

SUMMARY OF EXPRESS TERMS

This rule establishes procedures for the review and approval of applications for a not-for-profit corporation to be certified as an operator of a medical respite program. The Governor's Medicaid Redesign Team II (MRT II) recommended the establishment of standards for medical respite programs as a lower-intensity care setting for patients who are homeless or at risk of homelessness, and who would otherwise require a hospital stay, or lack a safe option for discharge and recovery. The rule requires that medical respite programs meet the minimum operating standards, offer the required services, provide sufficient qualified staff, implement a quality improvement program that is reviewed at least annually, meet the required physical standards of the facility, and maintain true, complete, accurate and current records for each recipient.

Pursuant to the authority vested in the Commissioner of Health by section 2999-hh of the Public Health Law, Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended by adding a new Chapter XV and Part 1007, to be effective upon publication of the Notice of Adoption in the State Register, to read as follows:

A new Chapter XV is added: Medical Respite Program

A new Part 1007 is added: Medical Respite Program

- Section 1007.1 Applicability
- Section 1007.2 Definitions
- Section 1007.3 Certification; Operating Certificate
- Section 1007.4 General Provisions
- Section 1007.5 Required Services
- Section 1007.6 Personnel
- Section 1007.7 Eligibility and Admission
- Section 1007.8 Discharge Planning
- Section 1007.9 Quality Improvement Activities; Policies and Procedures
- Section 1007.10 Food Service
- Section 1007.11 Recipient Rules
- Section 1007.12 Physical Standards
- Section 1007.13 Contracts
- Section 1007.14 Records

Title 10 of the New York Codes, Rules and Regulations

Chapter XV. Medical Respite Program

Part 1007. Medical Respite Program

Section 1007.1 Applicability. This Part shall be applicable to every person or entity seeking state certification to establish and operate a medical respite program pursuant to Article 29-J of the Public Health Law.

Section 1007.2 Definitions

The following words or terms when used in this Part shall have the following meanings:

- (a) Commissioner means the Commissioner of the New York State Department of Health.
- (b) Department means the New York State Department of Health.
- (c) Facility means the physical plant location where the medical respite program provides medical respite services to recipients.
- (d) Medical respite program means the not-for-profit corporation certified by the Department to serve recipients whose health condition necessitates the receipt of:
 - (1) Temporary room and board; and
 - (2) The provision or arrangement of the provision of health care services and supports; provided, however, that the operation of a medical respite program shall be separate and

distinct from any housing programs offered to individuals or their families who do not qualify as recipients.

(e) Medical respite services means

(1) Temporary room and board; and

(2) The provision or arrangement of the provision of health care services and supports; provided, however, that the operation of a medical respite program shall be separate and distinct from any housing programs offered to individuals or their families who do not qualify as recipients.

(f) Recipient means an individual who:

(1) Has a qualifying health condition that requires treatment or care;

(2) Does not require hospital inpatient, observation unit or emergency room level of care, or a medically indicated emergency department or observation visit or skilled nursing facility level of care; and

(3) Is experiencing homelessness or is at imminent risk of homelessness. Subject to subparagraph (i) of this paragraph, a person shall be deemed “homeless” if they lack a fixed, regular and adequate nighttime residence in a location ordinarily used as a regular sleeping accommodation for people.

(i) A medical respite program may provide services to a subpopulation of homeless recipients if the medical respite program establishes, to the satisfaction of the Department in its sole discretion, that such limitation is necessary to ensure the availability of a

funding source that will support the medical respite program's operations, and such limitations are otherwise consistent with any rules or regulations set forth in this Part.

This applies to conditions that may exist in connection with:

(a) Public funding provided by a federal, state or local government entity; or

(b) Private funding from a charitable entity or other nongovernmental source.

(g) Service plan means a written plan developed by the medical respite program for each recipient that addresses the recipient's clinical and other supportive service needs, goals and preferences and discharge indicators while in the medical respite program.

