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MODEL LEGISLATION

FEDERAL EMERGENCY SHELTER ASSISTANCE TO THE HOMELESS: MANDATING A STANDARD OF DECENCY

GREGORY L. EVANS*

INTRODUCTION

Many of the homeless in America's shelters are victims of abuse, neglect and exploitation. Some of the homeless taking refuge in shelters are kicked out, usually without warning, because they violated some obscure or unarticulated shelter rule. Many suspected of having the Acquired Immune Deficiency Syndrome (AIDS) are shunned from shelters.¹ Because a man has body lice, he may be made to leave the only warm place he has to sleep for the night.

Privacy in shelters is not usually protected. Belongings are not usually guarded. Lockers are hardly ever provided where personal belongings can be left during a day's search for work. Beds are often left soiled and neither sheets nor pillows are provided. The air can be poor and the ventilation bad. Children of homeless families are not usually provided separate, less dangerous quarters. In some cities, shelters are so violent or offer such deplorable conditions the homeless would rather sleep out on the street.²

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1. At present, federally assisted shelters have no clear policy designed to respond to the special needs of the AIDS population. Rather, many homeless persons suffering from the disease are forced onto the street, sick, with no place to go. Recently, a New York State Supreme Court Judge ruled that New York City must stop placing homeless individuals who have AIDS-related illnesses in dormitory shelters. See *Newsday*, January 13, 1989, at 6, col. 1.

2. Nat'l Law J., May 18, 1987, at 1. Lawsuits alleging unsafe shelter living conditions have been filed by advocacy groups in several states, including New Jersey, New York, Pennsylvania and California. See *City of Newark v. The Rev. David Lee*, No L-5915-85E (N.J. Super. Ct.).

Unsafe or unhealthy conditions in America's emergency shelters often combine with other maladies to create an inhumane and oppressive environment which can only exacerbate existing problems confronting a homeless person or family. The already weak and frail cannot easily contend with additional squalor, violence and disrespect.

In some emergency shelters, the attitude that "beggars can't be choosy" somehow justifies callous and cruel treatment of the homeless. What is particularly repugnant about poor treatment and care of the homeless in emergency shelters, when it occurs, is that such wrongs may be perpetrated with the assistance of federal revenues.

I. MANDATING A FEDERAL STANDARD OF DECENCY

Presently, there is no federal minimum standard of decency requiring recipients of federal assistance to establish and maintain emergency shelters for the homeless which provide good, healthy and safe care. Instead, recipients of federal assistance need only complete grant requests and comply with minimal accounting verification.³ This situation, now exposed, leads to the heart of this article.

Congress must insure that the emergency shelter assistance it finances is delivered compassionately, safely and with genuine concern for the best interests of America's Homeless. It is not enough to simply provide money without well enunciated standards or guidelines shelter providers must follow. Shelter providers accepting federal assistance to help the homeless should be made to adhere to a clearly articulated federal minimum standard of decency.

An effective federal standard of care should at least cover issues of housekeeping, physical facilities and shelter administration. In the area of housekeeping, for example, a detailed policy should be articulated outlining the types and quality of accommodations which must be provided (*i.e.*, bed with mattress, clean sheets, pillow with case, sanitary restrooms and showers, etc.).

Physical facilities should be designed and constructed to allow access to the handicapped and provide privacy in shower, restroom and sleeping areas. Separate family quarters should be required to provide additional safety for homeless children.

3. Emergency Shelter Grants Program, 42 U.S.C. §§ 11371 *et seq.* (1988).

Regarding shelter administration, clear and distinct guidelines should be promulgated requiring professional behavior and compassionate treatment. For example, shelter administrators should be required to provide adequate notice informing the homeless of alleged inappropriate behavior before they are summarily barred from the federally funded shelter. Shelter administrators should not be allowed to kick homeless people out capriciously, at least not if the shelter is receiving federal support. In short, a detailed yet somewhat tractable standard of administration is essential to insure fair, impartial and humane assistance for the homeless.

