

**PROVINCE OF BRITISH COLUMBIA**  
**ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL**

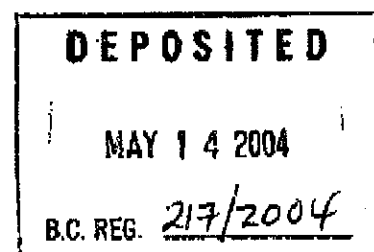
Order in Council No. **476**, Approved and Ordered **MAY 13 2004**

  
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 Lieutenant Governor  
 Administrator

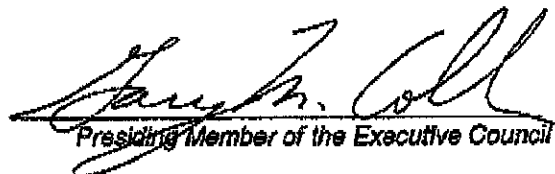
Executive Council Chambers, Victoria

On the recommendation of the undersigned, the ~~Lieutenant Governor~~, by and with the advice and consent of the Executive Council, orders that  
 \_\_\_\_\_  
 Administrator

- 1 the *Community Care Facility Act*, R.S.B.C. 1996, c. 60, is repealed by this regulation,
- 2 the *Community Care and Assisted Living Act*, S.B.C. 2002, c. 75, except for sections 12, 24, 26 (1), 43 (b), 44 to 46, 47 (b), 48, 49, 50 (a), 52, 53, and 55 (a), is brought into force by this regulation,
- 3 section 26 (1) of the *Community Care and Assisted Living Act* is brought into force by this regulation, effective September 30, 2004,
- 4 the Adult Care Regulations, B.C. Reg. 536/80, is amended as set out in the attached Appendix 1,
- 5 the Child Care Licensing Regulation, B.C. Reg. 319/89, is amended as set out in the attached Appendix 2, and
- 6 the Community Care and Assisted Living Regulation, as set out in the attached Appendix 3, is made.



  
 \_\_\_\_\_  
 Minister of Health Services

  
 \_\_\_\_\_  
 Presiding Member of the Executive Council

*(This part is for administrative purposes only and is not part of the Order.)*

Authority under which Order is made:

Act and section:- Community Care and Assisted Living Act, S.B.C. 2002, c. 75, sections 34, 39, 40, 58

Other (specify):- oic 2539/80, 1476/89

April 28, 2004

578 /2004/3

## APPENDIX 1

- 1 Section 1 of the Adult Care Regulations, B.C. Reg. 536/80, is amended**
- (a) **by repealing the definitions of “adult”, “facility”, “interim permit”, “licence”, “licensee”, “manager”, “medical health officer”, “premises”, “resident”, and “variance committee”,**
  - (b) **by repealing the definition of “Act” and substituting the following:**  
“Act” means the *Community Care and Assisted Living Act*,
  - (c) **by repealing the definition of “nutrition care plan” and substituting the following:**  
“nutrition care plan” means that part of the care plan of each person in care that assesses the person in care’s nutrition status and specifies the nutrition care to be provided to that person in care. , **and**
  - (d) **by adding the following definition:**  
“reportable incident” means a reportable incident as set out in Schedule 1.

**2 The following section is added:**

**Exemptions under section 16 of the Act**

- 2.2** (1) An applicant for an exemption or a variation of an exemption under section 16 of the Act must provide, in writing and in a form acceptable to the medical health officer, the information requested by the medical health officer.
- (2) If the exemption or variation requested under subsection (1) is not granted, or is not granted in full, the medical health officer must provide to the applicant for the exemption written reasons for not granting the exemption or for not granting part of the exemption.
- (3) The medical health officer may grant an exemption to any section of the Act or regulation, except those listed in Schedule 2.
- (4) In determining whether to grant an application under subsection (1) for a variation to
- (a) an exemption that was granted to a licensee or applicant for a licence under section 5 (3) of the *Community Care Facility Act*, R.S.B.C. 1996, c.60, before that section was repealed,
  - (b) a substitute requirement that was imposed on a licensee or applicant for a licence under section 5 (4) of the *Community Care Facility Act* before that section was repealed, or
  - (c) an alternative arrangement approved by the medical health officer under
    - (i) sections 4 (5) (a) (i) and 6 (2) of this regulation before those sections were amended, or
    - (ii) sections 5 (2), 5.3 (2), 5.8 (4), 5.13 (2), 5.18 (4), 5.21 (2), 6.4, 7.4 (4), 7.7 (2), or 8.6 (1) of this regulation before those sections were repealed,

the medical health officer must accept the exemption, substitute requirement, or alternative arrangement on its face and consider only the merits of the application under subsection (1).

**3 Section 3 is amended**

**(a) by repealing subsections (1) and (2) and substituting the following:**

- (1) An applicant for a licence to operate a community care facility must
  - (a) submit an application to the medical health officer, and
  - (b) provide, in the form specified by the medical health officer, the information set out in subsection (3).
- (2) An applicant for a licence must immediately notify the medical health officer of any change in the information provided under subsection (1) (b) .

**(b) by repealing subsection (3) (a) (viii) and substituting the following:**

- (viii) the location of accommodation reserved for employees, including employees' rooms and washrooms, and, *and*

**(c) by repealing subsection (3) (c) (ii) and substituting the following:**

- (ii) the name, age, professional qualifications and relevant experience of the person who will be the manager, .