Section 1007.3 Certification; Operating Certificate

(a) The Department may issue a certificate of authority if the applicant has met the requirements of Article 29-J of the Public Health Law and this Part. The Department shall evaluate a medical respite program application based on the information contained in and submitted with the application and any other relevant information known to the Department. The Department will notify an applicant if the application is incomplete and provide the applicant an opportunity to submit any additional information to complete the application. Any application that remains incomplete 90 days after receiving a request from the Department for additional information may be denied.

(b) The following conditions must be satisfied in order for the Commissioner to approve an application:

(1) The applicant has filed an application for certification in such a manner and on such forms as prescribed by the Department.

(2) The application contains the name of the applicant, the location and description of the physical plant, and such other information as the Department may require.

(3) The applicant has demonstrated to the Commissioner's satisfaction that the applicant meets the requirements set forth in Article 29-J of the Public Health Law and the rules and regulations set forth in this Part.

(c) The application shall require applicants to submit documentation pertaining to the character, experience, competency and standing in the community of the proposed medical respite program's principals which shall include proposed incorporators, directors, officers, sponsors, and individual operators or partners. This information shall include but not be limited to, a demonstration to the Commissioner's satisfaction that the applicant does not:

(1) Appear on any federal or state excluded list;

(2) Have a record of poor performance in the results of monitoring reviews, complaint investigations, and fiscal or quality control audits performed by the Department or any other governmental entity;

(3) Appear on the Internal Revenue Service charities revocation list or have any other material deficiencies with respect to the operator's not-for-profit status;

(4) Have a deficiency regarding its registration status with the New York State Attorney General's Charities Bureau, or other deficiency that would preclude it from being in good standing with any agency within the State of New York; or

(5) Appear on any other applicable federal or New York State exclusion lists.

Section 1007.4 General Provisions

(a) The operator of a medical respite program must provide, through its employees, contractors and agents, an organized program that:

(1) Meets the operating standards set forth in this Part;

(2) Ensures the protection of recipient rights; and

(3) Promotes the social, physical and mental well-being of recipients.

(b) The operator of a medical respite program must maintain, make available for inspection and submit such statistical, financial, or other information, records or reports relating to the medical respite program as requested by and in the form specified by the Commissioner.

Section 1007.5 Required Services

(a) Medical respite programs shall provide, or arrange for the provision of, the following services in accordance with this Part:

(1) Temporary room and board, which must include, at a minimum:

- (i) A dedicated bed, available to a recipient 24 hours a day, seven days a week.
 - (ii) Meals in accordance with standards set forth by the Commissioner.
 - (iii) Compliance by the facility with the physical standards set forth by the Department in section 1007.12 of this Part.
 - (iv) The medical respite program shall provide the Department with any information relating to its physical plant environment and equipment necessary to evaluate its application.
- (2) Eligibility assessments and development and monitoring of service plans.
 - (3) Care coordination services.
 - (i) Arranging for transportation for the recipient to and from health care appointments, which may include arranging for the facility to be an originating site for telehealth (as defined by Section 2999-cc of the Public Health Law) with the consent of the recipient, arranging for on-site services, as appropriate, by licensed or otherwise qualified providers.
 - (ii) Assisting Recipients with obtaining and maintaining appointments for health care and other supportive services, and ensuring the exchange of information for care and service coordination.
 - (iii) Identifying and facilitating access to housing and other federal and state benefits or community resources for which the Recipient may qualify or benefit from.
 - (iv) Facilitating family and caregiver interactions.

(v) Coordinating with managed care organizations and their contractors, if applicable, including health homes, to ensure access to service and avoid duplication of services.

(4) Daily wellness checks, or as indicated in the Recipient's Service Plan.

Section 1007.6 Personnel

(a) General Requirements.

(1) The operator must provide staff sufficient in number and qualified by training, background and experience to render, at a minimum, medical respite services.

(2) The operator shall ensure a sufficient number of staff members are on-site 24 hours a day, seven days a week. On-site staff must be trained to provide first aid and basic life support services, which shall include but not be limited to training in opioid overdose prevention and naloxone administration. At least one physician, nurse practitioner, physician assistant, or midlevel such as a registered professional nurse or licensed clinical social worker must be available onsite or by telephone 24 hours a day, seven days a week.

(b) Administrator. The operator must designate an individual to be responsible for operating the program in compliance with applicable regulations and executing through direct performance or coordination, the services and functions required by this Part.

