

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 – May 2015

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: § 6400.21(a) – Criminal History Record Check

§ 6400.21(a) - An application for a Pennsylvania criminal history record check shall be submitted to the State Police for prospective employees of the home who will have direct contact with individuals, including part-time and temporary staff persons who will have direct contact with individuals, within 5 working days after the person's date of hire.

Question: Does a prohibitive offense committed when a potential employee was a juvenile prevent the now adult from working in a licensed community home?

ANSWER: No. If a Pennsylvania criminal background check shows that an individual was "adjudicated delinquent" as a juvenile, this does NOT count as a conviction for purposes of the Older Adults Protective Services Act (OAPSA) criminal background check rules.

Regulations: §§ 6400.33(e), (g) – Rights of the Individual

§ 6400.33 –

(e) An individual has the right to privacy in bedrooms, bathrooms and during personal care.

(g) An individual has the right to receive scheduled and unscheduled visitors, communicate, associate and meet privately with family and persons of the individual's own choice.

Question: Is video recording and/or video monitoring of the home's interior and/or exterior permitted?

ANSWER: Audio monitoring in any location on the grounds of the home is prohibited. Video monitoring and recording of the home's exterior is permitted. Video monitoring of the home's interior common areas is permitted. Video recording is permitted in interior areas completely inaccessible to individuals, such as medication and supply storage areas.

Video recording of the home's entrances and exits and the interior corridors leading to entrances and exits is permitted, provided that:

- Individuals are informed at admission that these areas are subject to video recording;
- Signs indicating that images are being recorded are posted in the areas that are being recorded.

All other recording of interior areas by the home is a violation of an individual's privacy and therefore is prohibited.

Staff may not photograph or video record individuals with private cell phones or other electronic devices.

Individuals may video record in their private rooms or with the written permission of all roommates in shared rooms. Individuals may install "hidden cameras" in private rooms without the home's knowledge.

Regulations: §§ 6400.44(b)(10), 186(c) – Program Specialist; ISP Review and Revision

§ 6400.44(b)(10) - Reviewing, signing and dating the monthly documentation of an individual's participation and progress toward outcomes.

§ 6400.186(c) - The ISP review must include the following:

(1) A review of the monthly documentation of an individual's participation and progress during the prior 3 months toward ISP outcomes supported by services provided by the residential home licensed under this chapter.

(2) A review of each section of the ISP specific to the residential home licensed under this chapter.

(3) The program specialist shall document a change in the individual's needs, if applicable.

(4) The program specialist shall make a recommendation regarding the following, if applicable:

(i) The deletion of an outcome or service to support the achievement of an outcome which is no longer appropriate or has been completed.

(ii) The addition of an outcome or service to support the achievement of an outcome.

(iii) The modification of an outcome or service to support the achievement of an outcome in which no progress has been made.

(5) If making a recommendation to revise a service or outcome in the ISP, the program specialist shall complete a revised assessment as required under § 6400.181(b) (relating to assessments).

Question: Are program specialists required to sign and date the monthly documentation of an individual's participation and progress toward outcomes even when this documentation is maintained electronically?

ANSWER: Yes, in lieu of an acceptable electronic signature, the program specialist is expected to print out, review, and sign and date the monthly documentation.

Acceptable electronic signatures must be secure, allowing sole usage or password protection for each user. The authorship of the signature should be clearly defined in the record. Electronic signatures appear in many forms, and may be created by many different technologies. No specific technology is required. Merely typing your name or initials in an electronic document is not acceptable.

For more information on acceptable electronic signatures and examples of acceptable electronic signatures, please access the information on the Centers for Medicare & Medicaid Services (CMS) web site here: http://www.cgsmedicare.com/parta/pubs/news/2012/0212/J15A_Signature_Requirements_Examples.pdf.