**4 Section 4 is amended**

**(a) by repealing subsection (1),**

**(b) by repealing subsection (4) (a) and substituting the following:**

- (a) notify the medical health officer immediately of any change in the information provided under section 3, ,

**(c) in subsection (4) (c) by repealing subparagraph (i) and substituting the following:**

- (i) if the manager resigns or is expected to be absent from duty for more than 21 consecutive days, and,

**(d) by repealing subsection (4) (e) and substituting the following:**

- (e) ensure that persons in care have immediate access to an employee who is certified to administer first aid, ,

**(e) in subsection (4) (f) and (g) by striking out "the person in charge" and substituting "employees", and**

**(f) by repealing subsection (5) (a) (i) and substituting the following:**

- (i) of a type other than that specified on the licence, .

**5** *The following section is added:*

**Posting of licence**

**4.1** A licensee must display the following in a prominent place in the community care facility:

- (a) the licensee's licence, including any terms or conditions of the licence;
- (b) the name of the manager.

(2) Subsection (1) does not apply to a licensee whose licence is issued in respect of a private single family dwelling as defined in section 9 (7) of the Act.

**6** *Sections 5 (2), 5.3 (2), 5.8 (4), 5.13 (2), 5.18 (4), 5.21 (2), 6.4, 6.10, 7.4 (4), 7.7 (2), 8.6 (1) and 10.6 (1) are repealed.*

**7** *Section 6 is repealed and the following substituted:*

**Manager**

**6** (1) A licensee who is not also the manager of the community care facility must ensure that the manager

- (a) is a person of good character,
- (b) has the personality, ability and temperament necessary to manage a community care facility in a manner that will maintain the spirit, dignity and individuality of the persons in care, and
- (c) is physically and mentally competent to carry out assigned duties.

(2) A manager must not manage more than one community care facility.

**8** *Section 6.1 is repealed and the following substituted:*

**Employee standards**

**6.1** A licensee must ensure that each of its employees who works in or about a community care facility

- (a) has the personality, ability and temperament necessary to maintain the spirit, dignity and individuality of the persons being cared for,
- (b) possesses the training and experience and demonstrates the skills necessary to carry out the duties assigned to the employee, and
- (c) is physically and mentally competent to carry out the duties assigned to the employee.

**9** *Section 9.3 (1) is amended by striking out "adult care facility" and substituting "community care facility".*

**10** *Section 10.4 is amended by striking out everything after "facility".*

**11 Section 10.6 is amended**

- (a) in subsection (2) (b) by striking out “director” and substituting “medical health officer”, and**
- (b) by adding the following subsection:**
  - (4) A licensee must maintain a log of**
    - (a) minor accidents and illnesses that do not require medical attention and are not reportable incidents, and**
    - (b) unexpected events involving persons in care.**

**12 The Adult Care Regulations are amended**

- (a) by striking out “director” wherever it appears and substituting “director of licensing”,**
- (b) by striking out “facility” and substituting “community care facility” wherever it appears, except in section 2.1 or in a reference to a residential care facility or a specialized residential care facility,**
- (c) by striking out “resident’s care plan” wherever it appears and substituting “care plan of the person in care”, and**
- (d) by striking out “resident”, “resident’s” and “residents” wherever they appear and substituting “person in care”, “person in care’s” and “persons in care”, as applicable.**

**13 The Schedule is amended**

- (a) by renumbering the Schedule as Schedule 1,**
- (b) in section 1 in the definition of “disease outbreak or occurrence” by striking out “beyond that which” and substituting “that”,**
- (c) in section 1 in the definition of “emergency restraint” by striking out “a person’s care plan;” and substituting “the care plan of a person in care;”,**
- (d) in section 1 in the definition of “emotional abuse” by striking out “(e.g. verbal harassment, yelling, confinement);” and substituting “such as verbal harassment, yelling or confinement;”,**
- (e) in section 1 in the definition of “neglect” by striking out “(e.g. food, shelter, care, supervision);” and substituting “including food, shelter, care or supervision;”,**
- (f) in section 1 in the definition of “unexpected illness” by striking out “that requires” and substituting “that it requires”, and**
- (g) by repealing section 2.**

14 **The following Schedule is added:**

**SCHEDULE 2**

*[Exemptions not permitted – Section 2.2 (3)]*

- 1 For the purposes of section 16 of the Act, a medical health officer may grant an exemption from any but the following sections of the Act:
  - 1 *[definitions];*
  - 2 *[application];*
  - 5 *[operating or advertising without a licence];*
  - 6 *[age of licensee or manager];*
  - 7 (1) (a), (b) and (d) *[standards to be maintained];*
  - 18 (2) and (3) *[certain advertisements or inducements prohibited];*
  - 22 *[protection for persons who report].*
- 2 For the purposes of section 16 of the Act, a medical health officer may grant an exemption from any but the following sections of this regulation:
  - 1 *[definitions];*
  - 10.6 *[reportable incidents];*
  - 10.8 *[neglect and abuse];*
  - 10.9 (1) *[restrictions on the use of restraints – no restraint for punishment or convenience only].*

**APPENDIX 2**

- 1 **Section 1 and Parts 1 and 2 of the Child Care Licensing Regulation, B.C. Reg. 319/89, are repealed and the following substituted:**

**PART 1 – DEFINITIONS AND EXEMPTIONS**

**Definitions**

- 1 (1) In this regulation:
  - “**Act**” means the *Community Care and Assisted Living Act*;
  - “**assistant**” means a person who has the qualifications required by section 11;
  - “**certificate**” means a certificate issued under section 8 of the Act or section 9 of the *Community Care Facility Act* before its repeal;
  - “**director of the early childhood educator registry**” means the person responsible for
    - (a) issuing certificates to educators under sections 9, 10 and 13, and
    - (b) varying, suspending, or cancelling certificates under section 14,that being the person who occupies the position of Executive Director of the Child Care Programs and Services Branch of the Ministry of Community, Aboriginal and Women’s Affairs;