(c) Personnel Records. The operator shall maintain personnel records with such information as required by the Department.

Section 1007.7 Eligibility and Admission

(a) Recipient Eligibility. An individual is eligible for admission to a medical respite program as a recipient if:

(1) The individual is 18 years of age or older, unless otherwise authorized in the facility's operating certificate by the Department;

(2) The individual is able to perform activities of daily living with no or minimal assistance;

(3) The individual is self-directing (i.e., is capable of making choices about the individual's activities of daily living, understanding the impact of the choice, and assuming responsibility for the results of the choice), or receives supervision or direction on an interim or part-time basis as part of a plan of care in which the responsibility for making choices about activities of daily living is assumed by a self-directing individual, including but not limited to a local social services department, an outside agency, or other formal organization;

(4) The individual is able, with direction, to take action sufficient to ensure self-preservation in an emergency;

(5) The individual does not require hospital inpatient, observation unit or emergency room level of care, or a medically indicated emergency department or observation visit or skilled nursing home level of care; and

(6) The individual does not pose a risk of safety to themselves, other recipients or staff, as determined in the reasonable discretion by the medical respite program operator.

(b) Admission.

(1) An operator must admit, retain and care for only those individuals who do not require services beyond those the operator is authorized to provide.

(2) An individual must cooperate in the medical respite program's assessment and be determined assessed as eligible for admission by the medical respite program.

(3) An operator shall obtain documentation of the need for medical respite.

(4) Admission Agreement. Each recipient must sign an admission agreement in order to be admitted to a medical respite program. A signed copy, together with a copy of the medical respite program's code of conduct, shall be provided to the recipient. The admission agreement, at a minimum, shall specify:

(i) The effective date of the agreement;

(ii) Any rules of the program related to hours of open operation and visitation;

(iii) That the medical respite program shall discharge the recipient at such time as the recipient no longer requires medical respite services;

(iv) The discharge planning process, which shall be consistent with the requirements set by the Department;

(v) That the medical respite program shall be permitted to discharge a recipient immediately notwithstanding the discharge planning process in the event that the recipient's behavior poses an imminent risk of death or serious physical harm to the recipient or others, or repeated behavior of the recipient which directly impairs the well-being, care or safety of the recipient or any other recipient or which substantially interferes with the orderly operation of the medical respite program. Details of any such discharge shall be made a part of the recipient's record pursuant to section 1007.14(c) of this Part;

(vi) That the recipient's waiver of any provision of the admission agreement is null and void;

(vii) The recipient's right to terminate the admission agreement and vacate the medical respite program at any time; and

(viii) Any other provision specified by the Department.

(5) If the recipient is sight-impaired, hearing-impaired, has limited-English proficiency or is otherwise unable to comprehend English or printed matter, the operator shall make best efforts to ensure that the information in the vital documents, including the admission agreement, the code of conduct, and the facility information, are made available in a manner comprehensible to the applicant, including, as appropriate, translation of documents into commonly spoken languages other than English.

(c) Assessment. Prior to admission, the medical respite program shall assess or arrange for the assessment of each referred individual for eligibility for admission to the medical respite program.

(d) Service Plan. The medical respite program shall develop a service plan based on the needs identified during a recipient's assessment.

Section 1007.8 Discharge Planning

(a) Discharge Planning.

(1) The medical respite program shall discharge recipients when they no longer need medical respite services.

(2) The medical respite program shall begin discharge planning upon a recipient's admission and shall engage in discharge planning throughout a recipient's stay at the facility.

(3) In order to discharge a recipient, the medical respite program shall:

(i) Develop a discharge plan that identifies and provides referral to potential housing options, healthcare providers, and supportive services for the recipient;

(ii) Provide advance written notice of the discharge to the recipient, and as applicable and appropriate, the recipient's managed care organization, health home, and family and caregivers;

(iii) Coordinate the discharge with the recipient's managed care organization, and if applicable, the health home;

(iv) Provide the recipient with the discharge summary, which shall comply with subdivision (b) of this section; and

(v) Comply with any other requirements established by the Department.

