



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES

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MEMORANDUM

DATE: October 31, 2012

TO: Ms. Deborah Gottschalk, Chief Policy Advisor
Department of Health & Social Services

FROM: Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: 16 DE Reg. 376 [DLTCRP Proposed Rest (Residential) Home Regulation]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Long Term Care Residents Protection's (DLTCRP) proposal to adopt wholesale revision of its *Rest (Residential) Home Regulations*. The proposed regulation was published as 16 DE Reg. 376 in the October 1, 2012 issue of the Register of Regulations. SCPD has the following observations and recommendations.

1. In §2.0, definition of "Continuous", insert a comma after "cessation".
2. In §2.0, definition of "Department", capitalize "Department of Health and Social Services".
3. In §2.0, definition of "Homelike", do not capitalize "having".
4. In §2.0, definition of "Personal Care Services", SCPD assumes the Division does not intend to authorize "hosing down" the residents. Substitute "those services" for "a hose services".
5. In §2.0, definition of "Rehabilitation", the reference to "at his the highest" is grammatically incorrect.
6. In §2.0, definition of "Resident", the regulation indicates that only individuals 18 years or older can live in a covered home. The licensing statute would permit residency in a rest (residential) facility by someone less than 18 years of age. See Title 16 Del.C. §1102(4). See also Title 16 Del.C. §§1119B and 1119C. This may implicate a systemic problem with the Division's regulatory system. The above statutes (§§1119B and 1119C) require the Department to ensure the inclusion of special training and standards in all long-term care facilities serving

juveniles. However, the Department has only issued such standards for nursing homes. See 16 DE Admin Code 3210, §2.1. At a minimum, the reference to “18 years or older” should be deleted from the definition of “Resident” in §2.0. The Division should also consider adding some provisions applicable to pediatric residents.

7. In §§4.2 and 4.3, there is a lack of punctuation (semi-colons). Compare §§3.5 and 8.1.8.

8. There is an extraneous period after the word “ventilation” in §5.3.2.1.

9. Section 5.3.2.4 could be improved. The local building code and the guidelines referenced in §5.3.1 may or may not adequately address ramp specifications. By analogy, the ADA generally contemplates installation of handrails for any ramp with a rise in excess of 6 inches or horizontal projection greater than 72 inches. The Division may wish to consider adding some ramp standards apart from grade. Compare 16 DE Admin Code 3310, §5.10. The Division should also consider adding an accessibility reference akin to that in 16 DE Admin Code 3201, §7.2.

10. The period is missing at the end of §5.7.3.

11. It would be preferable to address the door handles in §5.7.6. By analogy, see attached description of ADA door hardware requirements. This could be a major safety issue in the event of a fire or other emergency. SCPD notes that the Division includes handgrips in showers (§5.9.4) to promote safety. The accessibility of doors is no less important.

12. There is some “tension” between the exhortation that covered entities be “homelike” (§1.1) and the reference to “institution” in §5.12.1. SCPD recommends striking “of the institution” in the latter section.

13. Section 5.12.9 requires hand washing facilities. The Division may wish to insert a temperature standard. Compare 16 DE Admin Code 3225, §17.8 and 16 DE Admin Code 3305, §13.3.

14. The Division may wish to require that dishwashers be capable of sanitizing dishes to deter spread of infections. Compare 16 DE Admin Code 3305, §13.21 and 16 DE Admin Code 3310, §6.4.

15. There is an extraneous period after the word “personal” in §7.1.2.

16. There is some “tension” between §8.1.3.4 and §8.1.4. Query whether a facility could provide a locking medicine cabinet or a resident could keep a lockable container in a bathroom?

17. In §10.1.6, SCPD believes the Division intended to insert the word “or” after “facility”. The published regulation contains only an “r”.

18. It would be preferable to include a specific requirement that the LTC Bill of Rights be posted

and copy provided to each resident. See Title 16 Del.C. §1123. Compare 16 DE Admin Code 3310, §4.2.3.4.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations or recommendations on the proposed regulation.

cc: The Honorable Susan Del Pesco
Mr. Brian Hartman, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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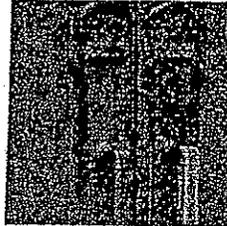
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ADA Door Hardware Requirements

By David Clair, eHow Contributor

The Americans with Disabilities Act, or ADA, was established to prevent discrimination against persons with disabilities. It also has provisions to make sure persons with disabilities can function normally from day to day by regulating construction and building accessibility. To comply with ADA guidelines, the hardware used in the construction of doors must meet certain specifications.



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Hardware Must Be Accessible

The hardware used in a door must be sufficient to allow easy access to persons with disabilities. To meet ADA requirements, doors must have pull handles or push bars. Knobs that the disabled must grasp with both hands and twist are not authorized under the guidelines. Sliding doors must have operating hardware that is accessible and usable from both sides when the door is in an open position. The hardware for opening the door must be within 48 inches of the floor.

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Door Closers Must Meet Certain Criteria

Doors that are equipped with a door closer must meet certain requirements. The time it takes for the door to sweep closed must be prolonged enough to allow passage through the door at a comfortable pace. Under ADA guidelines, the sweep time from an open position of 70 degrees must be at least three seconds until the door reaches within 3 inches of the latch. The ADA recommends using door closers on frequently used interior doors.

Doors Must Open With Low Force

When doors are installed, adjustments are required so they open with a low amount of force to accommodate persons with disabilities. Doors that are mounted on hinges should move with under 3 lbs. of force when the force is applied perpendicular to the door.

Sliding and folding doors should open with less than 3 lbs. of force that is applied parallel to the door at the handle or pull latch.

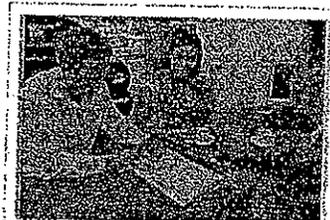
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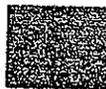


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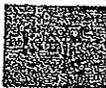
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