immediately;
 - f. Have authorization for emergency medical care for each adult; and
 - g. Have first aid supplies easily accessible in case of accidents.
4. Admission or continued residence of adults in an adult foster care home is prohibited when the adult's care needs cannot be met by the provider as determined by the assessment by the local department or by the adult's health care professional.

F. The adult foster care provider shall provide recreational and other planned activities appropriate to the needs, interests, and abilities of the adults.

G. All providers shall immediately report any suspected abuse, neglect, or exploitation of any adult in care to the local department or to the 24-hour toll-free hotline (hotline number: 888-83-ADULT). Providers covered by this chapter are mandatory reporters in accordance with § 63.2-1606 of the Code of Virginia. Failure to report could result in the imposition of civil penalties.

H. The adult foster care provider shall ensure that adults in care have adequate, properly fitting, and seasonal clothing and that all clothing is properly laundered or cleaned and altered or repaired as necessary.

Statutory Authority

§51.5-131 of the Code of Virginia.

Historical Notes

Former 22VAC40-771-40, derived from Virginia Register Volume 24, Issue 2, eff. November 1, 2007; renumbered as 22VAC30-120-40, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; amended, Virginia Register Volume 39, Issue 19, eff. June 8, 2023.

22VAC30-120-50. Standards for the home of the adult foster care provider.

A. Physical accommodations requirements include:

1. The home shall have appropriate space and furnishings for each adult receiving care, including:
 - a. Space to keep clothing and other personal belongings;
 - b. Accessible and adequate basin and toilet facilities;
 - c. Comfortable sleeping or napping furnishings;
 - d. For adults unable to use stairs unassisted, sleeping space on the first floor of the home;
 - e. Adequate space for recreational activities; and
 - f. Sufficient space and equipment for food preparation, service, and proper storage.
2. All rooms used by adults shall be heated in winter, dry, and well-ventilated.
3. All doors and windows used for ventilation shall be appropriately screened.
4. Rooms used by adults shall have adequate lighting for activities and the comfort of adults.
5. The home shall have a working telephone that the adult shall be permitted to use.
6. The home shall be in compliance with all local ordinances.
7. Additional standards for adult foster care include:
 - a. No more than two adults shall share a sleeping room unless they request, or if applicable, each adult's responsible person requests and annually consents in writing, which includes by electronic mail, to sharing such a sleeping arrangement.
 - b. There shall be space in the household for privacy outside of the sleeping rooms for the adult to entertain visitors and talk privately.
 - c. There shall be at least one toilet, one basin, and one tub or shower for every five persons residing in the home.

B. Home safety requirements include:

1. The home and grounds shall be free from litter and debris and present no safety hazards.
2. The provider shall permit a fire inspection of the home by appropriate authorities if conditions indicate a need for approval and the local department requests it.
3. The provider shall have a written emergency plan that includes fire and natural disasters. The provider shall rehearse the plan at least twice per year and review the plan with each new adult admitted to the home. The written plan shall be provided to the local department upon request.
4. The provider shall ensure the adult can be safely evacuated from all living spaces during an

emergency. The provider shall include emergency evacuation procedures in the written emergency plan and shall consider the adult's ability to ambulate during an emergency.

5. Possession of any weapons, including firearms, in the home shall be in compliance with federal, state, and local laws and ordinances. The provider shall store all weapons, firearms, and ammunition owned by the provider or other household members in a manner that prohibits access by the adult. If the provider permits an adult to possess weapons, firearms, or ammunition in the home, the provider shall have a written policy detailing such permissions, and the provider shall require the adult to safely store all weapons, firearms, or ammunition. The provider may have a written policy prohibiting all weapons, firearms, and ammunition in the home, and the provider may choose not to accept into care an adult if the adult possesses weapons, firearms, or ammunition.

6. The provider shall protect adults from household pets that may be a health or safety hazard. Household pets shall be inoculated as required by state or local ordinances. Documentation of inoculations shall be made available upon local department request.

7. The provider shall keep cleaning supplies and other toxic substances stored away from food and out of the reach of adults receiving care.

8. The provider shall provide and maintain at least one approved, properly installed, and operable battery-operated smoke detector, at a minimum, in each sleeping area and on each additional floor. Existing installations that have been approved by the state or local fire marshal are exempted from this requirement.

C. Sanitation requirements include:

1. The provider shall permit an inspection of the home's private water supply and sewage disposal system by the local health department if conditions indicate a need for approval and the local department requests it.

2. The home and grounds shall be free of garbage, debris, insects, and rodents that would present a hazard to the health of adults.