(b) Discharge Summary. Upon discharge, a discharge summary shall be provided to the recipient, recipient's primary provider, if applicable, the managed care organization and health home, and such other persons or entities requested by the recipient. The discharge summary must include the following:

(1) Written medication list and medication refill information (i.e., pharmacy);

(2) Admitting diagnosis;

(3) Length of stay in the medical respite program;

(4) Ongoing medical problems or conditions;

(5) Instructions for accessing relevant resources in the community, including shelters or other housing options;

(6) List of follow-up appointments and contact information for treating providers;

(7) Special medical instructions (e.g., weight-bearing limitations, dietary precautions, allergies, wound orders);

(8) Pain management plan; and

(9) Point of contract for the recipient.

(c) The medical respite program shall ensure that adequate protocols are in place for transferring a recipient's information, or access to e-records, to appropriate providers and the recipient's managed care organization.

Section 1007.9 Quality Improvement Activities; Policies and Procedures

(a) A medical respite program shall implement a quality improvement program that provides for an annual or more frequent review of the medical respite program. The quality improvement program must evaluate, at a minimum, a profile of the characteristics of recipients admitted to the program, the services and degree of services most utilized, the length of stay and use rate, recipient need for care and services, and disposition upon discharge.

(b) The quality improvement process must:

(1) Include an evaluation of all services in order to enhance the quality of care and to identify actual or potential problems concerning medical respite services;

(2) Review accident and incident reports, recipient complaints and grievances, and the actions taken to address problems identified by the process;

(3) Develop and implement revised policies and practices to address problems found and the immediate and systematic causes of those problems; and

(4) Assess the impact of the revisions implemented to determine if they were successful in preventing recurrence of past problems.

(c) The results of the quality improvement process shall be (1) reported to the chief executive officer of the operator of the medical respite program; (2) maintained at the facility; and (3) available for review and inspection by the Department.

(d) The medical respite program shall adopt policies and procedures as required by the Department, which shall, at a minimum, include policies and procedures governing:

- (1) Emergency/disaster response plan;
- (2) Eligibility assessment and service plan;
- (3) Discharge planning and length of stay;
- (4) Care coordination;
- (5) Medication storage; and
- (6) Infection control.

Section 1007.10 Food Service

(a) The operator of a medical respite program shall provide or arrange for meals for recipients that are balanced, nutritious and adequate in amount and content to meet their dietary needs and accommodate any religious dietary restrictions.

(b) Meal service shall be provided at the facility. Meal service may be provided directly or through contractual arrangements.

(c) At a minimum, Recipients shall be provided with the opportunity to obtain breakfast, lunch and evening meals at regularly scheduled times, and two snacks a day.

Section 1007.11 Recipient Rules

(a) The operator of a medical respite program shall adopt rules governing a recipient's day-to-day life in the program and post these rules in a location accessible to recipients of the facility and visitors.

(b) Upon admission, each recipient must be provided with a copy of the medical respite program's code of conduct, which shall comply with all requirements set by the Department.

Section 1007.12 Physical Standards

(a) General.

(1) The operator must maintain the facility in a good state of repair and sanitation and in conformance with applicable state and local building codes and other laws.

(2) The facility shall be appropriate for a recipient resting and recuperating from the recipient's qualifying condition.

(3) The facility or a dedicated portion of the facility must be used exclusively to operate a medical respite program. An operator may request prior permission from the Department, in writing, to utilize space for other activities. The operator must demonstrate that the proposed use is not incompatible with the medical respite program, will not be detrimental to recipients and complies with applicable local codes.

(b) Flood protection. If the facility is located in a flood plain, the commissioner may require that the facility comply with any, or all, of the following:

(1) Health facility footings, foundations, and structural frame shall be designed to be stable under flood conditions.

(2) The facility shall be designed and capable of providing services necessary to maintain the life and safety of patients and staff if floodwaters reach the 100-year flood crest level and shall include the following:

(i) electrical service, emergency power supply, heating, ventilating and sterilizers;

(ii) main internal communication capability, including nurses' call systems and the fire alarm system;

(iii) dietary service;

(iv) an acceptable alternate to the normal water supply system; and

(v) an acceptable emergency means of storage and/or disposal of sewage, biological waste, and garbage.