In the absence of any federal standard of decency, the assistance provided to the homeless varies from the good, safe and clean, to the brutal, filthy, vicious and even sadistic. While the conditions may vary, where federal funds are received, they should not.

A condition to receiving federal assistance for emergency shelters should be the requirement that recipients of shelter assistance adhere to a rational federal standard. Of course, if a federal standard of care is to be required of all federal revenue recipients, program compliance oversight will be necessary. This is an obligation which should have been assumed when the first federal dollar was spent to establish emergency shelters for the homeless.

If, upon reviewing the treatment and conditions of the homeless in federally assisted shelters, it is found that shelter administrators are not following the federal standard, the possibility of eliminating the assistance to the nonconforming care provider should be explored. In addition, the possibility of finding a replacement care giver should also be examined.

Conditioning receipt of federal assistance for the homeless upon adherence to a federal standard of decency will undoubtedly raise objection and criticism. Yet without any guidance and oversight, it is impossible to compel better treatment of the homeless in temporary shelters. As noted, some shelters are so bad that the conditions actually further harm and suffering rather than relieve it. If the federal government undertakes to assist the homeless, it must do so effectively. It is not an effective help to the homeless to assist in the creation of homeless shelters which, if left undirected, cause additional harm or perpetrate distress among the homeless.

Despite the need for a federal standard, criticism will most likely ensue in two forms. First, many recipients of federal grants may claim that if the federal government provides the

funds to state and local groups to assist the homeless, the state and local groups should enjoy the freedom to do things as they see fit. It might also be argued that a federal standard of care will deter potential care providers from establishing shelters to assist the poor.

Congress has long conditioned receipt of federal funds upon compliance with reasonable terms and conditions important and beneficial to the welfare of the country. There can be no tenable legal challenge to the conditioning of receipt of federal moneys to assist the homeless upon compliance by the recipient with rational federal statutory and administrative directives.

In 1937 in *Steward Machine Co. v. Davis*,⁴ the Supreme Court held that Congress is free to impose reasonable conditions on receipt of federal grants. Once federal money is accepted, it is accepted subject to the conditions imposed by Congress.

In *Steward*, the Court approved of an economic device employed by Congress thought necessary to uniformly improve the treatment of fired or laid off workers. Although the Court decided *Steward* over 43 years ago, the opinion of the Court remains extremely germane, at least to this discussion. Quite significantly, the Court noted "[s]ome of the conditions thus attached to the allowance of a credit are designed to give assurance that the . . . law shall be one in substance as well as name."⁵

It is truly the ambition of this work to see compassionate emergency shelter assistance provided in both substance and in name. As has been noted, the Constitution empowers Congress to condition receipt of federal funds to further broad social policy objectives. Since *Steward*, Congress has repeatedly and successfully employed this power to compel compliance by the recipient with federal statutory and administrative directives.⁶

4. 301 U.S. 548 (1937).

5. *Id.* at 575 (Cardozo, C.J., writing for the Court).

6. See *South Dakota v. Dole*, 479 U.S. 1027, 102 S. Ct. 869, 93 L. Ed. 2d. 824 (1987) (establishing a national minimum drinking age statute (23 U.S.C. § 158) which directs the Secretary of Transportation to withhold otherwise allocable federal highway funds from states not adhering to the age minimum set forth in the drinking age statute); see also, *Fullilove v. Klutznick*, 448 U.S. 448, 65 L. Ed. 2d 902, 100 S. Ct. 2758 (1980); *Ivanhoe Irrigation Dist. v. McCracken*, 357 U.S. 275, 295 1 L. Ed. 2d 1313, 78 S. Ct. 1174 (1958); *Oklahoma v. Civil Service Comm'n*, 330 U.S. 127, 91 L. Ed. 794, 67 S. Ct. 883 (1937); *Steward Machine Co. v. Davis*, 301 U.S. 548, 81 L. Ed. 1279, 57 S. Ct. 883 (1937); *United States v. Butler*, 297 U.S. 1, 80 L. Ed. 477, 56 S. Ct. 312 (1936) (the Court held that Congress is authorized to spend public

Just as Congress has successfully employed the power of the purse in other important situations, so too can it be used to bring about more merciful and safe shelter for the homeless. A clearly promulgated standard of decency is constitutionally permissible and, given the economics involved, it is likely to bring about substantial improvements.

