



New South Wales

# Youth and Community Services Amendment (Obligations of Licensees) Regulation 2010

under the

Youth and Community Services Act 1973

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Youth and Community Services Act 1973*.

PAUL LYNCH, MP  
Minister for Disability Services

## Explanatory note

The object of this Regulation is to impose various obligations on licensees and licensed managers of residential centres for handicapped persons relating to:

- (a) standards required, and facilities to be provided, for the health, comfort, safety and proper care of persons residing at residential centres for handicapped persons, and
- (b) the qualifications and experience of persons employed at residential centres for handicapped persons, and
- (c) the making and keeping of records in respect of residential centres for handicapped persons.

A licensee or licensed manager who fails to ensure that an applicable obligation is satisfied is guilty of an offence (maximum penalty: \$500).

This Regulation is made under the *Youth and Community Services Act 1973*, including section 32 (the general regulation-making power).

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**Youth and Community Services Amendment  
(Obligations of Licensees) Regulation 2010**

under the

Youth and Community Services Act 1973

**1 Name of Regulation**

This Regulation is the *Youth and Community Services Amendment (Obligations of Licensees) Regulation 2010*.

**2 Commencement**

This Regulation commences on the day that is 28 days after the day on which this Regulation is published on the NSW legislation website.

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## **Schedule 1      Amendment of Youth and Community Services Regulation 2005**

**[1] Part 1, heading**

Insert before clause 1:

### **Part 1 Preliminary**

**[2] Clause 3 Definitions**

Insert in alphabetical order in clause 3 (1):

*chief executive* means the person holding the position of chief executive of Ageing, Disability and Home Care, Department of Human Services or, in the absence of such a position, the Director-General of the Department of Human Services.

*resident* means a handicapped person residing at licensed premises.

**[3] Part 2, heading**

Insert after clause 3:

### **Part 2 Forms**

**[4] Part 3**

Insert after clause 5:

### **Part 3 Obligations of licensees**

**6 Licensees and licensed managers to comply with certain requirements in this Part**

- (1) This Part sets out requirements that licensees and licensed managers of licensed premises are required to comply with in respect of:
- (a) the standards to be observed, and facilities to be provided, to ensure the health, comfort, safety and proper care of handicapped persons residing at the premises, and
  - (b) the qualifications and experience of persons employed at the premises, and
  - (c) the records that must be made and kept in relation to the premises.

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- (2) A licensee of licensed premises who fails to comply with a requirement contained in this Part with respect to the licensed premises is guilty of an offence.

Maximum penalty: \$500.

- (3) A licensed manager of licensed premises who fails to comply with a requirement contained in clauses 15, 16, 17, 20 or 21 of this Part with respect to the licensed premises is guilty of an offence.

Maximum penalty: \$500.

**7 Sleeping facilities**

Each resident must be provided with the following:

- (a) a bed that is for the use of that resident only and is placed at least 75 centimetres from the side of any other bed and 90 centimetres from the head or foot of any other bed,
- (b) a mattress that is suited to the bed and is clean and comfortable,
- (c) bed clothing and linen that is suited to the bed and is clean, in good repair and changed weekly (or more frequently if necessary to maintain cleanliness),
- (d) if necessary, absorbent or waterproof bed sheets,
- (e) a securable bed-side locker.

**8 Clothing and toiletries**

Each resident must:

- (a) have a supply of personal clothing and footwear that is adequate to allow for laundering and repair, and
- (b) wear clothing and footwear suited to climate and seasonal conditions, and
- (c) be provided with a toothbrush, toothpaste, soap, toilet paper and a supply of bath towels and face washers that is adequate to allow for laundering.

**9 Meals**

Each resident must be provided with:

- (a) meals of adequate variety, quality and quantity served each day at times that are appropriate and generally acceptable to both residents and the management of the licensed premises, and

- (b) meals that accommodate any special dietary requirements of the resident, and
- (c) access to adequate refreshments outside of meal times.

**10 Recreation**

Each resident must have access to a television, radio, books, games and a lounge.

**11 Personal storage space**

- (1) Each resident must be provided with the following:
  - (a) wardrobe space for the storage of personal clothing and belongings,
  - (b) a container for the storage of personal laundry,
  - (c) a towel rail of a size that enables the drying and storage of towels and face washers.
- (2) The items specified in subclause (1) must be in a location that is convenient for the use of that item by the resident.