(c) Smoke and fire protection.

(1) A supervised smoke detection system, which is listed by an acceptable testing laboratory, shall be installed in the following locations:

(i) in each corridor at least every 40 feet on center, or less if required by the manufacturer;

(ii) at the top of all stairways, elevator and hoist way and other unsealed shafts; and

(iii) in attics, basements and open floor areas designated for public or recipient use, at least one detector for each 1,000 square feet of open or unpartitioned space.

(2) In a facility that is approved by the Department to house fewer than 40 recipients, which has a fire protection system capable of being directly connected to the local fire department or a central station, at least one of the fire protection systems shall be so connected unless local fire officials refuse to establish such a connection. The operator must document such refusal.

(3) There shall be at least two means of egress from each floor designated for public or recipient use. The required means of egress shall:

(i) be remote from one another;

(ii) be open in the direction of exit travel;

(iii) be equipped with panic (quick-release) hardware;

(iv) be equipped with a self-closing device;

(v) not pass through a bedroom or bathroom; and

(vi) be clear of trash, clutter or obstruction and freely accessible at all times.

(4) Illuminated exit signs shall be installed at each required exit. When the exit is not visible, illuminated directional exit signs shall be installed in all corridors to indicate the location of each means of egress.

(5) Emergency lighting which is listed by an acceptable testing laboratory and powered by battery or an automatic generator shall be installed in all exit hallways, stairwells and public areas.

(6) Fire extinguishers which meet National Fire Protection Association standards, and which are appropriate for the type of fire which may occur at the site of installation shall be:

(i) placed at accessible locations on each floor and each wing;

(ii) wall-hung; and

(iii) properly charged and checked.

(7) Evacuation procedures which set forth emergency stations, the duties of all staff and recipients, and directions for the rapid evacuation of the premises shall be posted in a conspicuous place on each floor and wing.

(8) The following are fire hazards and are prohibited:

(i) smoking in other than designated areas;

(ii) portable electric space heaters;

- (iii) self-contained, fuel-burning space heaters;
 - (iv) nonmetal containers for furnace ashes;
 - (v) accumulation of combustible materials in any part of the building;
 - (vi) storage of flammable or combustible liquids in anything other than closed containers listed by an acceptable testing laboratory;
 - (vii) cooking appliances in a recipient's room; and
 - (viii) overloaded electrical circuits.
- (d) Safety procedures.
- (1) Neither devices such as chain locks, hasps, bars, nor other items such as furniture, can be used in any recipient use area in a way that would inhibit access to an exit or the free movement of recipients.
 - (2) Doors in recipients' sleeping units may be secured by the recipient provided such doors can be unlocked from the outside by facility attendants or employees or security staff at all times.
 - (3) Recipients must not have access to storage areas used for cleaning agents, bleaches, insecticides, or any other poisonous, dangerous or flammable materials unless necessary for work they are performing.
 - (4) Night lights must be provided and working in all hallways, stairways and bathrooms which are not private.

(5) Hallways, corridors and means of emergency egress must be free from obstruction and may not be used for storage of equipment or trash.

(e) Furnishings and equipment.

(1) The operator shall provide furnishings and equipment which support daily activities and are durable, clean, appropriate to function and do not endanger recipient health, safety and welfare.

(2) The operator shall furnish each recipient with a single bed that is a minimum of 30 inches in width. Each bed shall be substantially constructed, in good repair, and have:

(i) a clean, comfortable and well-constructed mattress, standard in size for the bed;

(ii) a cover sufficient to protect against insect infestation; and

(iii) one clean and comfortable pillow of average bed size.

(3) Recipients shall be supplied with the following in quantities sufficient to meet the needs of the recipient:

(i) suitable sheets, pillowcases, and blankets;

(ii) towels;

(iii) soap;

(iv) toilet tissue; and

(v) feminine hygiene products.

(4) Bed linens, blankets and towels shall be:

(i) clean and washable;

(ii) free from rips and tears; and

(iii) available when changes are necessary.

(5) A complete change of bed linens and towels shall be provided to recipients at entry, at least once a week, and more often if needed.