It might be argued, however, that if a federal standard of decency is implemented, its requirements will deter potential or existing providers from endeavoring or continuing to provide shelter assistance to the homeless. Quite frankly, this might be so. But we should ask ourselves, as a nation, if we should accept federally financed unsafe and unhealthy care for our homeless. In short, the deterrence which might occur is not necessarily a bad thing.

On the other hand, the homeless would surely despair should shelter providers decide not to assist the homeless because of the difficulty with or expense in complying with a federal standard. Anticipating this obviously undesired situation, Congress should exercise caution so as not to draft an onerous standard that would significantly deter or discourage potential providers of care to the homeless. Further, and quite importantly, Congress must allocate funds necessary for emergency shelters to conform to the new standard.

The goal of decent housing for all Americans has yet to be realized. In order to relieve the suffering of multitudes of homeless individuals and families, we must swiftly ensure suitable temporary assistance to the homeless.

Homelessness has now become a conspicuous symbol of our country's failure to meet even minimal standards of equity in the distribution of its abundant resources. Emergency shelter and services must be continued, expanded and improved in order to preserve the lives of America's homeless poor while permanent solutions are being debated. Most immediately, we must promulgate and enforce a standard requiring decent treatment of the homeless both in name and in substance. The following proposal embodies these objectives and, when enacted, will further the goal of ensuring decent and safe conditions in our nation's temporary shelters for the homeless.

money for public purposes and is not limited by direct grants of legislative power found in the Constitution).

II. MODEL FEDERAL STATUTE: MINIMUM STANDARDS OF DECENCY IN SHELTERS FOR HOMELESS INDIVIDUALS AND FAMILIES[†]

Section 000.01 Scope.

- (a) The provisions of this statute apply to any facility providing services to the homeless which:
 - (1) shelters 10 or more homeless persons;
 - (2) receives payment from federal sources for the provision of shelter and services to the homeless; and
 - (3) is not a hotel or motel, or a facility which provides individuals and families with shelter substantially similar to a house or an apartment.
- (b) The provisions of this Part shall apply to hotel or motel space used by a provider of shelter to the homeless, but only if: (1) the space is used under a contract or lease with the hotel or motel (including hotels and motels owned or leased by not-for-profit or charitable organizations); and (2) shelter is provided to 10 or more homeless individuals or families.

Section 000.02 Purpose.

- (a) To the extent the federal government allocates resources intended to establish and maintain homeless shelters, whether directly or indirectly, such federally assisted shelters shall conform to the minimum standard of decency set forth in this statute. This federal statute requiring standards of decency is enacted in order to ensure that federally assisted shelters are safe, clean and operated in a manner which is in the best interest of homeless individuals and families.

Section 000.03 Operational program.

- (a) A facility may receive federal funds or federal financing procured from block grants for costs of establishing and maintaining shelters to assist the homeless when such facilities are operated in accordance with the requirements of this statute.
- (b) The facility seeking federal funding or reimbursement must provide all of the following information concerning the facility:
 - (i) name and location;

[†] Adapted from New York Soc. Services Law §§ 20, 34, 157 & 350 (McKinney 1983 and Supp. 1989) and California Homeless Coalition Proposed Shelter Standards.

- (ii) name and address of the entity which will or does operate the facility;
- (iii) names, addresses and occupation of the members of the board of directors if the facility is operated by a corporation;
- (iv) name and address of the owner of the land and premises, if other than the operator;
- (v) financial resources and sources of future revenue of the facility;
- (vi) an income and expenditure report for the past fiscal period, if any; and a proposed budget, including estimated income and expenditures, for the period covered by the proposed operational plan; such proposed budget shall set forth the amount reasonably necessary to operate and maintain the facility, as required by this statute;
- (vii) admission procedures including arrangements for and hours during which services are provided and procedures for referral of persons not admitted during nighttime hours because such persons exhibit symptoms of a generalized systemic communicable disease or a readily communicable local infection;
- (viii) procedures for ensuring access by legal representatives and legal counsel to their homeless clients who are residents of the facility;
- (ix) procedures for providing needed care, services and support of children and families consistent with applicable state and federal regulations;
- (x) arrangements for ensuring school attendance by school-age children residing in the facility, including any necessary transportation arrangements; if transportation is to be provided, written evidence of the arrangement of such transportation must be included;
- (xi) procedures for assisting residents in making application for income entitlements or public benefits such as public assistance, medical assistance, food stamps, Supple-