**“educator”** means an early childhood educator certified under section 9, and a special needs early childhood educator and an infant and toddler educator certified under section 10;

**“group day care”** means the provision, in a group setting, of care to children and of opportunities for their social, emotional, physical and intellectual growth;

**“local assistant to the fire commissioner”** means “local assistant” as defined in the *Fire Services Act*;

**“parent”**, in respect of a person in care, means

- (a) the guardian of the person in care,
- (b) the person legally entitled to custody of the person in care, or
- (c) the person who usually has the care and control of the person in care;

**“reportable incident”** means a reportable incident described in Schedule F;

**“residential care facility”** means a community care facility in which care and opportunities for social, emotional, physical and intellectual growth are provided to persons in care who are placed in the community care facility to receive 24 hours of care and supervision each day, but does not include a community care facility referred to in section 36;

**“responsible adult”** means a person who has the qualifications required by section 12;

**“special needs children”** means children who, because of physical, mental or emotional handicaps, require additional support and services;

**“substitute parent”** means a person designated, in writing, by the parent of a person in care as a substitute parent of the person in care.

(2) For the purpose of paragraph (a) of the definition of “care” in section 1 of the Act, the prescribed programs are those regulated by the following Parts of this regulation:

Part 3 [*Group Day Care, under 36 Months*];

Part 4 [*Group Day Care, 30 Months to School Age*];

Part 5 [*Preschool, 30 Months to School Age*];

Part 6 [*Special-Needs Day Care*];

Part 7 [*Family Child Care*];

Part 8 [*Out of School Care*];

Part 10 [*Emergency Care*];

Part 11 [*Child Minding, 18 Months to School Age*];

Part 11.1 [*Occasional Child Care at Ski Hill or Resort*].

(3) For the purposes of paragraph (b) of the definition of “care” in section 1 of the Act, the prescribed program is that regulated by Part 9 [*Residential Care*] of this regulation.

**Exemptions under section 16 of the Act**

- 2
- (1) An applicant for an exemption under section 16 of the Act must provide, in writing and in a form acceptable to the medical health officer, the information requested by the medical health officer.
  - (2) If the exemption requested under subsection (1) is not granted, or is not granted in full, the medical health officer must provide to the applicant for the exemption written reasons for not granting the exemption or for not granting part of the exemption.
  - (3) The medical health officer may grant an exemption to any section of the Act or regulation, except those listed in Schedule G.
  - (4) In determining whether to grant an application under subsection (1) for a variation to
    - (a) an exemption that was granted to a licensee or applicant for a licence under section 5 (3) of the *Community Care Facility Act*, R.S.B.C. 1996, c. 60, before that section was repealed,
    - (b) a substitute requirement that was imposed on a licensee or applicant for a licence under section 5 (4) of the *Community Care Facility Act* before that section was repealed,
    - (c) an alternative arrangement approved by the medical health officer under sections 15 (3), 30 (1.1), 30.1, 33.1, 36.1 (1), 67.1 (1), or section 10 of Schedule E of this regulation before those provisions were repealed, or
    - (d) an authorization granted under section 51 (2) (a) before that provision was amended,the medical health officer must accept the exemption, substitute requirement, alternative arrangement or authorization on its face and consider only the merits of the application under subsection (1).
  - (5) In addition to any information required by the medical health officer under subsection (1), a licensee who is applying to temporarily place or retain in a facility a child who does not meet the requirements specified in the definition of "child" in sections 37, 42, 47, 52, 57, 61, 71, 76 or 80.1, as applicable, must show that
    - (a) the temporary placement or retention is in the best interests of the child, and
    - (b) none of the following limits or ratios specified for the facility, as applicable, are exceeded:
      - (i) the maximum size of a group, however determined;
      - (ii) the maximum number of children cared for or living in a facility at one time, however determined;
      - (iii) the ratio of employees to children.

**PART 1.1 – LICENSEE AND EMPLOYEES**

**Application for licence**

- 3
- (1) An applicant for a licence to operate a community care facility must

- (a) submit an application to the medical health officer, and
  - (b) provide, in the form specified by the medical health officer, the information set out in subsection (3).
- (2) An applicant for a licence must immediately notify the medical health officer of any change in the information provided under subsection (1) (b).
- (3) An application referred to in subsection (1) must be accompanied by
- (a) a statement of the qualifications, relevant work experience and suitability of the person who is proposed to be the manager of the community care facility,
  - (b) 3 references and a criminal record check under the *Criminal Records Review Act* for
    - (i) the applicant, if the applicant is not a corporation, and
    - (ii) the proposed manager, if the manager is different than the applicant,
  - (c) a statement of the number of employees, excluding the manager, the applicant proposes to employ and their qualifications,
  - (d) a brief description of the program to be offered at the community care facility,
  - (e) a floor plan of the proposed community care facility drawn to scale and showing
    - (i) the inside dimensions of each room and the width of each corridor and stair,
    - (ii) the size and location of the fixed equipment in each room,
    - (iii) the location and size of windows and the height of windowsills from the floor, and
    - (iv) the location of accommodation reserved for family or staff,
  - (f) a site plan of the proposed community care facility drawn to scale and showing
    - (i) the boundaries of the property on which the community care facility is located,
    - (ii) the location of the community care facility, and
    - (iii) the location and dimensions of the play area,
  - (g) a statement of projected monthly revenue and expenditures, including the estimated cost of employee salaries, food, utilities, maintenance, housing and programs,
  - (h) if the play area is not within the boundaries of the property on which the community care facility is located, a sketch map showing the location of the play area in relation to the community care facility and its distance from the community care facility, and
    - (i) if the applicant is a society, a copy of the constitution and bylaws of the society.