(6) Sufficient numbers of noncombustible trash containers with covers shall be available.

(7) All operable windows must be equipped with screens and where necessary to provide privacy, with curtains, shades or other appropriate window covering to ensure privacy.

(8) Light fixtures must be shaded to prevent glare.

(9) Heating and cooling systems must be in good working order.

(10) Suitable fans should be provided to recipients when necessary to maintain reasonable air circulation.

(11) Laundry facilities, either on-site in a clean, dry, well-lighted area, or at a nearby commercial laundromat.

(12) A telephone or telephones must be available for recipient use.

(13) Internet must be available for recipient use.

(14) The operator shall maintain areas suitable for posting required notices, documents and other written materials in locations visible to, and accessible to, recipients, staff and visitors.

(f) Housekeeping.

(1) The operator shall maintain a clean and comfortable environment.

(2) All areas of the facility shall be free of vermin, rodents and trash.

(3) All areas of the facility, including, but not limited to, the floors, walls, windows, doors, ceilings, fixtures, equipment and furnishings shall be clean and free of odors.

(4) Blankets and pillows shall be laundered as often as necessary for cleanliness and freedom from odors.

(5) Adequate, properly maintained supplies and equipment for housekeeping functions shall be provided.

(g) Maintenance.

(1) The operator of each medical respite program shall ensure the continued maintenance of the facility in accordance with the Department -approved operational plan.

(2) The building and grounds shall be maintained in a clean, orderly condition and in good repair.

(3) All equipment and furnishings shall be maintained in a clean, orderly condition and in good working order.

(4) Electrical systems, including appliances, cords and switches, shall be maintained in good working order.

(5) Entrances, exits, steps and outside walkways shall be in good repair and shall be kept free from ice, snow and other hazards.

(h) Space requirements.

(1) Medical respite services. The facility shall have appropriate space for recipients to meet privately with staff or external service providers for purposes of eligibility assessments, developing and monitoring of service plans, care coordination, and, as applicable, the on-site provision of health services.

(2) Bath and toilet facilities.

(i) There shall be a minimum of one toilet and one sink for each 10 recipients, and one tub or shower for each 15 recipients.

(ii) Toilet and shower areas must be accessible and in working order with hot and cold water 24 hours a day.

(iii) Hot water for bathing and washing must be maintained at no less than 110 degrees Fahrenheit.

(iv) All toilet and showers shall be vented by means of natural or mechanical ventilation to the outside air.

(v) All toilet and shower areas shall be properly enclosed and separated from other areas by ceiling-high partitions and doors.

(3) Bedrooms in medical respite programs.

(i) In single occupancy sleeping rooms, a minimum of 80 square feet per recipient shall be provided.

(ii) In sleeping rooms for two or more recipients, a minimum of 60 square feet per recipient shall be provided.

(iii) A minimum of three feet, which is included in the per recipient minima, shall be maintained between beds and for aisles.

(iv) If partitions are used to subdivide sleeping areas within the same room, their minimum height shall be sufficient to afford individual privacy, approximately four feet.

(v) Partitions separating sleeping rooms from other rooms shall be ceiling high and smoke-tight.

(vi) Bedrooms or sleeping areas must open directly into exit corridors.

(vii) A passageway or corridor may not be used as a bedroom.

(viii) With the exception of single bedrooms with locking doors, bedrooms shall have individual, lockable storage lockers for recipient belongings. Each locker shall be large enough to accommodate winter clothing.

(i) Kitchens in living areas.

Kitchens or food preparation areas, if any, must be well-lighted and ventilated, and comply with all State and local codes and regulations including, but not limited to, those relating to fire protection, safety, sanitation and health.

(j) Reporting.

In the event of a heating, water, or electrical failure that is more than four hours in duration, the discovery of an environmental hazard such as lead paint or asbestos, or the discovery of a defect in the physical plant or structure of a facility that may threaten the health and well-being of recipients, the operator will immediately notify the Department of Health by both e-mail and telephone.

Section 1007.13 Contracts

(a) In the event that an operator of a medical respite program contracts with a separate independent entity to perform any of its operations, the following conditions shall apply:

(1) The contractor shall demonstrate to the satisfaction of the operator that the contractor is financially stable and able, by reason of past performance or like qualification, to perform the duties delegated by the operator.