mental Security Income, title XX or child welfare or unemployment benefits. Procedures must be developed for each facility which will allow residents of a facility to apply for benefits at the local social services administration. Arrangements must be made for delivery of public assistance checks, food stamp authorizations and Medicaid cards to the residents of the facility or at the local social services administration office nearest to the facility. Upon discharge from a shelter for families to permanent housing or referral to a hotel or motel, arrangements must be made to transfer the family's public assistance case to the income maintenance center or local social services office closest to where the homeless person or family will reside;

- (xii) facility staffing pattern, including the number, type and scheduling of staff;
- (xiii) plan for staff training including training concerning the emergency and disaster plan for the facility and fire safety;
- (xiv) bathroom arrangements, including the intended number of toilets, sinks, showers and bathtubs to be provided for each sex and the facility's provision for the bathing and changing of infants and young children;
- (xv) physical structure, including land, buildings and equipment;
- (xvi) fire safety measures and emergency and disaster plan required pursuant to state and local regulation;
- (xvii) resident capacity;
- (xviii) resident rules, including procedures for dealing with resident disruptions to the operation of the facility;
- (xix) procedures for holding hearings on involuntary transfers or involuntary discharges of homeless persons or families from the facility;
- (xx) procedures and environmental safeguards designed to ensure the well-being and

safety of children of family residents if the shelter facility is located in the same building or on the same premises where another homeless program is or will be operated; such procedures must indicate the circumstances under which common staff or joint services will be utilized; and

- (xxi) such other information as may be requested by the federal administration charged with the responsibility of reviewing compliance with this statute.
- (c) (1) Where compliance with a particular requirement or standard is impossible or impracticable, an alternative may be proposed which sets forth:
- (i) the specific requirement or standard for which the alternative is proposed;
 - (ii) specific reasons why compliance by the facility is impossible or impracticable; and
 - (iii) a description of how the alternative will achieve the intended purpose of the requirement or standard.
- (2) A proposed alternative may be approved only where there is a determination that physical configuration of the facility or other circumstances make compliance impossible or impracticable, and the alternative proposed will achieve the intended purpose of the requirement or standard.
- (d) (1) If a program other than a shelter for individuals or families is or will be operating in the same building or on the same premises as a shelter for families, procedures must be set forth in the organizational program to assure the well-being and safety of residents of the shelter for homeless families.
- (2) The federal agency overseeing the implementation and operation of this statute must advise the facility in writing of its approval or disapproval of a proposed operational program within 21 days of receipt of the plan except as provided by this statute.
- (i) Notwithstanding other provisions of this statute, if the overseeing agency determines that additional information is required before it can approve or disapprove of the proposed operational program, the department, within 21 days of receiving the proposed operational

program, may request that the facility submit additional information within one week of the request for such additional information. The overseeing agency must advise the facility in writing within 14 days of receipt of the additional information of its approval or disapproval of the operational plan.