**Duty to inform**

- 4 A licensee must notify the medical health officer

- (a) immediately of any change in the information provided under section 3, and
- (b) before any structural alteration is made to a community care facility.

#### **Criminal record checks**

- 5
- (1) A licensee must not employ a person in a community care facility unless the licensee is satisfied of the person's good character and suitability for employment in the community care facility after the licensee
    - (a) obtains a criminal record check under the *Criminal Records Review Act* for the person, and
    - (b) examines character references for the person.
  - (2) The licensee must not permit a person over the age of 12, other than a person in care or a parent of a person in care enrolled at the community care facility, to be ordinarily present on the premises of a community care facility during the time that persons in care are present, unless the person is of good character and the licensee has obtained a criminal record check under the *Criminal Records Review Act* for that person.
  - (3) If the licensee is not a corporation, the licensee must be of good character and must submit to the registrar under the *Criminal Records Review Act* an authorization to obtain a criminal record check under that Act for the licensee.
  - (4) The licensee must retain all results of the criminal record check referred to in this section as long as the subject of the criminal record check remains an employee of the community care facility.
  - (5) The licensee must retain records of all character references done under subsection (1) (b) for at least one year, after which the records must be returned to the person who was the subject of the check or be destroyed.
  - (6) The licensee must retain all signed original authorization forms for a minimum of 5 years.

#### **Employee standards**

- 6
- (1) The licensee must not employ a person in a community care facility as
    - (a) an educator, unless the person has the appropriate certificate, or
    - (b) an assistant or responsible adult, unless the person has the qualifications required by section 11 or 12, as applicable.
  - (2) A licensee must ensure that each of its employees who works in or about a community care facility, at all times,
    - (a) possesses the personality, ability and temperament necessary to maintain the spirit, dignity and individuality of the persons being cared for,
    - (b) possesses the training and experience and demonstrates the skills necessary to carry out the duties assigned to the employee, and
    - (c) is physically and mentally competent to carry out the duties assigned to the employee.

### **Manager**

- 7 (1) A licensee who is not the manager of the community care facility must ensure that the manager
- (a) is a person of good character,
  - (b) has the personality, ability and temperament necessary to manage a community care facility in a manner that will maintain the spirit, dignity and individuality of the persons being cared for, and
  - (c) is physically and mentally competent to carry out assigned duties.
- (2) A manager must not manage more than one community care facility.

### **Director of the early childhood educator registry**

- 8 The Lieutenant Governor in Council may, by order, appoint the director of the early childhood educator registry, and may set the terms and conditions of that appointment.

### **Qualifications for an early childhood educator certificate**

- 9 (1) The director of the early childhood educator registry may issue an early childhood educator certificate to an applicant who
- (a) has successfully completed a basic early childhood education training program
    - (i) through an educational institution listed in item 1 of Schedule B, or
    - (ii) that is equivalent, in the opinion of the director of the early childhood educator registry, to a program offered by an educational institution described under subparagraph (i),
  - (b) has completed 500 hours of work experience in Canada
    - (i) within 5 years after completion of a training program described in paragraph (a),
    - (ii) in not more than 2 community care facilities as defined in section 37, 42, 47, 52, 57, 71 or 76, and
    - (iii) under the direction of
      - (A) an educator, if the work experience is completed in the Province, or
      - (B) an individual acting in a position equivalent to an educator in a child care setting outside the Province, in any other case,
  - (c) is recommended by the person or persons under whose direction the work experience was completed and who can attest to the applicant's suitability to act as an educator, and
  - (d) is of good character.
- (2) If an applicant has, in qualifying for another profession, completed a course that the director of the early childhood educator registry considers is at least equivalent to a course forming part of a training program referred to in subsection (1) (a) (i), the director of the early childhood educator registry may exempt the applicant from the requirement to complete that course.

- (3) For the purpose of subsection (1) (a) (ii), the director of the early childhood educator registry may refuse to issue a certificate to a person solely on the basis that the educational institution from which the person received training is not approved by a provincial, state, national or other government body.

**Qualifications for other certificates**

- 10 (1) The director of the early childhood educator registry may issue a special needs early childhood educator certificate or an infant and toddler educator certificate to an applicant who
- (a) qualifies for an early childhood educator certificate under section 7, and
  - (b) has successfully completed, as applicable,
    - (i) a special needs early childhood educator training program through an educational institution listed in item 2 (a) of Schedule B,
    - (ii) an infant and toddler educator training program through an educational institution listed in item 2 (b) of Schedule B, or
    - (iii) a program that is equivalent, in the opinion of the director of the early childhood educator registry, to a program offered by an educational institution described under subparagraph (b) (i) or (ii).
- (2) For the purpose of subsection (1) (b) (iii), the director of the early childhood educator registry may refuse to issue a certificate to a person solely on the basis that the educational institution from which the person received training is not approved by a provincial, state, national or other government body.

**Qualifications for assistants**

- 11 To qualify for employment in a community care facility as an assistant, a person must
- (a) be of good character,
  - (b) be able to provide care and mature guidance to persons in care, and
  - (c) either
    - (i) be in the process of qualifying for a certificate under section 9, or
    - (ii) have completed a training program that is equivalent, in the opinion of the director of the early childhood educator registry, to one course of a basic early childhood education program referred to in section 9 (1) (a) (i).

