

Department of Disabilities, Aging and Independent Living  
Division of Licensing and Protection  
103 South Main Street, Ladd Hall  
Waterbury VT 05671-2306  
<http://www.dail.vermont.gov>  
Voice/TTY (802) 871-3333  
To Report Adult Abuse: (800) 564-1612  
Fax (802) 871-3318

## Memorandum

**To: Residential Care Home Managers**

**From: Division of Licensing and Protection – Survey & Certification Unit**

**Date: June 10, 2015**

**Subject: Level of Care clarification**

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The purpose of this Memorandum is to clarify issues surrounding Level of Care (LOC) variances for Residential Care Home managers. The forms and instructions needed for submitting LOC variances can be found on our website at the following: <http://www.dlp.vermont.gov/forms>

Per Residential Care Home (RCH) Licensing Regulations:

### 5.1 Eligibility

5.1.a The licensee shall not *accept or retain as a resident any individual who meets level of care eligibility for nursing home admission*, or who otherwise has care needs which exceed what the home is able to safely and appropriately provide.

**History of pre-approved LOC “slots”:** Many years ago, the Division of Licensing and Protection (DLP) granted a certain number of “Pre-approved Level of Care slots” to some existing RCH’s in order for the RCH’s to be able to retain or admit residents that are considered Nursing Home Level of Care (NHLOC) without obtaining a variance from DLP. RCH’s that have been opened in the past several years have not been granted any pre-approved LOC slots, so there are many RCH’s that exist currently with no pre-approved LOC slots. Please do not request that the Division add pre-approved slots, as that is no longer the accepted practice. This explanation is for the purpose of understanding the language in this document. Also see attached spreadsheet that shows homes with pre-approved LOC slots.

**Note about Enhanced Residential Care (ERC):** DLP does not directly administer or oversee the ERC program. The ERC program is part of the Choices for Care program. The Adult Services Division (ASD), still within the Department of Disabilities, Aging & Independent Living (DAIL), oversees Choices for Care and the ERC program.

1. Residential Care Homes WITHOUT pre-approved slots:
  - a. A complete LOC variance request must be submitted for each resident that you wish to **retain** at your home, who meets level of care eligibility for nursing home admission. The LOC variance should be submitted as soon as possible after the resident's condition has changed indicating increased care needs, to ensure compliance with regulation 5.1.a.
  - b. A complete LOC variance request must be submitted and approved by DLP for each resident that you wish to **admit**, who meets level of care eligibility for nursing home admission, **prior to** admitting the resident. Do not admit a resident who has NHLOC needs without obtaining approval from this office – that represents a violation of regulation 5.1.a and you may be cited. The RCH must have a process by which prospective residents are assessed for their care needs and level of care before accepting/admitting a resident.
  - c. Payment source is not taken into account. LOC variances for privately paying residents are required the same as they are for residents on the ERC program.
  - d. If you are an ERC provider, your increased reimbursement will not occur until the date you submit the LOC variance to DLP, so timely submission ensures timely reimbursement.
  - e. DLP does not approve all LOC variances. You will be notified in writing of the Division's determination.
  - f. If you have any residents in your home that have LOC variances, you must submit the Quarterly Level of Care Variance Update every quarter (Due in January, April, July and October). That form is also located on our website at the following:  
<http://www.dlp.vermont.gov/forms>
2. Residential Care homes WITH pre-approved slots:
  - a. You are required to keep a detailed tracking tool to identify who is in your pre-approved LOC slots. You are responsible for knowing how many open LOC slots you have.
  - b. You may admit or retain a resident with NHLOC needs without submitting a LOC variance **only if** you have an open pre-approved LOC slot at the time of change in condition of an existing resident, or at the time of admission of a new resident.
  - c. If you do **not** have any open pre-approved LOC slots:
    - (1) A complete LOC variance request must be submitted for each resident, that you wish to retain at your home, who meets level of care eligibility for nursing home admission. The LOC variance should be submitted as soon as possible after the resident's condition has changed indicating increased care needs to ensure compliance with regulation 5.1.a.
    - (2) A complete LOC variance request must be submitted and approved by DLP for each resident that you wish to admit, who meets level of care eligibility for nursing home admission, **prior to** admitting the resident. Do not admit a resident who has NHLOC needs without obtaining approval from this office – that represents a violation of regulation 5.1.a and you may be cited. The RCH must have a process by which prospective residents are assessed for their care needs and level of care before accepting a resident.
    - (3) If you are an ERC provider, your increased reimbursement will not occur until the date you submit the LOC variance to DLP, so timely submission ensures timely reimbursement.

