

CDCR 16-3501

CODE OF D.C. MUNICIPAL REGULATIONS
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TITLE 16. CONSUMERS, COMMERCIAL PRACTICES, & CIVIL INFRACTIONS
CHAPTER 35. DEPARTMENT OF MENTAL HEALTH (DMH) INFRACTIONS

CDCR 16-3501 (2008)

16-3501. COMMUNITY RESIDENCE FACILITY INFRACTIONS

3501.1 Violation of the following provisions shall be a Class 1 infraction:

- (a) 22 DCMR § 3800.5 (operating a CRF without proper licensure);
- (b) 22 DCMR § 3811.1 (failure of fire exits to meet requirements);
- (c) 22 DCMR § 3811.2 (improper locking of fire exit doors);
- (d) 22 DCMR § 3811.3 (failure to maintain proper fire exit access);
- (e) 22 DCMR § 3811.4 (failure to comply with the requirements of 12 DCMR § 914);
- (f) 22 DCMR § 3819.1 (working in or owning a MHCRF after conviction for abusing or mistreating another person);
- (g) 22 DCMR § 3819.5 (failure to make reasonable efforts to ensure that persons known to have abused or mistreated another person do not provide services in a MHCRF);
- (h) 22 DCMR § 3819.6 (employee or volunteer provides direct services while under influence of drugs or alcohol or while infected with communicable disease);
- (i) 22 DCMR § 3819.7 (providing care in MHCRF without proper licensure, certification or registration);
- (j) 22 DCMR § 3819.8 (assigning duties inconsistent with employee's license, job description, training and experience);
- (k) 22 DCMR § 3829.1 or 3829.2 (failure to provide oral or written notice of any serious illness, accident, or unusual incident);
- (l) 22 DCMR § 3829.4 (failure to notify an appropriate person in the case of the death of a resident); or
- (m) 22 DCMR §§ 3835.4, 3835.5, 3836.4, 3837.4, or 3838.5 (failure to comply with

staffing requirements).

3501.2 Violation of the following provisions shall be a Class 2 infraction:

- (a) 22 DCMR §§ 3803.1, 3835.2, 3836.2, 3837.1 or 3838.3 (exceeding maximum occupancy);
- (b) 22 DCMR § 3803.5 (failure to make residence physically accessible);
- (c) 22 DCMR §§ 3806.1 or 3806.3 (failure to comply with heating and cooling requirements);
- (d) 22 DCMR § 3813.1 (failure to keep food handler certificate current or failure to apply nutrition and management principles);
- (e) 22 DCMR § 3813.2 (failure to promote residents' participation and skill development in menu planning, shopping, food storage, and kitchen maintenance);
- (f) 22 DCMR §§ 3813.3 to 3813.5 (failure to comply with meal service regulations);
- (g) 22 DCMR § 3813.6 (failure to provide clean, wholesome, and unspoiled food and drink);
- (h) 22 DCMR § 3822.1 (failure to keep confidential resident's record and any MHCRF records that contain information identifying residents);
- (i) 22 DCMR § 3823.3 (failure to keep resident's medication record inaccessible to other residents and visitors);
- (j) 22 DCMR §§ 3823.4 to 3823.10, or § 3823.12 (improper administration of medications);
- (k) 22 DCMR § 3823.10 (failure to report and document medication errors, reactions or adverse responses);
- (l) 22 DCMR § 3823.11 (failure to document and report resident's refusal of medication);
- (m) 22 DCMR §§ 3824.1 or 3824.2 (failure to carry or provide proof of required insurance);
- (n) 22 DCMR § 3830.1 (failure to notify the CMHS and physician of change that may require relocating resident);
- (o) 22 DCMR §§ 3830.2 or 3820.3 (improper discharge, transfer or relocation of a resident);
- (p) 22 DCMR § 3830.4 (failure to readmit resident transferred from MHCRF within ninety (90) days);
- (q) 22 DCMR § 3830.5 (failure to hold bed for SSI resident admitted to public mental institution in which Medicaid is paying fifty percent (50%) or more of cost of care);