**Qualifications for responsible adults**

- 12 To qualify for employment in a community care facility as a responsible adult, a person must
- (a) be of good character,
  - (b) have reached 19 years of age,
  - (c) be able to provide care and mature guidance to persons in care,
  - (d) either have completed a course on the care of young children or have relevant work experience, and
  - (e) if persons in care in a residential care facility are

- (i) less than 6 years of age, have completed a course on the care of young children or have relevant work experience, or
- (ii) from 6 to less than 19 years of age, have completed a course in the care of children or youths or have relevant work experience.

**Expiry and renewal of a certificate**

- 13
- (1) A certificate expires on the 5th anniversary after its date of issue.
  - (2) On application before a certificate expires, the director of the early childhood educator registry may renew a certificate if satisfied that
    - (a) the applicant meets the requirements of section 6 (2) of this regulation, and
    - (b) during the term of the current certificate, the applicant
      - (i) has completed 300 hours of work experience in the field of early childhood education, and
      - (ii) has
        - (A) attended at least 2 seminars, conferences or workshops on early childhood education, lasting a total of at least 12 hours, or
        - (B) completed a course relating to early childhood education.
  - (3) On application after a certificate expires, the director of the early childhood educator registry may issue a new certificate if satisfied that
    - (a) the applicant meets the requirements of section 6 (2) of this regulation,
    - (b) during the term of the expired certificate, the applicant completed the requirements set out in subsection (2) (b) (i) and (ii), and
    - (c) the applicant's failure to apply before the expiry of the certificate was due to circumstances beyond the control of the applicant.

**Variation, suspension or cancellation of a certificate**

- 14
- (1) In this section:
    - “**action**”, in relation to a certificate, means a decision by the director of the early childhood educator registry
      - (a) to attach or vary terms or conditions of a certificate, or to suspend or cancel a certificate, under subsection (2), or
      - (b) not to issue a new certificate under section 13;
    - “**written response**” means a written response referred to in subsection (3) (b).
  - (2) The director of the early childhood educator registry may attach or vary terms or conditions of a certificate, or suspend or cancel a certificate, if, in the opinion of the director of the early childhood educator registry, the certificate holder
    - (a) no longer meets the requirements in section 6 (2) of this regulation, or
    - (b) has engaged in conduct that detrimentally affected, or may detrimentally affect, the health, safety or well being of a person in care.
  - (3) Thirty days before taking an action, the director of the early childhood educator registry must give the certificate holder
    - (a) written reasons for the action, and

- (b) written notice that the certificate holder may give a written response to the director of the early childhood educator registry setting out the reasons why the director of the early childhood educator registry should make a decision under subsection (4) respecting the action.
- (4) If the director of the early childhood educator registry considers that this would be appropriate in the circumstances, the director of the early childhood educator registry may, on receipt of a written response,
  - (a) delay or suspend the implementation of the action if
    - (i) the director of the early childhood educator registry requires further time to consider the written response or for an investigation under section 4 (1) (d) or 15 (1) (b) or (d) of the Act to be completed, and
    - (ii) it is reasonable to conclude that, if the delay or suspension is granted, the health or safety of no person in care will be placed at risk, or
  - (b) take the action.
- (5) The director of the early childhood educator registry must give written reasons to the certificate holder on acting or declining to act under subsection (4).
- (6) A certificate holder may not give the director of the early childhood educator registry a further written response concerning an action on or after receipt of written reasons under subsection (5) concerning the action.

#### **Posting of licence**

- 15 (1) The licensee must display the following in a prominent place in the community care facility:
  - (a) the licence, including any terms or conditions of the licence;
  - (b) the name of the manager;
  - (c) a copy of the current certificate of each educator employed at the community care facility.
- (2) Subsection (1) does not apply if the community care facility is located in a private single family dwelling as defined in section 9 (7) of the Act.

#### **Health of employees**

- 16 The licensee must
  - (a) ensure that, before a person is employed in a community care facility, the person provides the licensee with the written opinion of a medical practitioner that the mental and physical health of the person is adequate for the duties to be assigned,
  - (b) require each employee, as a condition of employment, to comply with the Province's immunization and tuberculosis control programs, and
  - (c) keep records respecting each employee's compliance with and participation in the programs referred to in paragraph (b) and, on request, make the records available to the medical health officer.

## PART 2 – GENERAL

### Staffing

- 17
- (1) The licensee must ensure that the applicable ratio of employees to persons in care, as set out in this regulation, is maintained in a community care facility at all times.
  - (2) If an educator is absent from a community care facility, the licensee must appoint another educator or an assistant to assume the responsibilities of the absentee.
  - (3) If an assistant is absent from a community care facility, the licensee must appoint an educator, another assistant or a responsible adult to assume the responsibilities of the absentee.
  - (4) If a responsible adult is absent from a community care facility, the licensee must appoint an educator, an assistant or another responsible adult to assume the responsibilities of the absentee.
  - (5) If an employee absence exceeds one month, a person who is less qualified than the absentee must not be appointed under subsection (2), (3) or (4) without the approval of the medical health officer.
  - (6) The licensee must immediately notify the medical health officer if the manager resigns or is expected to be absent from duty for more than 21 consecutive days.
  - (7) The licensee must immediately notify the medical health officer of any changes in the permanent personnel.
  - (8) The licensee must ensure that persons in care, while at the community care facility or on an outing organized by employees, are under the supervision of an employee who is capable of ensuring that effective communication will take place during an emergency.

