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## **TITLE 218 – DEPARTMENT OF HUMAN SERVICES**

### **CHAPTER 40 – DIVISION OF ELDERLY AFFAIRS**

#### **SUBCHAPTER 00 – N/A**

PART 3 – Rules, Regulations, and Standards Governing Security for Housing for the Elderly

### **3.1 Introduction**

#### **3.1.1 Preface**

A. These rules and regulations supersede any and all prior rules and regulations governing the security for housing for the elderly promulgated pursuant to R.I. Gen. Laws Chapter 42-66.1. They have been promulgated to provide basic information about the nature of required security systems, personnel and equipment designed to ensure the health, safety and welfare of elderly citizens who are residents of housing for the elderly in Rhode Island.

1. Pursuant to the provisions of the Administrative Procedures Act, R.I. Gen. Laws § 42-35-3, the following were given consideration in arriving at the regulations:
  - a. alternative approaches to the regulations; and
  - b. duplication or overlap with other state regulations. No alternative approach, duplication, or overlap was identified.

#### **3.1.2 Program Authority**

The Security for Housing for the Elderly Program is authorized by, and these regulations are promulgated under, the authority of R.I. Gen. Laws Chapter 42-66.1 which requires that "Every public and private housing complex designated by the federal government as housing for the elderly in the state shall establish and maintain a safety and security plan, approved by the director, by July 1, 1993" and R.I. Gen. Laws § 42-66.1-11, which provides for an administrative penalty for failure to comply with the requirements of R.I. Gen. Laws § 42-66.1-8 and with these rules and regulations.

#### **3.1.3 Nondiscrimination and Civil Rights Policy**

All public and private housing complexes designated by the federal government as housing for the elderly located in the state of Rhode Island shall be responsible for maintaining a policy of nondiscrimination in the provision of

security services to residents and in the employment of staff without regard to race, color, creed, national origin, sex, sexual orientation, age, handicapping condition or degree of handicap, in accordance with 42 U.S.C. § 2000d et seq.; Americans with Disabilities Act of 1990, 42 U.S.C. § 12101; Public Law 88-352, July 2, 1964, 78 Stat. 253, 42 U.S.C. Sec. 2000e et. seq; United States Department of Labor Regulations, 20 C.F.R. § 1 - 1099; Title V of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §792; the 1990 Americans With Disabilities Act, 42 U.S.C. § 12101; R.I. Gen. Laws Chapter 42-87, which states that "Discrimination" includes those acts prohibited on the basis of race by 42 U.S.C. §1981, 42 U.S.C. § 1983 and those on the basis of handicap by 29 U.S.C. § 794 and those on the basis of disability by U.S.C. § 12100 et seq. and U.S.C. § 12101 et seq., and those on the basis of handicap by R.I. Gen. Laws Chapter 28-5; and the Rhode Island Fair Employment Practices Act, R.I. Gen. Laws § 28-5-7.3.

### **3.1.4 Statement of Purpose**

In order to ensure the health, safety and welfare of elderly residents of Rhode Island housing for the elderly, the Division has established these rules and regulations to assist in providing security at housing for the elderly complexes.

### **3.1.5 Program Jurisdiction**

All public and private housing complexes designated by the federal government as housing for elderly in the State of Rhode Island shall comply with the rules and regulations set forth in this document.

### **3.1.6 Compliance with All Laws, Codes, Rules and Regulations**

All public and private housing complexes designated by the federal government as housing for the elderly located in the state of Rhode Island shall be responsible for complying with all local, state and federal laws, codes, rules and regulations that apply to the program or facility.

## **3.2 Definitions and General Requirements**

### **3.2.1 Definitions**

- A. Whenever used in these rules and regulations, the following terms shall be construed as follows:
1. "Division" means the Rhode Island Division of Elderly Affairs, within the Department of Human Services.
  2. "Director" means the Director of the Division of Elderly Affairs or her/his designee.