D. Capacity standards include:

1. The provider shall not exceed the maximum allowable capacity for the type of care provided and approved by the local department.

2. The adult foster care provider shall not accept more than three adults for the purpose of receiving room, board, supervision, or special services, regardless of relationship of any adult to the provider.

E. The adult foster care provider shall display the Adult Protective Services hotline number and the toll free number of the State Long-term Care Ombudsman in a manner and method accessible to adults in the home.

Statutory Authority

§51.5-131 of the Code of Virginia.

Historical Notes

Former 22VAC40-771-50, derived from Virginia Register Volume 24, Issue 2, eff. November 1, 2007; amended and renumbered as 22VAC30-120-50, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; Volume 39, Issue 19, eff. June 8, 2023.

22VAC30-120-60. Record requirements for adult foster care.

A. The provider shall maintain written, legible, and current information on each adult receiving care.

B. Information on the adult shall include:

1. The adult's identifying information;
2. Name, address, and home and work telephone numbers of the adult's responsible persons;
3. Name and telephone number of person to be called in an emergency if the adult's responsible person cannot be reached;
4. Name, address, and home and work telephone numbers of persons authorized to transport the adult;
5. Name of persons not authorized to call or visit the adult;
6. Date of admission and discharge of the adult;
7. Pertinent medical information;
8. Correspondence related to the adult as well as other written information about the adult provided by the local department; and
9. Placement agreement between the provider and the adult and the adult's responsible person, if applicable.

C. All records are confidential and shall not be shared without the approval of the adult or the adult's responsible person, except as required under federal and state law.

D. The local department shall have access to all records.

E. The department shall have access to all records.

Statutory Authority

§51.5-131 of the Code of Virginia.

Historical Notes

Former 22VAC40-771-60, derived from Virginia Register Volume 24, Issue 2, eff. November 1, 2007; renumbered as 22VAC30-120-60, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; amended, Virginia Register Volume 39, Issue 19, eff. June 8, 2023.

22VAC30-120-70. Approval period.

The approval period for all providers may be up to 24 months when the provider meets the standards.

Statutory Authority

§51.5-131 of the Code of Virginia.

Historical Notes

Former 22VAC40-771-70, derived from Virginia Register Volume 24, Issue 2, eff. November 1, 2007; renumbered as 22VAC30-120-70, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; amended, Virginia Register Volume 39, Issue 19, eff. June 8, 2023.

22VAC30-120-80. Allowable variance.

A. The grant or denial of a variance is within the discretion of the local department. The provider may request a variance on a standard if the variance does not jeopardize the safety and proper care of any adult or prospective adult receiving care or violate federal, state, or local law and the local department approves the request.

B. The allowable variance, if granted by the local department, shall be documented in writing with a copy maintained by the local department and the provider.

C. The local department and the provider shall develop a plan to meet the applicable standard for which the allowable variance has been granted.

D. The variance shall be requested by the provider, and if granted by the local department, issued prior to the approval of the provider or at the time of the provider's renewal.

Statutory Authority

§51.5-131 of the Code of Virginia.

Historical Notes

Former 22VAC40-771-80, derived from Virginia Register Volume 24, Issue 2, eff. November 1, 2007; renumbered as 22VAC30-120-80, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; amended, Virginia Register Volume 39, Issue 19, eff. June 8, 2023.

22VAC30-120-90. Emergency approval.

A. Emergency approval of a provider may be granted under the following conditions:

1. The court orders emergency placement; or
2. The adult or the adult's responsible person requests placement or service in an emergency.

B. For emergency approval of an adult foster care provider, the local department shall visit the provider's home prior to the emergency placement to ensure that minimum safety standards are evident and that the provider is capable of providing care for the adult.

C. For emergency approval of an in-home provider, the local department shall interview the provider to ensure that the emergency provider is capable of providing the needed services.

D. Emergency approval of a provider shall not exceed 30 calendar days.

E. The provider shall meet all applicable standards if services are to be provided beyond the 30-day emergency approval.

Statutory Authority

§51.5-131 of the Code of Virginia.

Historical Notes

Former 22VAC40-771-90, derived from Virginia Register Volume 24, Issue 2, eff. November 1, 2007; renumbered as 22VAC30-120-90, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; amended, Virginia Register Volume 39, Issue 19, eff. June 8, 2023.

22VAC30-120-100. Provider monitoring.

A. For adult foster care providers, the local department shall visit the home of the provider as often as necessary, but at least semi-annually to monitor the performance of the provider.

B. For in-home providers, the local department shall interview the provider face-to-face as often as necessary, but at least semi-annually, to monitor the performance of the provider. At least one monitoring visit shall occur in the home of each adult who is receiving care.