- (ii) The overseeing agency, by written notice to the facility may in its discretion, extend the time periods articulated herein by no more than 14 days when necessary because of a large or complex organizational plan.
- (e) An approved operational program will remain in effect and thereby qualify a facility for federal assistance for the homeless for a maximum period of two years.
- (f) Proposed revisions to an approved operational program must be submitted by the facility to the overseeing agency prior to implementation.
- (g) With respect to each facility in operation on the effective date of this statute and seeking federal funding or reimbursement for shelter services provided to the homeless:
 - (1) Facilities already established and enjoying continuing federal assistance must submit a separate proposed operational program within 45 days of the effective date of this statute.
 - (2) Facilities must indicate in each such operational program any requirement of this statute not currently met by the facility and must set forth a plan to bring the facility into compliance with this statute within six months of the effective date of this statute, except to the extent that alternative methods of operation are approved pursuant to this statute.
 - (3) The overseeing agency shall advise the facility in writing of its approval or disapproval of such operational program within 28 days of receipt of the plan; however, if the overseeing agency determines that additional information is required before it can approve or disapprove a proposed operational plan, the overseeing agency, within 21 days of the submission of the operational plan may request that the facility submit additional information within one week of the request for such additional information. The overseeing agency must

advise the facility in writing within 14 days of receipt of the additional information of its approval or disapproval of the operational program. The overseeing agency, by written notice to the facility, may in its discretion extend the time periods herein by no more than 14 days when necessary because of a large or complex operational program.

- (4) Notwithstanding any other provision of this statute, in order for a facility to receive federal funding or reimbursement for services provided to homeless individuals and families, from the effective date of this statute until the operational program for such facility is approved, such homeless individuals and families must be afforded all the rights and protections described in this statute to the same extent as required for homeless individuals and families residing in a facility operating under an approved operational program.

Section 000.04 Waivers.

- (a) All regulations contained in this statute apply to all facilities providing shelter to homeless individuals and families for which a facility seeks or has received federal funding unless a waiver request by the facility is submitted and approved in writing by the overseeing agency. A waiver request may be approved at the discretion of the overseeing agency only where there is a determination that:
 - (1) there is emergency need for the establishment of a particular facility and compliance with the particular regulation for which a waiver is sought would unreasonably delay the opening or compel the closure of the facility; or
 - (2) there is an unforeseen emergency or catastrophe resulting in a large number of families needing emergency housing and particular regulations must be waived in order for existing shelters to accommodate them.
- (b) In approving a waiver request the administering agency may require that additional procedures be implemented to protect residents' health and safety.
- (c) Any waiver request approved pursuant to this section will remain in effect no longer than 45 days unless an operational plan submitted by the homeless shelter is approved demonstrating how the facility will be

brought into compliance with this statute within six months of the granting of such waiver. In no event will such waiver extend beyond the six-month period.

Section 000.05 Compliance with state and local laws, regulations and codes.

- (a) Facilities providing shelter for individuals and families receiving federal funding must be operated in accordance with all applicable state and local laws, regulations and codes relating to the following:
 - (1) building and construction of physical plants;
 - (2) fire prevention and fire protection;
 - (3) plumbing and water supply;
 - (4) heating, ventilation and electrical system;
 - (5) kitchen and food service, if provided;
 - (6) sanitation and maintenance;
 - (7) health and safety; and
 - (8) occupancy and space requirements.
- (b) All inspection licenses, certificates and other documents required by state and local authorities for buildings, grounds and equipment must be current, maintained on the premises, and available for review and public inspection at all times.

Section 000.06 Admissions.

- (a) Homeless shelter facilities will not receive federal funding, federal block grant funding made available to states or reimbursement for the costs of establishing homeless shelters or for the costs of providing shelter care and services to individuals and families if the facility does not have an approved operational program.
- (b) Upon entry to a facility, each individual or family must be advised in writing of the rules of the facility and residents' rights and obligations while in the facility.
- (c) When an individual engages in conduct which endangers the health or safety of shelter residents or staff or others, or repeatedly behaves in a manner which substantially interferes with the orderly operation of the facility, the facility may:
 - (i) involuntarily discharge an individual or family from the facility provided that the facility makes appropriate arrangements for the individual or family or family member to be sheltered elsewhere.
- (d) A decision to involuntarily discharge or bar an individual or family from the homeless shelter may be challenged in a hearing to be provided by the facility in

accordance with procedures contained in the approved operational program. If a hearing is requested, the individual or family or family member may remain in the facility pending the issuance of the decision after the hearing. All decisions to involuntarily discharge or bar an individual from the shelter facility must be in writing.