(4) DLP does not approve all LOC variances. You will be notified in writing of the Division's determination.

- d. Payment source is not taken into account. LOC variances for privately paying residents are required the same as they are for residents on the ERC program.
- e. If you have any residents in your home that have LOC variances, you must submit the Quarterly Level of Care Variance Update every quarter (Due in January, April, July and October). That form is also located on our website at the following:  
<http://www.dlp.vermont.gov/forms>

<b>Facility Name</b>	<b># of pre-approved LOC s</b>
<b>Allenwood at Pillsbury Manor/South Burlington</b>	3
<b>Arbors/Shelburne</b>	26
<b>Arioli CCH/Barre</b>	3
<b>Autumn House/Bennington</b>	2
<b>Ave Maria CCH/Richford</b>	3
<b>Bel-Aire Center/Newport</b>	7
<b>Blue Spruce Home for the Retired/Bradford</b>	5
<b>Brookwood/North Springfield</b>	9
<b>Brownway Residence/Enosburg Falls</b>	15
<b>Canterbury Inn/St. Johnsbury</b>	3
<b>Cedar Lane (f.k.a. Lyndon Women's Home)/Danville</b>	2
<b>Craftsbury CCC/Craftsbury</b>	3
<b>Davis Home/Windsor</b>	11
<b>Emeritus at Filmore Pond/Bennington</b>	4
<b>Equinox Terrace/Manchester Center</b>	11
<b>Ethan Allen Residence/Burlington</b>	6
<b>Forest Hill RCH/Hyde Park</b>	8
<b>Four Seasons Care Home/Northfield</b>	6
<b>Gary Home/Montpelier</b>	3
<b>Gazebo Apts. at Pillsbury Manor/South Burlington</b>	3
<b>Heaton Woods/Montpelier</b>	5
<b>Hill Street/Barre</b>	6
<b>Historic Homes of Runnemedede Evarts House/Windsor</b>	4
<b>Historic Homes of Runnemedede Stoughton House/Windsor</b>	10
<b>Holiday House RCH/St. Albans</b>	15
<b>Holton Memorial Home/Brattleboro</b>	6
<b>Johnson Care Home/Hancock</b>	3
<b>Kingdom Way/Newport</b>	4
<b>King's Daughters Home/St. Albans</b>	4
<b>Lincoln House/Barre</b>	5
<b>Linden Residential Care-Wake Robin/Shelburne</b>	3
<b>Living Well Residential Care Home/Bristol</b>	2
<b>Loretto Home/Rutland</b>	5
<b>Manes House/Bennington</b>	2
<b>Maple Hill RCH (f.k.a. Squire House)/Waterbury</b>	5
<b>Maple Lane Retirement Home/Barton</b>	8

<b>Mayo Residential Care (f.k.a. Mayo Manor)/Northfield</b>	10
<b>Meadowview Recovery Residence/Brattleboro</b>	1
<b>Michaud Memorial Manor/Derby Line</b>	3
<b>Misty Heather Morn CCH/Hydeville</b>	10
<b>Mountain View of Vershire/Vershire</b>	3
<b>Our House Residential Care Home/Rutland</b>	4
<b>Our Lady of Providence Residence/Winooski</b>	4
<b>Our Lady of the Meadows/Richford</b>	15
<b>Pillsbury Manor North/South Burlington</b>	3
<b>Pillsbury Manor South/South Burlington</b>	5
<b>Pleasant Street Home/Randolph</b>	3
<b>Ringer's Home Care/Vergennes</b>	6
<b>Riverbend RCH/Chelsea</b>	7
<b>River's Edge CCH/Bennington</b>	3
<b>Riverview Life Skills Center/Jeffersonville</b>	4
<b>Scenic View CCH/Westfield</b>	8
<b>Second Spring North/Westford</b>	7
<b>Second Spring South/Williamstown</b>	14
<b>Shard Villa/Salisbury</b>	5
<b>St. Joseph Kervick Residence III/Rutland</b>	3
<b>St. Joseph's Residential Care Home/Burlington</b>	6
<b>Valley View Home for the Retired/Fairlee</b>	4
<b>Vergennes Residential Care/Vergennes</b>	10
<b>Victorian House Residence at Cedar Hill/Windsor</b>	4
<b>Willows of Windsor/Windsor</b>	7
<b>Windover House/Randolph</b>	3