C. Provider monitoring shall include interviews with adults receiving care from the provider.

D. The adult or the adult's responsible person shall have access to provider monitoring reports for that specific adult and that adult's provider upon request.

Statutory Authority

§51.5-131 of the Code of Virginia.

Historical Notes

Former 22VAC40-771-100, derived from Virginia Register Volume 24, Issue 2, eff. November 1, 2007; renumbered as 22VAC30-120-100, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; amended, Virginia Register Volume 39, Issue 19, eff. June 8, 2023.

22VAC30-120-110. Renewal process.

The local department shall reapprove the provider prior to the end of the approval period if the provider continues to meet the standards, and if the local department continues to offer this service.

Statutory Authority

§51.5-131 of the Code of Virginia.

Historical Notes

Former 22VAC40-771-110, derived from Virginia Register Volume 24, Issue 2, eff. November 1, 2007; renumbered as 22VAC30-120-110, Virginia Register Volume 30, Issue 1, eff. October 9,

2013; amended, Virginia Register Volume 39, Issue 19, eff. June 8, 2023.

22VAC30-120-120. Inability to meet standards.

- A. If the provider cannot meet the standards set forth in this chapter, the local department shall grant provisional approval, suspend approval, or revoke approval depending on the duration and nature of noncompliance.
- B. The local department may grant provisional approval if noncompliance with the standards set forth in this chapter does not jeopardize the safety or proper care of the adults. Provisional approval shall not exceed 90 calendar days.
- C. The local department may suspend approval if noncompliance with the standards set forth in this chapter may jeopardize the safety and proper care of adults. Suspension shall not exceed 90 calendar days. During the suspension, the provider shall not provide care to adults receiving services arranged by the local department.
- D. If the provider is found to be out of compliance with the standards set forth in this chapter cannot meet standards within 90 calendar days, and a variance is not granted, the approval shall be revoked.
- E. The local department shall immediately revoke its approval if noncompliance with the standards set forth in this chapter jeopardizes the health, safety, and proper care of adults. The local department shall terminate services and find alternative services for all affected adults who are receiving adult foster care no later than five calendar days from the date of the local department's revocation decision. For in-home providers, the local department shall find alternative services for the adult no later than 30 calendar days from the date of the local department's revocation decision.
- F. The decision to grant provisional approval, suspend approval or revoke approval shall be in writing with the effective date of the decision noted.

Statutory Authority

§51.5-131 of the Code of Virginia.

Historical Notes

Former 22VAC40-771-120, derived from Virginia Register Volume 24, Issue 2, eff. November 1, 2007; renumbered as 22VAC30-120-120, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; amended, Virginia Register Volume 39, Issue 19, eff. June 8, 2023.

22VAC30-120-130. Relocation of adult foster care provider.

- A. If the adult foster care provider relocates within the locality, the local department approving the provider shall determine continued compliance with standards related to the home as soon as possible, but no later than 30 calendar days after relocation, to avoid disruption of services to the adult receiving care.
- B. If the adult foster care provider relocates within the Commonwealth to a locality other than

the locality that originally approved the adult foster care provider, the local department that originally approved the adult foster care provider (original local department) shall notify the local department in the new locality (new local department) of the relocation. If the new local department offers adult foster care services, the new local department may accept the adult foster care provider approval from the original local department based upon the recommendation of the original local department or the new local department may initiate an approval process. If the new local department does not offer adult foster care services, the original local department shall request written permission from the new local department for the adult foster care provider to continue to provide adult foster care services for the original local department.

Statutory Authority

§51.5-131 of the Code of Virginia.

Historical Notes

Former 22VAC40-771-130, derived from Virginia Register Volume 24, Issue 2, eff. November 1, 2007; renumbered as 22VAC30-120-130, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; amended, Virginia Register Volume 39, Issue 19, eff. June 8, 2023.

22VAC30-120-140. Right to review.

A. The provider shall have the right to request that the decision of the local department be reviewed by the director of the local department.

B. The provider must request the review within 10 calendar days from the effective date of the local department's decision.

C. All written findings and actions of the local department or its director, including the decision of the local department director at the conclusion of the review, are final and shall not be (i) appealable to the Commissioner of the Department for Aging and Rehabilitative Services or (ii) considered a final agency action for purposes of judicial review pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

Statutory Authority

§51.5-131 of the Code of Virginia.

Historical Notes

Former 22VAC40-771-140, derived from Virginia Register Volume 24, Issue 2, eff. November 1, 2007; renumbered as 22VAC30-120-140, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; amended, Virginia Register Volume 39, Issue 19, eff. June 8, 2023.