3. "Housing complex" means the residential building or buildings, areas designated for use by residents, and grounds leading to and from the building(s) and/or designated areas.
4. "Housing for the elderly" means private or public housing complexes designated by the federal government as housing for the elderly located in the State of Rhode Island.
5. "Management" means the representatives of an agency or organization, local government, or a private or nonprofit company who have full and exclusive legal authority for the owner or governing body.
6. "Periodic and ongoing resident security education program" means that at least once per quarter information on security concerns will be supplied by management to all tenants in one or more of the following methods: posters, pamphlets, brochures, and face-to-face formal presentations.
7. "Private housing complex" means housing for the elderly not owned and operated by the local public housing authority.
8. "Public housing complex" means housing for the elderly owned and operated by the local housing authority.
9. "Safety and security plan" means a building plan that addresses the safety and security needs of residents.
10. "Security equipment" means any mechanical/electrical security devices and/or physical improvements to the building or grounds that would contribute to the overall security and safety of the elderly housing complex.
11. "Security personnel" means any personnel providing security services at the housing for the elderly complex.

### **3.2.2 Variance Process**

- A. It is recognized that there will be need from time to time for a housing complex to bypass a specific rule or rules in order to best accomplish its stated philosophy, goals and purpose. This factor has been taken into consideration in the development of these rules and regulations, and the following procedure is to be used when a housing manager believes there is a compelling need for a variance:
  1. Application for a variance found below must be completed by housing manager and submitted to the Director.
  2. Upon receipt of a variance request, the Division will make acknowledgement in writing.

3. Within ten (10) working days of the receipt of the variance request, unless additional time is required to review the program and the reason for the variance, the Variance Review Committee will review the application and return a decision, in writing, to the applicant.
4. If the applicant is dissatisfied with the decision of the Director, an appeal of the decision may be made to the Executive Office of Health and Human Services, as outlined under "Medicaid Code of Administrative Rules, Section #0110, 'Complaints and Appeals'".

### **3.3 Tenant Education**

#### **3.3.1 Tenant Education**

- A. Housing for the elderly complexes shall maintain evidence of a periodic and ongoing resident security education program.
- B. The owner, manager, or governing body of a housing complex for the elderly shall develop and implement an ongoing resident security education program that shall include the components listed in §§ 3.3.1(B)(1) and (2) of this Part.
  1. Orientation

All tenants of housing for the elderly shall receive an initial resident education and training security orientation at the time of assuming occupancy.
  2. Appropriate Language

Security information shall be provided in languages other than English, as necessary. The initial security orientation shall be provided to limited English speaking persons in their native language. Relatives and friends used by non-English speaking tenants as interpreters may provide an opportunity to enable housing managers to provide security orientation without requiring other special arrangements.
  3. Safety Orientation Checklist

For every elderly housing complex, a safety orientation checklist shall be utilized at the time of occupancy, co-signed by management and tenant, dated and made part of the tenant's permanent file. The safety orientation checklist shall be signed by the resident upon completion shall contain the following elements:

    - a. General Precautions:
      - (1) Keeping doors and windows secured;

- (2) Being familiar with:
  - (AA) Pull cords, lock systems and intercom systems
  - (BB) Security measures and policies concerning keys/duplicate/cards
  - (CC) Emergency exits and fire doors
  - (DD) Fire/Safety evacuation procedures
  - (EE) Smoke and fire alarms
  - (FF) Emergency phone numbers
  - (GG) Security systems, including guards and devices
  - (HH) Introduction to building personnel, and;
- (3) Other responsibilities for personal safety, including:
  - (AA) Handling newspapers and mail
  - (BB) Rubbish and recycling safety measure
  - (CC) Handling delivery and repair service
  - (DD) Soliciting procedures.

b. Security Procedures:

- (1) Using entrance keys/cards;
- (2) Entrance procedures concerning visitors;
- (3) Storage areas;
- (4) Mail boxes;
- (5) Using common areas;
- (6) Awareness of current safety provisions;
- (7) Safety procedures in emergencies;
- (8) Locking the car and not leaving any personal property of value in the car when not in use;
- (9) Safety procedures concerning care and parking lot, and;

- (10) Handbags, billfolds carried on person.
- c. Information about the Neighborhood:
  - (1) Available services of local financial institutions (including safe deposit boxes for valuables);
  - (2) Use of public/common areas on and off the housing complex property including, but not limited to: "Prohibition of Smoking in Public Spaces" (R.I. Gen. Laws Chapter 23-20.10), and;
  - (3) General orientation concerning a local neighborhood and areas to avoid.
- d. Reporting Procedures:
  - (1) Responsibilities of management, security personnel and police, and
  - (2) Learning how and when to report any trouble or suspicious occurrences to management, security personnel, or police.
- 4. Time Intervals and Tenant Education
  - a. Tenant education (that which is offered after the initial orientation) shall be ongoing and periodic, as defined herein.
- 5. Tenant Education Curriculum
  - a. Tenant education curriculum shall include:
    - (1) Protecting Personal Property:
      - (AA) Locking the car and not leaving any personal property of value in the car when not in use;
      - (BB) Safety procedures concerning car and parking lot;
      - (CC) Handbags, billfolds carried on person;
      - (DD) Keeping sales slips and serial numbers of all valuables;
      - (EE) Utilizing available credit cards, travel club or other registration services for registering valuables;
      - (FF) Consulting a local police department to see if they engrave identification numbers on valuables for municipal residents, and;

(GG) Encouraging direct deposit of social security checks.

