



**Office for People With
 Developmental Disabilities**

ADMINISTRATIVE DIRECTIVE

Transmittal:	ADM 2018-03
To:	Executive Directors of Voluntary Provider Agencies Sponsoring Family Care Developmental Disabilities Regional Office Directors Developmental Disabilities State Operations Office Directors
Issuing OPWDD Office:	Division of Service Delivery (State Operations)
Date:	May 29, 2018
Subject:	Family Care Homes: Initial Certification and Recertification
Suggested Distribution:	Family Care Program Administrators and Managers Family Care Coordinators and Liaisons Quality Assurance Staff Family Care Providers
Contact:	Family Care Unit, Division of Service Delivery State Operations FamilyCare@opwdd.ny.gov
Attachments:	Family Care Initial Certification and Recertification Policies Family Care Initial Certification and Recertification Checklists Agency Sponsored Family Care Affirmation of Recertification Actions Agreement Between OPWDD and Family Care Sponsoring Agency Notice of Intent to Deny Notice of Denial

Related ADMs/INFs	Releases Cancelled	Regulatory Authority	MHL & Other Statutory Authority
ADM # 2018-04 Suspension and Revocation Actions on Family Care Operating Certificates	Section 10.3.1 and Section 10.3.4 of 2004 Family Care Manual	14 NYCRR Part 687 14 NYCRR Part 619	MHL 16.05
ADM # 2018-05 Fire Safety Practices in Family Care Homes			

Applicability

This memorandum applies to all State Sponsored and Agency Sponsored Family Care programs.

Purpose

The purpose of this memorandum and the attached documents is to inform Family Care Providers and Sponsoring Agencies of changes to the certification and review process that will be implemented in 2018. These changes include a statewide standardization of initial certification and recertification activities, including the introduction of standardized documents associated with these processes.

The attachments to this memorandum include the following documents:

- New policy sections of the Family Care Manual: Initial Certification (Section 7.1) and Recertification (Section 7.2). These policies will replace existing Family Care Manual policies numbered 10.3.1 and 10.3.4.
- Initial Certification and Recertification Checklists, which outline minimum review activities required for initial certification and recertification of Family Care Homes. These forms will be used for both State and Agency Sponsored programs.
- The Agency Sponsored Family Care Affirmation of Recertification Actions, which serves to formalize the oversight role of the Sponsoring Agency in the recertification of an Agency Sponsored Family Care Home. This form will be submitted with Agency Sponsored recertification packets beginning July 1, 2018.
- The Agreement between the Office for People With Developmental Disabilities (OPWDD) and a Family Care Sponsoring Agency, which serves to document the Sponsoring Agency's responsibilities for support and operation of its Family Care Program in accordance with Home and Community Based Services (HCBS) certification and applicable OPWDD regulations. An Agreement will be required for both State and Agency Sponsored Family Care programs by September 1, 2018.
- Notice of Intent to Deny and Notice of Denial, which notify a Family Care Provider applicant that the application for initial certification of a Family Care Home has been denied.

Background

The Commissioner of OPWDD has the authority to issue operating certificates for initial certification and recertification of Family Care Homes in accordance with section 16.05 of the New York State Mental Hygiene Law. The Commissioner has delegated the issuance of Family Care Home operating certificates to the Directors of Developmental Disabilities State Operations Offices (DDSOOs).

Overview of Process Changes

Issuance of Operating Certificates: Effective July 1, 2018, the OPWDD Division of Quality Improvement (DQI) will assume responsibility for issuing operating certificates for initial certification and recertification of Family Care Homes based on the attestation and approval from the DDSOO Director. As described in the attached documents, the designated Family Care staff in the DDSOO will continue to receive the initial certification and recertification packets for both State and Agency Sponsored Family Care.

Initial Certification: Effective July 1, 2018, the initial certification process will be standardized statewide. The new process includes use of an Initial Certification Checklist. This checklist and process are outlined in more detail in the attached section 7.1 Family Care Home Initial Certification Requirements. Effective July 1, 2018, this checklist must be included in any initial certification packet submitted to the DDSOO.