### Supervision of persons in care

- 18
- The licensee must ensure that persons in care are supervised at all times by a responsible adult, an educator or an assistant, and that a second adult is readily available.

### Release of a person in care from a community care facility

- 19
- (1) The licensee must obtain in writing from a parent of a person in care, and maintain at the community care facility, the name of each person authorized to remove the person in care from the community care facility.
  - (2) The licensee must ensure that a person in care is not released from a community care facility to anyone except
    - (a) a parent of the person in care, or
    - (b) a person authorized under subsection (1).
  - (3) The licensee must have written policies and procedures to guide employee actions when
    - (a) a person referred to in subsection (2)
      - (i) appears to be incapable of providing safe care, or

- (ii) does not arrive to pick up the person in care, or
- (b) a person not authorized under subsection (1) requests the release of the person in care from the community care facility.

**Parental access**

- 20 The licensee must ensure that a parent of a person in care has reasonable access to a person in care while that person in care is in the community care facility.

**Records and consents**

- 21 (1) The licensee must maintain at the community care facility current records showing the following information in respect of each person in care:
- (a) name, sex, date of birth, medical insurance plan number and immunization record;
  - (b) date of enrolment in the community care facility;
  - (c) daily attendance record;
  - (d) name and telephone number of a parent, medical practitioner and emergency contact person;
  - (e) any therapeutic diet or special instruction that is recommended or given by a medical practitioner and of which a parent or the medical practitioner has notified the licensee in writing;
  - (f) any medication that is prescribed by a medical practitioner or provided by a parent that the licensee has agreed to administer, and any instruction on administering that medication;
  - (g) the times any diet referred to in paragraph (e) is given or medication referred to in paragraph (f) is administered;
  - (h) any other instruction given by a parent;
  - (i) any illness or medical disability disclosed to the licensee by the person in care or their parent or medical practitioner.
- (2) The licensee must obtain in writing from a parent of a person in care, and maintain at the community care facility, consent for employees to call a medical practitioner or ambulance for the person in care in case of accident or illness, if the parent of the person in care cannot immediately be reached.

**Medication**

- 22 (1) If a licensee has agreed with a parent to give a person in care any medication prescribed by a medical practitioner or provided by the parent, the licensee must ensure that the medication is administered to the person in care in the amount and at the times specified in the person in care's record.
- (2) A licensee must ensure that medication is not given to a person in care while under the care or supervision of the licensee, except in accordance with subsection (1).

### **Notification of illness or injury**

- 23 (1) A licensee must immediately notify a parent of a person in care or the person named for that purpose in the person in care's record under section 21 (1) (d) if, while under the care or supervision of the licensee,
- (a) the person in care becomes ill or is injured, or
  - (b) the person in care is involved in a reportable incident.
- (2) A licensee must notify the medical health officer within 24 hours after
- (a) a person in care is involved in a reportable incident while under the care or supervision of the licensee, or
  - (b) it comes to the attention of the licensee that a person in care enrolled in the community care facility has a reportable communicable disease as defined in section 1 of the *Health Act* Communicable Disease Regulation, B.C. Reg. 4/83.
- (3) A licensee must maintain a log of
- (a) minor accidents and illnesses that do not require medical attention and are not reportable incidents, and
  - (b) unexpected events involving a person in care.

### **Person in care who becomes ill**

- 24 The licensee must
- (a) provide in the community care facility a quiet, clean resting area for persons in care who become ill while under the care or supervision of the licensee, and
  - (b) ensure that a person in care who becomes ill is under the close supervision of an adult.

### **Health and hygiene program**

- 25 The licensee must establish a program for persons in care enrolled in a community care facility to instruct them in, and to practise the rules of, health and hygiene.

### **First aid**

- 26 The licensee must
- (a) provide and maintain first aid kits approved by the medical health officer,
  - (b) ensure that first aid kits are readily accessible to the employees of a community care facility at all times, both on and off the premises, and
  - (c) ensure that persons in care have immediate access to an employee who holds a valid first aid certificate awarded to the employee after completion of a course listed in Schedule C.

### **Medications, poisons, etc.**

- 27 The licensee and the employees of a community care facility must ensure that
- (a) all medications are kept in a locked container, and
  - (b) no poisonous substance or potentially hazardous object is accessible to a person in care.

### **Emergency procedures and fire drills**

- 28 The licensee must
- (a) establish emergency procedures before the opening of the community care facility and ensure that all employees are thoroughly trained in the procedures, and
  - (b) post and practise a system of fire drills approved by the local assistant to the fire commissioner.

### **Telephone**

- 29 The licensee must ensure that there is an operating telephone within the community care facility and that the telephone is readily accessible to all employees.

### **Furniture, equipment and fixtures**

- 30 (1) The licensee must supply appropriate equipment, furniture and supplies and must ensure that any equipment, furniture or fixture in the community care facility
- (a) is of sturdy, safe construction, is easy to clean and is free from hazards; and
  - (b) is placed so that it will not interfere with exits.
- (2) The licensee must ensure that the community care facility is cleaned on a regular basis and that a reasonable level of cleanliness is maintained at all times.