**12 General storage space**

- (1) The licensed premises must have shelving and cupboard space that is appropriate for the storage of the following:
  - (a) recreation and education supplies,
  - (b) linen,
  - (c) food,
  - (d) cooking and eating utensils,
  - (e) luggage,
  - (f) cleaning materials,
  - (g) outdoor equipment.
- (2) Food and cooking and eating utensils must not be stored together with any other types of items.

**13 Medication**

- (1) Any medications administered at the licensed premises must be administered in accordance with any relevant instructions from a health professional.
- (2) Written directions from any doctor who prescribes a resident with psychotropic PRN medication must be obtained. The written

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directions must be kept with a file relating to the resident and must contain the following details:

- (a) the circumstances under which the medication may be given to the resident,
  - (b) the procedure to be followed for administration of the medication,
  - (c) the circumstances under which a further dose may be administered and the required interval between doses,
  - (d) the maximum dose that may be given,
  - (e) the circumstances under which a doctor should be contacted in relation to the administration of the medication.
- (3) A register of PRN medication administration containing the following information must be maintained:
- (a) the name and dosage of any PRN medication administered to a resident and the name of that resident,
  - (b) the date and time of administration of the medication,
  - (c) the reason for administration of the medication,
  - (d) the resident's response to administration of the medication,
  - (e) the name and signature of the person who administered the medication.

### 14 Safety and health

- (1) A register containing the dates of any fire evacuation drills carried out at the licensed premises must be maintained.
- (2) Each resident must be supplied with such medical (including mental health) and dental treatment as is necessary in a timely manner.
- (3) Each resident must receive assistance in accessing any health services that the resident reasonably wishes to access.
- (4) Any medical treatments carried out at the licensed premises must be carried out in accordance with any relevant instructions from a health professional.
- (5) A resident's next of kin must be notified as soon as possible of any serious accident or illness suffered by the resident.
- (6) An effective infection control program must be maintained at the licensed premises.

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- (7) There must be a suitable and fully stocked first-aid kit at the licensed premises and at least one member of the staff must hold qualifications (of a type approved by the chief executive) in the administration of first-aid.
  - (8) All first-aid equipment, medicine, drugs and other substances potentially harmful to residents must be stored and secured so as to prevent access by any resident (except in relation to first-aid equipment, medicine, drugs and other substances managed by the resident). All first-aid equipment, medicine, drugs and other substances potentially harmful to residents that are managed by a resident must be secured so as to prevent access by any other resident.
  - (9) In this clause, *health service* has the same meaning it has in the *Health Administration Act 1982*.

#### **15 Residents not to be abused or neglected**

- (1) Residents must not be subject to abuse or neglect.
- (2) For the purposes of this clause, *abuse or neglect*, in relation to a resident, means:
  - (a) any act against the resident that constitutes a criminal offence under the *Crimes Act 1900*,
  - (b) misconduct that could adversely affect the health, comfort, safety or proper care of the resident,
  - (c) derogatory, obscene or threatening conduct or language against, or towards, the resident,
  - (d) unauthorised use of the resident's property,
  - (e) unapproved or excessive physical or chemical restraint techniques used on the resident,
  - (f) failure to ensure the resident has adequate food, clothing, shelter, health care and supervision.

#### **16 Protection of financial affairs of residents**

- (1) A receipt for any money received from or on behalf of a resident (including details of the purpose of the receipt of money or payment) must be issued and a copy of all such receipts kept.
- (2) Each resident must be given support so that the resident has the opportunity to independently operate his or her bank account and manage his or her financial affairs.
- (3) In the event that a resident is unable to operate his or her bank account or manage his or her financial affairs, the resident must

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be given support in arranging for such assistance as is required to operate the account or manage the affairs (including support in making an application to the Guardianship Tribunal for a financial management order where necessary).

- (4) A resident must not be assisted by the licensee, licensed manager or other member of staff of the licensed premises in operating his or her bank account or managing his or her financial affairs.

### 17 Protection of interests of residents

- (1) Each resident's need for privacy and confidentiality must be met.
- (2) Each resident must be given the opportunity to make decisions about daily events and activities that he or she participates in (provided that such decisions do not unreasonably infringe on the health, comfort, safety or proper care of other residents).
- (3) A resident who reasonably wishes to access any support services, advocacy services or other service or information providers (such as legal service providers and disability rights and support organisations) must be assisted (and not obstructed in any way) in accessing those services (whether the service provider consults with the resident at the licensed premises or any other place outside of the licensed premises).
- (4) Visits to the licensed premises by a resident's family and friends, and communications between a resident and his or her family and friends, must not be obstructed in any way (unless in compliance with a direction from a person who has authority to make such a direction or to protect the health or safety of a resident).
- (5) Friendships between residents must not be obstructed in any way (unless in compliance with a direction from a person who has authority to make such a direction or to protect the health or safety of a resident).
- (6) A resident must not be required to undertake tasks of a domestic nature that are included in the resident's board and lodging fee. A resident may, however, volunteer to undertake such tasks.