- (e) No homeless individual or family or family member may be involuntarily discharged or barred unless the following procedures are observed:
 - (i) the individual or family or family member has been given written notice of the discharge decision and the reasons why; such notice must include a statement that the individual or family or family member has a right to a hearing and, if a hearing is requested, the right to remain in the facility pending the issuance of the decision after hearing;
 - (ii) a homeless individual or family's need for protective services for adults, preventive services or protective services for children, or for other social services has been evaluated and an appropriate referral has been made if necessary; and
 - (iii) if criminal activity may have occurred, the appropriate law enforcement agency has been contacted;
 - (iv) if the individual to be discharged is a minor family member or the sole parent or caretaker relative of a child under the age of 18, provision for care, services, and support for the minor child and the family has been made consistent with the needs of the child and family; such care, services, and support must be provided in a manner consistent with current state regulation.
- (e) An individual or family or family member residing in a facility may be discharged or barred if one of the following conditions exists:
 - (i) an individual or family member has a systemic communicable disease, illness, or readily communicable local infection which cannot be properly isolated or quarantined in the facility which necessitates a transfer to a hospital or facility which is designed in whole or in part to serve such conditions; or

- (ii) an individual or family member has a medical, physical, or other special need which cannot be adequately served in the facility.
- (f) Except as provided in this section, homeless individuals and families may not be barred or discharged from a shelter facility receiving federal funds except to a permanent housing arrangement.
- (g) Whenever a family member is discharged or barred, the local social service administration(s) must be informed and the facility must ensure that the action to discharge or bar is appropriate to the health, safety and needs of that family member and the family. Such action may include referral to appropriate medical services, child welfare agency, adult protective or law enforcement agency, or similar entity. All reasonable efforts must be made to maintain family integrity and to keep the family intact.

Section 000.07 Resident rights and obligations.

- (a) The facility must promulgate reasonable resident rules governing day-to-day life and activities in the facility and post these rules in a location accessible to residents and visitors.
- (b) Upon admission, homeless individuals and families must be provided with a copy of the facility rules setting forth their rights and responsibilities while residing in the facility.
- (c) At a minimum, the facility must afford each resident the following rights and protections which must be included in the resident rules:
 - (1) the right to remain in the facility and not to be barred, prohibited or discharged except as provided in this statute;
 - (2) the right to receive visitors in designated areas of the facility during reasonable hours as specified in the resident rules;
 - (3) the right to exercise one's civil rights;
 - (4) the right to religious liberty;
 - (5) the right to have private written and verbal communications including the right to meet with legal representatives and legal counsel. The resident rules must not restrict access by legal representatives and legal counsel to any areas of the facility. Any requirements as to prior notice, hours of

- access, or access to private family areas shall be set forth in the resident rules;
- (6) the right to present grievances on one's own behalf, or on behalf of other residents, to the facility administration without fear of reprisal;
 - (7) the right to manage one's own financial affairs;
 - (8) the right to confidential treatment of personal, social, legal, financial and medical records;
 - (9) the right to receive courteous, fair and respectful care and treatment;
 - (10) the right to be free from restraint or confinement;
 - (11) the right to receive and send mail or any other correspondence without interception or interference; and
 - (12) the right to leave and return to the facility and grounds at reasonable hours in accordance with the rules of the facility.
- (d) The resident rules must inform individuals and families of the obligations upon which their continued residence in the shelter depends. Such rules must clearly set forth obligations concerning compliance with the resident rules and the sanctions for noncompliance. At a minimum, rules concerning the following obligations must be set forth in the resident rules:
- (1) the obligation to apply for Aid to Families with Dependent Children (AFDC), Emergency Assistance to Aged, Blind or Disabled Persons, Supplemental Security Income, Social Security Disability, whichever is applicable, or any other applicable state or local social service entitlement if the individual or family is not currently in receipt of benefits under such programs and an application for such benefits is not pending;
 - (2) the obligation to seek permanent housing, if possible;
 - (3) the obligation to seek employment, if possible;
 - (4) the obligation to ensure school attendance of school-age children in their family;
 - (5) the obligation to supervise minor family members;
 - (6) the obligation to utilize child care provided through the facility, when such care is provided and when such care is necessary to enable the parent or caretaker relative to seek employment and/or permanent housing, or to attend school or training;

- (7) the obligation to maintain cleanliness of one's own sleeping and/or living area, including bathroom and cooking areas, if any;
- (8) the obligation to use communal areas appropriately; and
- (9) the obligation to notify facility staff of any personal illness or illness of a family member.