### **Discipline and abuse**

- 31 (1) The licensee must
- (a) provide employees and parents with a written statement of the community care facility's policy on discipline, and
  - (b) ensure that no person in care is, while under the care or supervision of the licensee, subjected to any of the following, including as a form of punishment:
    - (i) shoving, hitting, shaking, spanking or any other form of corporal punishment;
    - (ii) harsh, belittling or degrading treatment, whether verbal, emotional or physical, that would humiliate the person in care or undermine the person in care's self respect;
    - (iii) confinement, physical restraint or separation, without adult supervision, from other persons in care;
    - (iv) deprivation of meals, snacks, rest or necessary use of a toilet.
- (2) The licensee must ensure that a person in care is not, while under the care or supervision of the licensee, subjected to emotional abuse, physical abuse, sexual abuse or neglect as those terms are defined in Schedule F.

### **Program of activities**

- 32 The licensee must provide to persons in care a comprehensive and coordinated program of activities that
- (a) is designed for the development, care and protection of persons in care,

- (b) is appropriate for the age and development of the persons in care in each group in the community care facility, and
- (c) meets the standards set out in Schedule D.

#### **Play area**

- 33
- (1) The licensee must ensure that, weather permitting, persons in care enrolled in a community care facility, other than in a residential care facility or a community care facility defined in section 76, have regular daily play periods in an outdoor play area that complies with the requirements of this regulation.
  - (2) The licensee of a residential care facility must ensure that, weather permitting, persons in care have an opportunity for outdoor activities each day.
  - (3) The licensee must ensure that an outdoor play area in a community care facility is enclosed by a fence.

#### **Play materials and equipment**

- 34
- The licensee must ensure that
- (a) all play materials and all indoor and outdoor play equipment in a community care facility are suitable for the age and development of the persons in care enrolled in the community care facility, and
  - (b) all play materials are safe and all play equipment is safely constructed, free from hazards and in good repair.

#### **Nutrition**

- 35
- (1) The licensee must ensure that
    - (a) a person in care who is present in a community care facility for 2 or more hours in a day is provided with a nutritious snack,
    - (b) in addition to the snack provided in paragraph (a), a person in care who is present in a community care facility for 4 or more hours in a day is provided with a midday or evening meal or both,
    - (c) in addition to food provided under paragraphs (a) and (b), a person in care who is present in a community care facility for 6 or more hours in a day is provided with a second nutritious snack,
    - (d) in addition to the food provided under paragraphs (a) to (c), a person in care to whom overnight care is provided in a community care facility is provided with an evening nutritious snack and a morning meal, and
    - (e) the food provided to a person in care is sufficient, in quantity and kind, to supply the person in care with all or part of the nutrient intake per day that is recommended by Health Canada for children and youths in the relevant age group, taking into consideration the number of hours the person in care is present in the community care facility and the person in care's food preferences and cultural background.
  - (2) The licensee must ensure that a person in care is not fed by means of a propped bottle.

#### Overnight care

- 36 The licensee of a community care facility as defined in section 37, 42, 52 or 57 may provide overnight care to a person in care as long as the licensee, in addition to complying with the provisions of this regulation applicable in respect of the facility,
- (a) complies with the standards of care set out in Schedule E, and
  - (b) has, if overnight sleeping accommodation is provided, a satisfactory method of fire detection and second means of exit to the ground level from each floor on which a sleeping room is located.

#### Smoking

- 36.1 (1) A person must not smoke in a community care facility except in an area designated as a smoking area by the licensee.
- (2) The licensee must not designate as a smoking area an area to which persons in care have access.
- 2 *Sections 39, 44, 54 and 59 are amended by striking out "Subject to section 36, the licensee" and substituting "The licensee".*
- 3 *Section 51 (2) (a) is amended by striking out "director" and substituting "medical health officer".*
- 4 *Section 57 is amended by striking out the definitions of "facility" and "family child care" and substituting the following:*
- "community care facility" means a community care facility in which family child care is provided, if the community care facility is the licensee's primary place of residence;*
- "family child care" means the provision, primarily by the licensee, of*
- (a) care to children, and
  - (b) opportunities for the social, emotional, physical and intellectual growth of children.
- 5 *Sections 66, 67.1, 81 (1) and 82 are repealed.*
- 6 *The following section is added:*

#### Transitional – letters of permission

- 83 (1) Despite the re-enactment of section 11, a person holding a letter of permission issued before the re-enactment of section 11 may continue to exercise the benefits and privileges acquired under the letter in accordance with any terms or conditions contained in the letter until the earlier of
- (a) the expiry of the letter of permission, or
  - (b) June 1, 2005.
- (2) This section is repealed effective June 1, 2005.

- 7 *Schedule C is amended by striking out “Medic First Aid Paediatric Program” and substituting “Pediatric Medic First Aid”.*
- 8 *Schedule E is amended*
- (a) *in section 9 by striking out “Subject to section 10, where” and substituting “If”, and*
- (b) *by repealing section 10.*
- 9 *The following Schedules are added:*

## SCHEDULE F

[Section 22]

### REPORTABLE INCIDENTS

- 1 For the purpose of this regulation, any of the following is a reportable incident:
- “**aggressive or unusual behaviour**” means aggressive or unusual behaviour by a person in care towards other persons, including another person in care, which has not been appropriately assessed in the individual's care plan;
  - “**attempted suicide**” means an attempt by a person in care to take his or her own life;
  - “**death**” means any death of a person in care;
  - “**disease outbreak or occurrence**” means an outbreak or the occurrence of a disease above the incident level that is normally expected;
  - “**emergency restraint**” means any use of a restraint that is not approved and documented in the care plan of a person in care;
  - “**emotional abuse**” means any act, or lack of action, which may diminish the sense of well-being of a person in care, perpetrated by a person not in care, such as verbal harassment, yelling or confinement;
  - “**fall**” means a fall of such seriousness, experienced by a person in care, as to require emergency care by a physician or transfer to a hospital;
  - “**financial abuse**” means
    - (a) the misuse of the funds and assets of a person in care by a person not in care, or
    - (b) the obtaining of the property and funds of a person in care by a person not in care without the knowledge and full consent of the person in care or their substitute decision maker;
  - “**medication error**” means an error in the administration of a medication which adversely affects a person in care or requires emergency intervention or transfer to a hospital;
  - “**missing or wandering person**” means a person in care who is missing;
  - “**motor vehicle injury**” means an injury to a person in care that occurs during transit by motor vehicle while the person is under the care and supervision of the licensee;
  - “**neglect**” means the failure of a care provider to meet the needs of a person in care, including food, shelter, care or supervision;
  - “**other injury**” means an injury to a person in care requiring emergency care by a physician or transfer to a hospital;