### 18 Procedure for dealing with complaints

- (1) Any complaint received relating to the provision of services at the licensed premises must be dealt with fairly, promptly and confidentially.
- (2) A person making a complaint must not suffer any retribution as a result of making the complaint (such as discharge from the premises or restricted access to the premises or a resident).



**19 Chief executive to be notified of certain matters**

- (1) The chief executive must be notified of any sexual assault, or alleged sexual assault, of a resident within 24 hours of the licensee of the licensed premises becoming aware of the incident or allegation.
- (2) The chief executive must be notified of any criminal act, or alleged criminal act, of the licensed manager or any member of staff that is relevant to the operation of the licensed premises within 48 hours of the licensee of the licensed premises becoming aware of the incident or allegation.
- (3) The chief executive must be notified of any misconduct of the licensed manager or any member of staff that could adversely affect the health, comfort, safety or proper care of residents within 48 hours of the licensee of the licensed premises becoming aware of the incident or allegation.

**20 Staffing arrangements**

- (1) An adequate number of persons must be employed as staff at the licensed premises.
- (2) An adequate number of staff must be on duty at the licensed premises at all times.
- (3) The staff employed at the premises must have the knowledge and skills required to exercise the functions that they are employed to exercise and must be competent in exercising those functions.
- (4) The staff employed at the premises must have appropriate knowledge and skills in the provision of residential services.
- (5) All staff employed at the premises and exercising functions relating to the care of residents must be fit and proper persons to be concerned in the care of residents.

**21 Screening tool for entry to licensed premises**

- (1) The following persons must be assessed in accordance with a screening tool, and must be determined to be suitable to become a resident, before being permitted to reside at the licensed premises:
  - (a) a person who has not previously resided at a residential centre for handicapped persons,
  - (b) a person who has been absent from any licensed premises for 2 months or more,

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- (c) a person who has previously been admitted to a psychiatric hospital, an aged care facility or a rehabilitation centre (regardless of whether the person resided at licensed premises before the admission).
- (2) A resident whose health or psychiatric condition significantly deteriorates after being assessed in accordance with a screening tool must be assessed in accordance with the screening tool following the deterioration. If it is determined that the resident is not suitable to remain a resident, arrangements must be made for the relocation of the resident to appropriate alternative accommodation within one month of the determination.
- (3) A register containing the following details must be maintained:
  - (a) whether each resident has been assessed in accordance with a screening tool,
  - (b) the date of any assessment,
  - (c) the name and contact details of the person who conducted the assessment.
- (4) The register must be in the form approved by the chief executive and must be available at the licensed premises for inspection by an officer (within the meaning of section 25 of the Act).
- (5) Subsection (1) does not apply if:
  - (a) a person requires emergency accommodation (because of a natural disaster or where the person's health, safety or welfare may be adversely affected if the person is not permitted to stay at the premises), and
  - (b) the Department is notified of the person's presence at the licensed premises within one business day of the person being permitted to stay at the premises, and
  - (c) steps to arrange an assessment in accordance with a screening tool are taken within one business day of the person being permitted to stay at the premises.
- (6) In this clause:

**screening tool** means an assessment tool that is in a form approved by the chief executive and that contains criteria to be used to determine whether a person is suitable to be a resident at a residential centre for handicapped persons (having regard to the health, comfort, safety and proper care of the person and other residents).

**22 Resident information register**

A register containing the following information in relation to each resident at the licensed premises must be maintained:

- (a) name of resident,
- (b) date of birth of resident,
- (c) resident's pensioner concession card number (or number and type of any other entitlement card issued by the Commonwealth or a State Government),
- (d) resident's medicare number,
- (e) name and address of resident's next of kin,
- (f) name and telephone number of resident's doctor,
- (g) any serious illnesses suffered by the resident,
- (h) any sensitivities or allergies to any medication suffered by the resident,
- (i) any assistance in taking or administering any medication required by the resident,
- (j) any assistance with personal care needs required by the resident,
- (k) any special dietary requirements of the resident,
- (l) the legal guardian or other person responsible for the resident,
- (m) whether the financial affairs of the resident are managed by the resident or any other person and the name of any person managing the resident's financial affairs.