22VAC30-120-150. Rights of adults receiving care.

A. Adults receiving care from local department-approved providers shall have the rights specified in this section. The provisions of this section shall not be construed to restrict or abridge any right that any adult has under the law. The provider shall ensure that adults or the adult's responsible person are aware of and understand the rights described in subsection B of this

section. The adult and, if appropriate, the adult's responsible person shall acknowledge in writing receipt of this information, which shall be filed in the adult's record.

B. Adults receiving care from local department-approved providers shall have the right:

1. To be fully informed, prior to the beginning of the provision of services, (i) of the adult receiving care's rights and of all rules and expectations governing the adult receiving care's conduct and responsibilities and (ii) charges, if any, for the services to be provided;
2. To be free from adult abuse, neglect, and exploitation; to be free from forced isolation, threats, or other degrading or demeaning acts against the adult receiving care; and to be treated with courtesy, respect, and consideration as a person of worth, sensitivity, and dignity;
3. To be free to voice grievances and recommend changes in policies and services without fear of reprisal;
4. To be afforded confidential treatment of the adult receiving care's records and to approve or refuse release of records to any individual except as otherwise provided in law and when services may need to be transferred to another provider;
5. To be encouraged to function at the adult receiving care's highest mental, emotional, physical, and social potential;
6. To be afforded the opportunity to participate in the planning of the adult receiving care's program of care and medical treatment and the right to refuse medical treatment unless there has been a court adjudication of incapacity;
7. To be afforded privacy including:
 - a. In the care of the adult receiving care's personal needs except when assistance may be needed;
 - b. In any medical examination or health-related consultations that the adult may have;
 - c. In any communications; and
 - d. During visitation with other persons; and
8. To be free of physical, mechanical, or chemical restraints.

C. In addition to the rights described in subsection B of this section, adults receiving care from an adult foster care provider shall have the following additional rights:

1. To be free to manage the adult receiving care's personal finances and funds, to be entitled to access personal account statements reflecting financial transactions made, and to be given at least a quarterly accounting of financial transactions made on the adult receiving care's behalf, unless a conservator has been appointed by a court to manage the adult's financial affairs;
2. To be permitted to retain and use personal clothing and possession as space permits, unless to do so would infringe upon the rights of other adults;

3. To be permitted to have guests in the adult's room or portion thereof, unless to do so would infringe upon the rights of other adults;
 4. To have the adult foster care provider only enter the room after the provider makes the provider's presence known except in a case of emergency or pursuant to oversight as required in this chapter;
 5. To be permitted but not required to share a room with a spouse also residing in the home;
 6. To be permitted to participate in social, faith-based, and other community activities at the adult's discretion, unless contraindicated as documented by the adult's health care professional;
 7. To be notified before the adult's room or roommate is changed;
 8. To be free from searches of personal belongings without the adult's or the adult's responsible person's permission, unless the adult foster care provider has reason to suspect that the adult possesses items that are illegal or prohibited in the provider's home and the adult or the adult's responsible person is present during the search;
 9. To be discharged only when the provider gives the adult, the adult's responsible person, and the local department that made the placement a 30-calendar-day written notice stating the reason for discharge;
 10. To be afforded reasonable assistance to ensure an orderly discharge upon notice of discharge or upon the adult giving notice of the adult receiving care's desire to move; and
 11. To not be required to perform services in the home except as voluntarily contracted pursuant to an agreement for the service provision that states the terms of consideration
- D. The adult foster care provider shall ensure that any assistants providing care also understand and uphold the rights included in this section.

Statutory Authority

§51.5-131 of the Code of Virginia.

Historical Notes

Former 22VAC40-771-150, derived from Virginia Register Volume 24, Issue 2, eff. November 1, 2007; amended and renumbered as 22VAC30-120-150, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; amended, Virginia Register Volume 39, Issue 19, eff. June 8, 2023.

22VAC30-120-160. Responsibilities of adults in adult foster care.

- A. Adults receiving care shall follow the rules of the provider unless these rules are in violation of an adult's rights.
- B. Adults receiving care, the local department, or the adult's responsible person, if applicable, shall give two weeks written notice of the intent to leave the placement.
- C. Adults receiving care or the adult's responsible person, if applicable, shall notify providers if

there are changes in the adult's health status.

Statutory Authority

§51.5-131 of the Code of Virginia.

Historical Notes

Former 22VAC40-771-160, derived from Virginia Register Volume 24, Issue 2, eff. November 1, 2007; renumbered as 22VAC30-120-160, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; amended, Virginia Register Volume 39, Issue 19, eff. June 8, 2023.