**“physical abuse”** means any physical force that is excessive for, or is inappropriate to, a situation involving a person in care and perpetrated by a person not in care;

**“poisoning”** means the ingestion of a poison or toxic substance by a person in care;

**“service delivery problem”** means any condition or event which could reasonably be expected to impair the ability of the licensee, or the employees of the licensee, to provide care or which affects the health, safety or well-being of persons in care;

**“sexual abuse”** means any sexual behaviour directed towards a person in care by an employee of the licensee, a volunteer or any other person in a position of trust, power or authority and includes

(a) any sexual exploitation, whether consensual or not, and

(b) sexual activity between persons in care if the difference in age or power between them is so significant that the older or more powerful person in care is clearly taking sexual advantage of the younger or less powerful person in care;

**“unexpected illness”** means any unexpected illness of such seriousness that it requires a person in care to receive emergency care by a physician or transfer to a hospital.

## SCHEDULE G

*[Exemptions not permitted – section 2 (3)]*

1 For the purposes of section 16 of the Act, a medical health officer may grant an exemption from any but the following sections of the Act:

1 *[definitions];*

2 *[application];*

5 *[operating or advertising without a licence];*

6 *[age of licensee or manager];*

7 (1) (a), (b) and (d) *[standards to be maintained];*

18 (2) and (3) *[certain advertisements or inducements prohibited];*

22 *[protection for persons who report].*

2 For the purposes of section 16 of the Act, a medical health officer may grant an exemption from any but the following sections of the regulation:

1 *[definitions];*

5 *[criminal record checks];*

18 *[supervision of persons in care];*

23 (1) and (2) *[notification of illness or injury];*

31 *[discipline and abuse];*

83 *[transitional – letters of permission].*

10 ***The Child Care Licensing Regulation is further amended***

(a) ***by striking out “child”, “child’s” and “children” wherever they appear in Part 9 and Schedules D and E and substituting “person in care”, “person in care’s” and “persons in care”, as applicable, and***

(b) ***by striking out “facility” and substituting “community care facility” wherever it appears in Parts 3 to 8 and 10 to 11.1 and Schedule E.***

## APPENDIX 3

# COMMUNITY CARE AND ASSISTED LIVING REGULATION

### Definition

- 1 In this regulation, “Act” means the *Community Care and Assisted Living Act*.

### Prescribed services

- 2 For the purpose of the definition of “prescribed services” in section 1 [definitions] and section 34 (4) (a) [power to make regulations] of the Act, “prescribed services” mean the following:
  - (a) regular assistance with activities of daily living, including eating, mobility, dressing, grooming, bathing or personal hygiene;
  - (b) central storage of medication, distribution of medication, administering medication or monitoring the taking of medication;
  - (c) maintenance or management of the cash resources or other property of a resident or person in care;
  - (d) monitoring of food intake or of adherence to therapeutic diets;
  - (e) structured behaviour management and intervention;
  - (f) psychosocial rehabilitative therapy or intensive physical rehabilitative therapy.

### Exemptions not permitted

- 3 A medical health officer must not, under section 16 of the Act, exempt the delivery of any service described in section 2 from the definition of a prescribed service.

### Appeals to the board

- 4 An appeal to the board must be in writing, in the form specified by the board.

PROVINCE OF BRITISH COLUMBIA  
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. **477**, Approved and Ordered **MAY 13 2004**

  
\_\_\_\_\_  
~~Lieutenant Governor~~  
Administrator

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the ~~Lieutenant Governor~~ <sup>Administrator</sup>, by and with the advice and consent of the Executive Council, orders that the following Assisted Living Regulation is made:

**ASSISTED LIVING REGULATION**

**Definition**

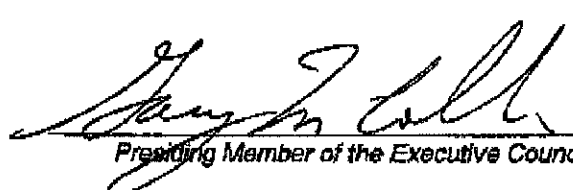
1 In this regulation, "Act" means the *Community Care and Assisted Living Act*.

**Registration expiry**

2 Regardless of when an assisted living residence is registered under the Act, the registration of an assisted living residence expires on March 31 after the date of issue.

DEPOSITED  
MAY 14 2004  
B.C. REG. 218/2004

  
\_\_\_\_\_  
Minister of Health Services

  
\_\_\_\_\_  
Presiding Member of the Executive Council

*(This part is for administrative purposes only and is not part of the Order.)*

Authority under which Order is made:

Act and section:- Community Care and Assisted Living Act, S.B.C. 1996, c. 75, ss. 34, 39 and 58

Other (specify):- \_\_\_\_\_

April 27, 2004

577 /2004/3