(2) Information about the Neighborhood:

(AA) Available services of local financial institutions (including use of safe deposit boxes for valuables);

(BB) Use of public/common areas on and off the housing complex property, including, but not limited to: "Prohibition of Smoking in Public Spaces" (R.I. Gen. Laws Chapter 23-20.10);

(CC) Safety and crime prevention tips, and;

(DD) General orientation of local neighborhood and areas to avoid.

(3) Self-protection:

(AA) Emergency procedures and telephone numbers (both during and after management business hours, as well as a telephone number during business hours where tenants can reach management);

(BB) Recommended techniques regarding assault;

(CC) How to obtain emergency medical care; and

(DD) Fire/safety evacuation procedures demonstrated by fire department of the city or town in which the housing is located.

6. Records of Tenant Education

a. Management shall keep a record that tenants have received proper notice for tenant education and training presentations, events, and communications after initial orientation. A dated record of such notice shall be maintained in a master file of education and training events for a minimum of three (3) years and shall be available to the Division upon request.

b. Tenants shall be notified through appropriate means including bulletin boards, newsletters, rent mailers or other methods to ensure tenants are aware of the training being offered and to encourage maximum participation.

C. Prohibition of Smoking in All Enclosed Public Spaces

Compliance with the "Public Health and Workplace Safety Act" R.I. Gen. Laws § 23-20.10-3, which prohibits smoking in enclosed public spaces, will be included in the inspection of the sites designated above and the Department of Health shall be notified of any violations therein.

D. Main Door Keys

Management must maintain a list of all individuals to whom main door keys have been distributed.

### **3.4 Safety and Security Plan**

#### **3.4.1 Crime**

Management is responsible for being familiar with the level of criminal activity in the vicinity of the complex and for acting accordingly with respect to security, in light of such criminal activity. The Division strongly recommends the use of security guards. Any complex that chooses to hire security guards must be in compliance with § 3.4.2 of this Part.

#### **3.4.2 Requirements for Security Guards**

A. Security guards in elderly housing must meet the requirements of this Subchapter. The security guard schedule shall be determined by housing management, subject to reasonable review and approval by the Division.

1. Minimum Standards for Employment of Security Guards in Elderly Housing

Security guards must meet certain minimum standards for employment to be suitable for work in elderly residences:

- a. Housing directors or managers of housing for the elderly sites which have been determined to require security guards shall be responsible for ensuring that the security guards who work at their sites have completed training before they begin work at the site;
- b. Personal interview, and;
- c. Background screening to include:
  - (1) Bureau of Criminal Identification (mandatory);
  - (2) Personal references, if possible;
  - (3) Former employer's references, if possible.

- d. Failure to perform satisfactorily on any of the required examinations may result in disqualification from employment.

B. Offenses That Will Disqualify Security Guard Applicants from Employment

The following offenses will disqualify security guard applicants from employment. These offenses are similar to the lists of offenses disqualifying child day care workers and nursing home attendants from employment. Disqualifying offenses include:

1. Offenses against the person
  - a. Murder
  - b. Voluntary manslaughter
  - c. Kidnapping
  - d. Kidnapping with the intent to extort
  - e. First degree sexual assault
  - f. Second degree sexual assault
  - g. Third degree sexual assault
  - h. Assault with intent to commit specified felonies
  - i. Felony assault
  - j. Domestic assault
2. Offenses against the family
  - a. Exploitation for commercial or immoral purposes
  - b. Abuse of elderly persons
  - c. Abuse of handicapped persons
  - d. Abuse of disabled persons
  - e. Abuse of children
3. Offenses against property
  - a. Larceny
  - b. Breaking and entering

- c. Robbery
- d. Arson
- e. Burglary
- 4. Drug offenses
  - a. Any offense constituting a felony that is enumerated in R.I. Gen. Laws § 21-28-1.01 et. seq., the Uniform Controlled Substances Act.