Recertification: Effective July 1, 2018, State and Agency Sponsored Family Care program responsibilities for completing recertification reviews will be standardized statewide. Changes, which are described in the attached Family Care Recertification policy 7.2, include but are not limited to the following:

- All State Sponsored Family Care Homes will be reviewed by designated DDSOO staff. All Agency Sponsored Family Care Homes will be reviewed by designated Sponsoring Agency staff.
- All recertification reviews will be completed by designated Sponsoring Agency staff using the approved OPWDD Family Care review instrument and the attached Recertification Checklist. The Family Care Home Evaluation and Survey (Form 238) will serve as the approved review instrument until it is replaced by a new standardized instrument later this year.
- All Agency Sponsored Family Care Home recertification packets submitted to the DDSOO must include the attached Recertification Checklist and the Agency Sponsored Family Care Affirmation of Recertification Actions. This affirmation

must be reviewed and signed by the Agency's Executive Director or an authorized designee.

- All new operating certificates will be issued by DQI based on the attestation and approval from the DDSOO Director.
- During each review cycle from October 1st through September 30th, designated DDSOO staff will complete a review of at least one Family Care Home from each Sponsoring Agency that has homes due for recertification. This review will be conducted at the office of the Sponsoring Agency. The DDSOO designee will review records for at least one individual who resides in the Family Care Home. If issues are identified during the review, the DDSOO may request to expand the review.

If health or safety issues, unsafe conditions, or challenges with the overall performance of the Family Care Provider are identified during the recertification review, the process for actions against existing operating certificates is described in ADM 2018-04 Suspension and Revocation Actions of Family Care Home Operating Certificates.

Note: OPWDD Safety and Security Officers will continue to complete on-site annual visits to both Agency Sponsored and State Sponsored Family Care Homes, including recertification years.

The OPWDD Division of Service Delivery will coordinate trainings and information sharing sessions with the field to review these documents and revised processes. Work towards implementing a new standardized OPWDD Family Care review instrument will continue and there will be additional trainings for the field to inform them of updates with this initiative.

Denial of Request for Initial Certification of a Family Care Home Operating Certificate

After an initial application is completed and reviewed, if a decision is made to deny the operating certificate, the DDSOO Director or designee will send a Notice of Intent to Deny the application. The Notice contains a written justification of the denial and provides ten (10) days from the date of service for the applicant to request a hearing. A copy of this letter must be sent to the OPWDD Office of Counsel, DQI, and the Sponsoring Agency. The date of service is defined as the date that: (i) the notice was hand delivered to the Family Care Provider applicant; (ii) the date the notice was accepted if sent by certified mail return receipt requested; or (iii) the fifth day after mailing the notice by ordinary mail to the Family Care Provider applicant, in that order. If the applicant requests a hearing, the Office of Counsel will schedule a hearing.

If the applicant wants a hearing, he or she must send a request in writing to OPWDD's General Counsel and a copy to the Director who issued the Notice of Intent to Deny.

This must be done within 10 days of the date of service (see above). The applicant's request for a hearing must include a copy of OPWDD's Notice of Intent to Deny. If the applicant does not request a hearing within 10 days of receipt of the Notice, the DDSOO Director or designee will send a Notice of Denial as described above.

The Agreement between the Office for People With Developmental Disabilities and a Family Care Sponsoring Agency

The Agreement between the Office for People With Developmental Disabilities (OPWDD) and a Family Care Sponsoring Agency documents the Sponsoring Agency's responsibilities for support and operation of its Family Care Program in accordance with HCBS certification and applicable OPWDD regulations. OPWDD will require all existing Sponsoring Agencies to submit a completed signed agreement to the Family Care Unit of the Division of Service Delivery at FamilyCare@opwdd.ny.gov by September 1, 2018. All new Family Care Sponsoring Agencies will be required to complete and submit an agreement to OPWDD prior to the certification of the Sponsoring Agency's first Family Care Home.

Please direct any questions about the content of, or attachments to, this memorandum to the Family Care Unit of the Division of Service Delivery at FamilyCare@opwdd.ny.gov.