Section 000.08 Resident Services

- (a) All homeless shelter facilities regulated by this statute must provide homeless individuals and families services which include at a minimum:
 - (i) sleeping area;
 - (ii) supervision;
 - (iii) assistance to homeless with applications for income entitlements or public benefits such as public assistance, medical assistance, food stamps, Supplemental Security Income, Title XX or child welfare or unemployment benefits;
 - (iv) provision and arrangements for delivery of public assistance checks, food stamp authorizations and Medicaid cards to the residents of the homeless facility or at the local social services office nearest to the facility;
 - (v) upon discharge of a homeless person or individual, arrangements to transfer delivery of public assistance checks from a shelter facility to the new place of residence or to the social services administration closest to the new residence;
 - (vi) transfer to an appropriate medical facility or to another shelter facility designed to accommodate homeless persons with a generalized systemic communicable disease or a readily communicable local infection which cannot be properly isolated and quarantined in the facility;
 - (vii) an accessible and current listing of local community agencies and programs which services the resident homeless person may reasonably require in order to facilitate their return to permanent housing, and for whose services the resident homeless person or family is eligible. Facility staff must refer residents to

such programs as needed and when appropriate.

Section 000.09 Supervision.

- (a) Supervision of the facility must include, but shall not be limited to:
- (1) recording a daily census of residents, including a record of daily admissions and discharges as well as previous housing arrangements of residents and the length of time each individual or family resided in the facility and in emergency shelter housing;
 - (2) maintaining a list of school-age children currently residing in the facility and the location of the school each child attends; the facility must verify departure for school on a daily basis during the school year;
 - (3) surveillance of the grounds, facility and activities of the residents to prevent theft and harm to residents;
 - (4) handling and documenting individual emergencies, including arranging for medical care or other emergency services and maintaining records of any special medical needs or conditions, the prescribed regimen to be followed and the names and phone numbers of medical doctors to contact should an emergency arise concerning these conditions;
 - (5) handling and documenting incidents involving resident endangerment, injury or death;
 - (6) reporting or causing a report to be made to the state social service administration charged with the welfare of child abuse and maltreatment involving a resident under age 18 in accordance with the circumstances and procedures set forth in state child welfare law;
 - (7) conducting and supervising facility evacuations and periodic evacuation drills as follows:
 - (i) the facility must have a written plan detailing the procedures to be followed in caring for residents in the event of an emergency or disaster; all employees of the facility must have knowledge of the emergency and disaster plan and of their responsibilities under such plan;
 - (ii) evacuation procedures outlining the method and manner in which residents and staff are to evacuate the facility in the event of fire and

- other emergencies must be conspicuously posted on each floor of the facility;
 - (iv) each resident must be informed of evacuation procedures upon admission;
 - (8) instituting fire safety measures and arranging for fire safety training for facility staff and residents; fire drills must be held with staff and residents on a monthly basis and a record of such drills must be maintained; and
 - (9) the facility must be secure. This may require the locking of access and egress during specified nighttime hours. Facilities must make arrangements which allow residents to receive visitors. The facility may set reasonable visiting hours and may limit visitor access to designated areas of the facility except for access by legal representatives or legal counsel guaranteed in other sections of this statute. Such hours and location must be included in the facility rules, which must be posted in a location accessible to residents and visitors.
- (b) A sufficient number of competent staff must be present at all times to supervise, operate and maintain the premises in a safe and sanitary condition and to render the services the homeless facility is required to provide pursuant to the provisions of this statute.
- (1) The minimum number of program and services staff required for assistance and supervision of the residents will be determined by a census of the resident population;
 - (i) the following minimum numbers of staff must be on duty and present during resident nighttime sleeping hours: 20 to 60 residents require at least one staff member; 60 or more residents require 2 or more staff members;
 - (ii) for all other hours, in accordance with the program and services provided pursuant to the approved operational program, the following minimum number of staff must be on duty: 20 to 60 residents require a minimum staff of 3; one additional supervisory staff person is required per 40 additional residents.
 - (2) For purposes of calculating the minimum staff maintenance, security, legal counsel, medical staff, social workers, food service and transportation personnel are not to be counted.