- (r) 22 DCMR §§ 3831.1 or 3831.2 (restraining or confining a resident);
- (s) 22 DCMR §§ 3833.1 to 3833.7 (failure to comply with service coordination, case management, and support services regulations);
- (t) 22 DCMR §§ 3835.1 or 3836.1 (failure to provide homelike setting in a Supported Residence or a Supported Rehabilitative Residence);
- (u) 22 DCMR §§ 3835.7, 3836.9, or 3837.7 (failure to have a Residence Director);
- (v) 22 DCMR §§ 3836.3 or 3837.2 (failure to provide specialized services or programming when necessary);
- (w) 22 DCMR § 3836.5 (failure to provide staff assistance with daily living activities, personal supervision, meals, lodging, and rehabilitative and specialized services);
- (x) 22 DCMR §§ 3836.6 (failure to provide consistent and therapeutic environment);
- (y) 22 DCMR § 3836.7 (failure to coordinate rehabilitation under the direction of the resident's designated treatment team);
- (z) 22 DCMR § 3837.5 (failure to provide staffing specialists according to special program needs);
- (aa) 22 DCMR §§ 3837.8 or 3838.6 (failure to have Residence Director or staff member present when residents are at the residence, or failure to provide clinical back-up services); or
- (bb) 22 DCMR §§ 3837.9 or 3838.7 (failure of Residence Director of Intensive Residence or a Transitional Residence to meet requirements of § 3818 and appropriate experience requirements).

3501.3 Violation of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 3801.1 (failure to explain rights and responsibilities, provide a written statement of rights and responsibilities, or make available a copy of rights);
- (b) 22 DCMR §§ 3801.2, 3801.4, or 3827.4 (discrimination or reprisal against a resident);
- (c) 22 DCMR § 3801.3 (failure to provide resident and resident's legal representative a signed, written admission contract prior to admission);
- (d) 22 DCMR § 3801.5 (failure to provide resident a copy of grievance procedures);
- (e) 22 DCMR § 3801.6 (failure to provide resident privacy for provision of personal and medical care);
- (f) 22 DCMR § 3801.7 (failure to provide resident opportunity to participate in developing individual treatment plan);
- (g) 22 DCMR § 3801.8 (failure to provide resident adequate and humane treatment by competent and qualified staff);

- (h) 22 DCMR § 3801.9 (failure to inform resident of condition and progress);
- (i) 22 DCMR § 3801.10 (failure to keep resident's treatment record confidential);
- (j) 22 DCMR § 3801.11 (failure to provide resident the opportunity to meet with members of the treatment team);
- (k) 22 DCMR § 3801.12 (failure to provide resident periodic review of treatment plan);
- (l) 22 DCMR §§ 3801.13 to 3801.16 (failure to comply with resident's visitation and communication rights);
- (m) 22 DCMR §§ 3801.17 or 3801.18 (denying resident's right to refuse life sustaining treatment and execute advanced directives or the limited right to refuse psychiatric treatment and supportive services);
- (n) 22 DCMR § 3801.19, 3801.23, or 3801.24 (failure to provide resident access to authorized representatives, District government officials, or Long Term Care Ombudsman);
- (o) 22 DCMR § 3801.20 (failure to assist resident in registering and exercising right to vote);
- (p) 22 DCMR § 3801.21 (imposing a religious belief or practice on a resident);
- (q) 22 DCMR § 3801.22 (failure to provide resident opportunities to participate in social, religious and community activities);
- (r) 22 DCMR § 3801.25 (denying resident the right to manage his or her financial affairs);
- (s) 22 DCMR § 3801.26 (using residents as research subjects without resident's consent, or for research that does not comply with federal and District laws and regulations and DMH policy);
- (t) 22 DCMR § 3801.27 (requiring resident to perform unauthorized unpaid work);
- (u) 22 DCMR § 3801.28 (failure to comply with Title III of the Nursing Home and Community Residence Facility Residents' Protection Act of 1985 for transfers, discharges or relocations);
- (v) 22 DCMR §§ 3801.29 or 3801.30 (failure to have required rules or failure to provide resident with a copy of the MHCRF's rules);
- (w) 22 DCMR § 3801.31 (failure of resident to comply with MHCRF rules);
- (x) 22 DCMR § 3802.5 (failure to maintain pest control program and keep premises free from insects and rodents);
- (y) 22 DCMR § 3802.6 (failure to maintain readily available first aid supplies);