(2) If required, the contractor shall be certified by any appropriate local or State agency or unit of government, and shall comply with said regulations. Documentation of such certification and compliance shall be provided to the operator and shall be available for inspection by the Department.

(3) The operator shall remain responsible for oversight of any functions delegated to the contractor, the contractor's compliance with all applicable laws and regulations, and the operation of the facility regardless of the existence of any contract.

(4) The contract shall:

(i) be in writing, dated and signed by all parties;

(ii) adhere to all legal requirements under the Not-For-Profit Corporation Law;

(iii) include each party's responsibilities and functions;

(iv) include all financial arrangements and charges, which shall be consistent with fair market value;

(v) specify those powers and duties delegated to the contractor by the operator;

(vi) specify that the powers and duties not delegated to the contractor remain with the operator;

(vii) provide that the operator retains the authority to discharge any person working in the facility;

(viii) state the terms by which the contractor may hire and discharge persons working in the facility;

(ix) require the contractor to comply with all applicable provisions of law and regulations;

(x) require the contractor to provide all information required by the Department, and to cooperate with the Department in carrying out inspection and enforcement activities;

(xi) state that in the event the contractor proposes to subcontract any delegated functions, the subcontractor must be a signatory to the agreement between the operator and the contractor, which must expressly provide for the subcontracting of delegated functions; and that the subcontractor may be terminated by the contractor or the operator;

(xii) stipulate that the operator, notwithstanding any other provisions of the contract, remains responsible for operation of the facility in compliance with applicable laws and regulations; and

(xiii) specify the terms of the contract and the provisions governing renewal and termination prior to expiration.

(5) A copy of each contract shall be retained on file by the operator and shall be available for inspection.

Section 1007.14 Records

(a) The operator shall collect and maintain such information, records or reports as set forth in this Part and as otherwise determined by the Department.

(b) The Department or its designee may examine the books and records of any facility to determine the accuracy of the annual financial statement, or for any other reason deemed appropriate by the Department to effectuate the purposes of these regulations.

(c) Resident Records.

(1) The operator shall maintain true, complete, accurate and current records for each recipient.

(2) Records shall be maintained at the facility and shall be available for review and inspection by the Department.

(3) Records shall be maintained in a manner that assures recipient privacy and accessibility to staff to use in the provision of routine and emergency services.

(d) At a minimum, the operator shall maintain:

(1) For each recipient:

(i) the signed admission agreement;

(ii) any signed consents or authorizations that permit sharing of the recipient's health information;

(iii) an inventory of any personal property held in custody for the recipient by the operator;

(iv) service plan;

(v) personal data, including identification of the recipient's next of kin, family and sponsor, and the name and address of the person or persons to be contacted in the event of an emergency;

(vi) a copy of the recipient's assessment(s);

(vii) documentation that the notice of discharge was timely provided; and

(viii) a copy of the discharge summary.

(e) Program Records.

(1) The operator shall maintain true, complete, accurate and current records that document operation and maintenance of the facility.

(2) At a minimum, the medical respite program shall retain:

(i) daily census reports and incident reports;

(ii) a chronological admission and discharge register, consisting of a listing of recipients registered in and discharged from such facility by name, age and sex of recipient, and place from or to which the recipient is registered or discharged;

(iii) program records, including service procedures, agreements with external service providers, emergency plans and records of evacuation drills;

(iv) food service records, including menus and food purchase records;

(v) records of maintenance of the physical plant;

(vi) staff records, including personnel procedures, job descriptions, staffing schedules, identification of individual employees, and payment records; and

(vii) certificates or reports issued by local and other State jurisdictions related to the facility operations, on file and readily accessible for Department review, or posted, if required.

(f) Records Retention.

(1) Records required by the Department, excepting financial records of the previous operator, shall be retained in the facility upon change of operator.

(2) Records relating to an individual shall be retained for six years after death or discharge of a recipient.

(3) Program records, business records, and records relating to application or renewal for an operating certificate shall be retained for ten years.

