

**Office of Health Facility Licensure Certification
408 Leon Sullivan Way
Charleston, WV 25301-1713
(304)558-0050**

WHAT IS A LEGALLY UNLICENSED HEALTH CARE HOME?

**W. Va. State Code §16-5E-1 et., seq
Legislative Rule 64CSR60**

What is a Legally Unlicensed Health Care Home?

A Legally Unlicensed (L/U) Health Care Home is defined as any residence in this state that provides accommodations, personal assistance and supervision, whether for compensation or not, for a period of more than twenty-four (24) hours, to one (1) to three (3) persons who are not related to the operator by blood or marriage within the degree of consanguinity of second cousin. These persons may be dependent upon the services of others by reason of physical or mental impairment or may require limited and intermittent nursing care, including those individuals who qualify for and are receiving services by a licensed hospice.

Are Legally Unlicensed Health Care Homes Licensed?

A Legally Unlicensed Care Home is not licensed. All homes that operate as Legally Unlicensed Care Homes, in West Virginia, must be registered with The Office of Health Facility Licensure and Certification (OHFLAC) and meet the applicable standards to permit them to provide services to individuals in their home. Failure to register and to comply with the requirements can and will result in the assessment of civil monetary penalties as required by West Virginia law, §16-5E-6.

Specific Points to Remember:

1. You can operate only one (1) home. You cannot have individuals in a separate home and take individuals into your personal home. This would be considered as operating two homes. Husband and wife are considered as one.
2. You cannot have more than **three (3) residents** in the home. If you have relatives, you must provide proof of relationship, including documentation of the relationship line. You cannot provide day care to residents. You cannot take a resident on a “temporary basis” unless you have less than three residents. Your census should never be greater than three individuals, unless, the fourth person is a relative.
3. If you move to another location, you must notify the office. If you should sell the home to someone else, your registration becomes invalid and the new owner is required to complete the registration process to operate.
4. You are required to comply with all state and local laws and rules.

5. Someone must be available to assist the residents at all times. Leaving resident's alone or without adequate supervision can be considered as neglect.
6. All household members over eighteen (18) and anyone providing care for residents must have a criminal background check which is conducted by obtaining fingerprint and submitting it to the WV State Police. A record of the fingerprint check must be kept in the home and be available for review. To obtain additional fingerprint cards for new employees, you can contact our office and request them or contact the local police detachment.
7. Resident information must be kept in a secure place in the home.
8. The home must be maintained in a clean, safe, sanitary condition. The home must be in good repair and free of clutter, dirt and odors.
9. Each resident must have a separate bed, in a bedroom type space. Two (2) residents may share a bedroom, but there must be ample space for both beds and the resident's belongings.
10. Residents must be given three (3) meals daily plus snacks, seven (7) days a week and a special diet if ordered by the physician. Meals should be nutritious and meet the resident's needs and choices. Food should be sufficient to maintain the resident's weight. You should maintain a meal log or menus to verify what is served and weighing resident's monthly is recommended.
11. You must have a copy of the physician's order for each medication which is administered to the resident.
12. Medications must be kept in the original pharmacy labeled container until administered to the resident. You must maintain a record of medication administration that indicates the drug name, dose, time administered and who administered the medication. You cannot use "pill minders" or other containers for resident medications.
13. Medications must be kept in a locked cabinet or container.
14. **You cannot admit anyone to the home that has nursing care needs** such as feeding tubes, Foley catheter, wound care or injections. If a resident develops a need for nursing care after they have been admitted to the home, they must be discharged to a facility that can provide the appropriate care.
15. All resident's who are unable to walk or are in a wheelchair must have direct exit to the outside. (For example, if the bedrooms are on the second floor, a fire escape must be present from that floor).
16. You cannot abuse or neglect residents in your care. Examples may include:
 - Verbal abuse: yelling, screaming, talking in a demeaning or derogatory way, threatening physical harm
 - Physical abuse: hitting, scratching, pinching, slapping, pushing, and treating roughly.

- **Neglect:** Not providing the needed care which may include not changing diapers/depends, not giving baths, not providing appropriate meals or feeding assistance, not giving medications, not seeking medical care when needed or leaving residents alone without supervision

17. A resident cannot be physically restrained, such as locking the resident in their room, tying the resident to a chair or bed, blocking a door or exit or using bed side rails.

18. You cannot serve as legal representative for your residents, Power of Attorney (POA) or Medical Power of Attorney (MPOA), Health Care Surrogate or Guardian.

19. You cannot manage resident money or funds.

Penalties that may be applied for violations of standards:

1. Any service provider who fails to register with OHFLAC shall be guilty of a misdemeanor and, upon conviction, shall be assessed a fine of \$500 – 2,500 or imprisoned in jail for a period of 10-30 days.
2. Any person who interferes with or impedes the lawful enforcement of the provisions of this article is guilty of a misdemeanor and, upon conviction, shall be assessed a fine of \$500 – 2,500 or imprisoned in jail for a period of 10-30 days.
3. If, after investigating a complaint, it is determined that the home is housing more than three (3) residents, OHFLAC shall assess a civil penalty of \$50 per day per the number of residents exceeding three (3). Each day the violation continues, after the date of citation shall constitute a separate violation. The date of citation is the date the facility receives the written statement of deficiencies.
4. The Director may order closure of a home for failure to correct deficiencies in accordance with the directed plan of correction.

Additional copies of Legally Unlicensed Health Care Home rules and regulations may be obtained by connecting to OHFLAC website at www.wvdhhr.org/ohflac. Click on State Rules at the top and then other licensure rules.

Should you have any questions about the regulations, you may call the Assisted Living Program at (304) 558-0050 and ask for Robin Roberts, Office Assistant III or Sharon Kirk, Program Manager.

Please sign one copy and return with the registration form. Keep one copy for your file.

Signature/provider

Date

Note: You should become familiar with all regulations. This document is intended to assist in educating and clarifying the regulatory requirements.