- (z) 22 DCMR § 3802.7 (failure to protect residents from asbestos hazards);
- (aa) 22 DCMR § 3802.8 (failure to equip, furnish and maintain residence in a comfortable, congenial home-like setting for residents and staff);
- (bb) 22 DCMR § 3802.9 (failure to provide adequate collection, storage, and removal of trash and refuse);
- (cc) 22 DCMR § 3802.10 (failure to screen windows during insect season);
- (dd) 22 DCMR § 3802.11 (failure to securely fasten carpets or use non-skid pads);
- (ee) 22 DCMR § 3802.12 (failure to keep hallways, porches, stairways, stairwells and basements free from obstructions);
- (ff) 22 DCMR § 3802.13 (failure to equip ramps and stairways with firmly secured handrails or banisters);
- (gg) 22 DCMR § 3802.14 (failure to use lead-free paint or remove old paint or plaster containing lead);
- (hh) 22 DCMR § 3802.15 (failure to design and maintain walls and floors to minimize accidents);
- (ii) 22 DCMR § 3802.16 (failure to have pets examined by licensed veterinarian or keep pet vaccinations current);
- (jj) 22 DCMR §§ 3804.1 to 3804.3 (failure to provide adequate lighting);
- (kk) 22 DCMR §§ 3805.1 or 3805.2 (failure to ensure that water supply and water distribution system conform to District laws and regulations, or failure to have adequate plumbing);
- (ll) 22 DCMR § 3806.4 (failure to clean functioning fireplace chimney annually);
- (mm) 22 DCMR §§ 3807.2, 3807.3, or 3807.7 (failure to provide adequate bedroom facilities);
- (nn) 22 DCMR § 3808.3 (failure to provide properly anchored grab bars or handrails in toilet and bathing areas when needed);
- (oo) 22 DCMR § 3813.7 (failure to provide fresh water and clean drinking glasses);
- (pp) 22 DCMR § 3813.8 (failure to provide assistance to eat when necessary);
- (qq) 22 DCMR §§ 3814.1 to 3814.4 (failure to comply with diet requirements);
- (rr) 22 DCMR §§ 3816.3 or 3816.4 (failure to safeguard and account for resident's personal articles);
- (ss) 22 DCMR §§ 3816.5, 3816.9, or 3816.10 (failure to comply with personal property and funds requirements);