(4) These records shall be maintained at the facility, unless written authorization is given by the Department for record retention in another location, and shall be available for review and inspection by the Department.

REGULATORY IMPACT STATEMENT

Statutory Authority:

Public Health Law (PHL) section 2999-hh authorizes the Department of Health to certify a not-for-profit corporation as an operator of a medical respite program, and to make regulations to establish procedures to review and approve applications for such certification.

Legislative Objectives:

To establish procedures for the review and approval of applications for a not-for-profit corporation to be certified as an operator of a medical respite program.

Needs and Benefits:

The Governor's Medicaid Redesign Team II (MRT II) recommended the establishment of standards for medical respite programs as a lower-intensity care setting for patients who are homeless or at risk of homelessness, and who would otherwise require a hospital stay, or lack a safe option for discharge and recovery. PHL section 2999-hh, as the statute authorizing the establishment of procedures for the review and approval of applications from a not-for-profit corporation to be certified as an operator of a medical respite program, has a legislative finding that increased risks of adverse health outcomes exist for individuals lacking access to safe housing. Medical respite programs provide care to homeless individuals and individuals who are at imminent risk of homelessness and who are too sick to be on the streets or in a traditional shelter, but not sick enough to warrant inpatient hospitalization. They provide short-term residential care that allows homeless

individuals the opportunity to rest in a safe environment while accessing on-site medical care and other supportive services.

These proposed regulations are intended to establish procedures for the review and approval of applications from a not-for-profit corporation (NFP) to be certified as an operator of a medical respite program. NFP's who wish to operate a medical respite residential care facility must submit an application for certification. Once approved, NFPs must follow the regulations and guidance of the Department of Health.

Costs:

Costs to Private Regulated Parties:

There will be no additional costs to private regulated parties.

Cost to State Government:

These proposed rules will establish procedures for the review and approval of applications from a not-for-profit corporation to be certified as an operator of a medical respite program. The State will incur the costs of the review and compliance surveillance. The Program has \$5 million in state funding for inspections and grants.

Costs to Local Government:

There will be no additional cost to local governments or county owned facilities as a result of these proposed rules.

Costs to the Department of Health:

There will be no additional administrative cost to the Department of Health as a result of these proposed rules.

Local Government Mandates:

These proposed rules will not impose any program, service, duty, additional costs, or responsibility on any county, city town, village school district, fire district, or other special district.

Paperwork:

Medical respite programs will be required to maintain the following records:

- Financial records
- Recipient records
- Program records

Records must be kept for seven years.

Duplication:

These proposed rules do not duplicate existing State or federal requirements.

Alternatives:

These proposed rules are made to establish procedures for the review and approval of applications from a not-for-profit corporation to be certified as an operator of a medical respite program, as authorized by PHL section 2999-hh. No alternatives were considered.

Federal standards:

These proposed rules do not exceed any minimum standards of the federal government for the same or similar subject areas.

Compliance schedule:

These proposed rules would be effective upon publication of the Notice of Adoption in the State Register.

Contact Person:

Katherine Ceroalo
New York State Department of Health
Bureau of Program Counsel, Regulatory Affairs Unit
Corning Tower Building, Room 2438
Empire State Plaza
Albany, New York 12237
(518) 473-7488
(518) 473-2019 (Fax)
REGSQNA@health.ny.gov

**STATEMENT IN LIEU OF
REGULATORY FLEXIBILITY ANALYSIS**

No regulatory flexibility analysis is required pursuant to section 202-(b)(3)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse economic impact on small businesses or local governments, and it does not impose reporting, record keeping or other compliance requirements on small businesses or local governments.

STATEMENT IN LIEU OF RURAL AREA FLEXIBILITY ANALYSIS

No rural area flexibility analysis is required pursuant to section 202-bb(4)(a) of the State Administrative Procedure Act. The amendment does not impose an adverse impact on facilities in rural areas, and it does not impose reporting, record keeping or other compliance requirements on facilities in rural areas. There are no further compliance requirements created by the amendment.

STATEMENT IN LIEU OF JOB IMPACT STATEMENT

No job impact statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent from the nature of this amendment that it will not have an adverse impact on jobs and employment opportunities.