C. Minimum Training Requirements for Security Guards

- 1. The following minimum standards for training to be utilized by each security guard company or manager at each housing site to which security guards are assigned shall include:
  - a. The written procedure manual for each site
  - b. Building and grounds orientation
- 2. Management shall maintain a personnel file on each security guard.
- 3. Tenants shall be prohibited from serving as security guards at sites/complexes in which they reside and except as provided below in this paragraph, from having master keys.
- 4. If management desires to have a tenant or a resident have a master key to apartments solely in order to assist other tenants with lockouts after management's normal business hours, the housing manager must request a variance permitting this pursuant to § 3.2.2 of this Part. The request must include documentation that the individual(s) have undergone a BCI check.

**3.4.3 Requirements for Security Devices/Equipment**

All housing sites in Rhode Island designated as Housing for the Elderly must have cameras attached to their continuously running or motion activated recorders for the main entrance to the building. As of July 1, 2007, the requirement set forth in the preceding sentence shall apply to all ground level entrance/exit doors. In the event that a housing complex seeks a variance to this requirement see § 3.2.2 of this Part, Variance Process, the factors that will be considered in granting a variance will include without limitation, a review of the location and setting of the elderly housing complex and if the doors have alarms attached and a review of police reports of activities around the building(s).

**3.4.4 Department of Corrections Notices**

Each elderly housing complex, as part of its tenant acceptance process, shall review and consider any notice provided to the complex by the Department of Corrections, as required by R.I. Gen. Laws § 42-56-10(23), concerning the tenant's or prospective tenant's status on parole and the Department of Corrections' recommendations, if any, regarding safety and security measures.

### **3.4.5 Reporting Requirements**

- A. Every public and private housing complex designated by the federal government as housing for the elderly in the state shall establish and maintain a safety and security plan, as defined in § 3.2.1(I) of this Part herein, that conforms to the criteria available through the Division.
- B. Every public and private housing complex designated by the federal government as housing for the elderly in the state shall submit the safety and security plan described in § 3.4.2 of this Part to the Director on or before the 1st day of July of each year.
- C. Notice of Changes in Housing Manager and Security Personnel. All housing for elderly shall notify the Division's Manager, Housing Program of any change in the housing manager and any change in security personnel at the housing site. This notification shall be made within thirty (30) days after the change in personnel.

## **3.5 Appeals Procedures and Assessment of Penalties**

### **3.5.1 Appeals Procedures**

- A. If the Division determines a housing complex is in violation of these regulations, the Division will give written notice of same to the management of the housing complex.
- B. Management will be allowed twenty (20) working days to remedy the problem which has been identified. A shorter time period or an immediate response may be required if there is a failure to meet a requirement which places the residents in the building(s) at risk. A longer time period to resolve the problem also may be permitted, at the Division's discretion.

### **3.5.2 Assessment of Penalties**

- A. If the problem has not been resolved within the time allowed, the housing complex may be assessed an administrative penalty up to \$1,000.00 plus interest, as determined by the Director. In such event, the housing complex for the elderly shall receive written notice written or electronically from the Director stating the Division's intent to assess an administrative penalty. The notice shall include:
  - 1. a concise statement of the circumstances that have given rise to the assessment of the penalty by the Director;

2. the amount which the Director seeks to assess;
  3. a statement of the housing complex's right to a hearing on the penalty assessed;
  4. the requirement to respond in writing within ten (10) days from receipt of notice of the penalty to request a hearing. Failure to respond within the ten (10) days will result in a waiver of the right to an administrative hearing; and
  5. the manner of payment should the housing complex for the elderly elect to pay the penalty and waive the hearing.
- B. Appeal of Denial of Variance: If an applicant for a variance is dissatisfied with any decision of the Director pursuant to § 3.2.2 of this Part, the applicant may request a hearing on the decision of the Variance Review Committee through the Executive Office of Health and Human Services, as outlined under "Medicaid Code of Administrative Rules, Section #0110, 'Complaints and Appeals'".

#### **3.5.4 Severability**

If any provision of the rules and regulations herein or the application thereof to any program or circumstances shall be held invalid, such invalidity shall not affect the provision or application of the rules and regulations which can be given effect, and to this end the provisions of the rules and regulations are declared to be severable.