- (tt) 22 DCMR § 3817.2 (failure to provide annual physician exams);
- (uu) 22 DCMR § 3817.3 (failure to include in resident's permanent record copies of medical examinations, physicians' reports, and physicians' recommendations for care);
- (vv) 22 DCMR § 3817.4 (failure to assist resident in making arrangements for medical or dental examinations when resident is unable to do so);
- (ww) 22 DCMR §§ 3818.1 to 3818.3 (failure to comply with training, experience, and credentials requirements for Residence Directors);
- (xx) 22 DCMR § 3818.4 (failure of Residence Director to complete minimum responsibilities);
- (yy) 22 DCMR § 3818.5 (failure to ensure adequate supervision when Residence Director is absent);
- (zz) 22 DCMR § 3819.2 (failure to have written personnel policy);
- (aaa) 22 DCMR § 3819.3 (failure to ensure that MHCRF staff have annual physical examinations);
- (bbb) 22 DCMR § 3819.4 (failure to maintain accurate personnel records);
- (ccc) 22 DCMR §§ 3819.10 or 3819.11 (failure to comply with volunteer and paid staff training and screening requirements);
- (ddd) 22 DCMR §§ 3820.1 to 3820.3, 3820.5, 3821.1 to 3821.3, or 3823.1 (failure to properly maintain records);
- (eee) 22 DCMR § 3820.4 (failure to notify agency of changes in occupancy level);
- (fff) 22 DCMR § 3820.6 (failure to investigate allegations of mistreatment and promptly report findings resulting from investigation);
- (ggg) 22 DCMR § 3820.7 (failure to make resident's financial records available for audit);
- (hhh) 22 DCMR § 3825.1 (failure to have written program statement with all required elements);
- (iii) 22 DCMR § 3827.1 (failure to admit and retain only those persons that can be safely and adequately cared for);
- (jjj) 22 DCMR § 3827.2 (disqualifying a person from placement because the person is not ambulatory, needs medication assistance, has active substance abuse, or needs limited or intermittent nursing care);
- (kkk) 22 DCMR § 3827.3 (failure to follow written admission criteria or present criteria to resident upon admission);
- (lll) 22 DCMR § 3827.5 (failure to provide written reasons for denying admission);

(mmm) 22 DCMR § 3827.6 (refusal to make reasonable accommodations to admit resident who is deaf, blind, non-English speaking, or physically or mentally disabled);

(nnn) 22 DCMR §§ 3827.7 to 3827.9, or 3827.11 (failure to comply with preadmission medical assessment requirements);

(ooo) 22 DCMR § 3829.3 (failure to have written emergency policies and procedures);

(ppp) 22 DCMR §§ 3829.5 or 3829.6 (failure to follow procedures and laws regarding resident deaths); or

(qqq) 22 DCMR §§ 3832.1 to 3832.5 (failure to comply with rehabilitation regulations).

3501.4 Violation of the following provisions shall be a Class 4 infraction:

(a) 22 DCMR § 3802.1 (improper use of exterior name or logo);

(b) 22 DCMR § 3802.2 (failure to properly maintain and provide access to green areas);

(c) 22 DCMR § 3802.3 (locating MHCRF in area with noxious, hazardous smoke and fumes or with loud and irritating noises);

(d) 22 DCMR § 3802.4 (failure to provide functional, safe, comfortable, and supportive environment);

(e) 22 DCMR § 3807.4 (failure to keep beds three feet (3 ft.) or more from another bed or a radiator);

(f) 22 DCMR §§ 3808.2 or 3808.4 (failure to provide adequate equipment or adequate privacy and safety in toilets and bathing facilities);

(g) 22 DCMR § 3815.1 (failure to maintain interior and exterior in safe, clean, orderly, attractive and sanitary manner);

(h) 22 DCMR §§ 3815.2 or 3815.4 to 3815.8 (failure to provide sufficient quantities of clean and sanitary linens, linen storage, or laundering facilities);

(i) 22 DCMR § 3816.1 (improperly increasing fee for care);

(j) 22 DCMR § 3816.2 (denying resident reasonable personal possessions and furnishings in living quarters);

(k) 22 DCMR § 3816.6 (failure to copy and make available to residents the record required by § 3816.5);

(l) 22 DCMR § 3816.11 (failure to encourage residents to wear their own clothing);

(m) 22 DCMR § 3817.5 (failure to maintain a list of names and telephone numbers of

residents' physicians); or

(n) 22 DCMR §§ 3834.1 to 3834.4 (failure to comply with requirements regarding resident activities).

History of Regulations since Last Compilation by Agency (July 1998)

May 27, 2005 new at 52 DCR 4903 by the Department of Consumer and Regulatory Affairs, the Office of Planning, The Department of Health, the Department of Mental Health, and the Department of Insurance, Securities and Banking; statutory authority D.C. Code §§ 2-1802.04, 6-1110, 7-731, 7-1131.14, 31-103, Mayors Orders 79-50, 83-25, 82-119, 86-38, 99-141, 2002-103, 2004-46