- (3) At all times, at least one member of the staff must have a minimum of eight hours of basic first-aid training.
- (c) Staff training must be in accordance with a training plan contained in the operational program and must orient and train employees in residents' rights, emergency procedures, facility rules and procedures and/or regulations relative to the specific duties to be performed.

Section 000.10 Environmental standards.

- (a) The facility must be maintained in a good state of repair and sanitation and to conform with applicable state and local laws, regulations and ordinances in order to assure a safe, comfortable environment for residents.
 - (1) All areas of the facility, including exits which are accessible to residents, must be well-lighted.
 - (2) All lavatories, sleeping areas, recreational areas, hallways, and other living areas must be kept clean, sanitary and free of insects, rodents and trash. Procedures must be established and implemented for the cleaning and maintenance of the entire facility.
 - (3) All garbage and refuse containers must be securely covered and emptied on a regular daily basis.
 - (4) There must be a minimum of one sink and one toilet for every 10 residents. Separate bathrooms must be provided for males and females in ratios appropriate to the percentage of males and females in the facility census and the number of young male children in families without older male members.
 - (5) Bathrooms must be cleaned a minimum of twice daily and more often if necessary.
 - (6) Hot water for bathing and washing must be maintained at a maximum temperature of 120 degrees Fahrenheit.
 - (7) Each individual must have an individual and identified sleeping area providing at least 50 square feet of space.
 - (8) If meals are provided by the facility, dining areas must be provided which are separate from sleeping areas and which have sufficient space and furnishings to serve the needs of the residents.

- (b) The facility must provide furnishings and equipment which do not endanger resident health, safety and welfare and which support daily activities.
 - (1) All furnishings and equipment must be durable, clean and appropriate to function.
 - (2) The facility must furnish each resident, whether an adult or child, with a clean bed (or cribs for infants) a minimum of 27 inches in width, solidly constructed, and in good repair which has:
 - (i) a clean, well-constructed mattress, standard in size for the bed; and
 - (ii) a clean pillow of standard size.
 - (3) Each resident must be supplied with:
 - (i) sheets;
 - (ii) a pillowcase;
 - (iii) one or more blankets;
 - (iv) towels;
 - (v) soap;
 - (vi) toilet tissue; and
 - (viii) disposable diapers for infants.
 - (4) Bed linens, blankets and towels must be clean and washable and available when changes are necessary. A complete change of bed linens and towels must be provided to each resident at entry and at least once a week thereafter and more often if needed.
 - (5) All operable windows must be equipped with screens and locks. All windows in sleeping areas must have shades or other appropriate window covering to ensure privacy.
 - (6) Light fixtures must be shaded to prevent glare.
 - (7) All electrical outlets accessible to children must be adequately protected.
 - (8) The facility must maintain areas suitable for posting required notices, documents and other written materials in locations visible and accessible to residents, staff and visitors.
 - (9) Heating systems must be maintained in good working order.
 - (10) One locker or other similar secured container must be provided to each individual and/or family. The individual or family must have access to such locker or secured container.
 - (11) An adequate number of pay telephones must be available for resident use.

- (c) If food service is provided, all kitchens or food service and preparation areas must be well-lighted and ventilated, and provided with essential and proper equipment, adequate for the number of residents to be served, for storage, refrigeration, freezing, preparation and serving of food.
 - (1) Food service areas must be provided with sufficient and suitable space and equipment to maintain efficient and sanitary operation of all required functions in compliance with state and local health and fire department regulations relating to kitchen operations for fire protection, safety, sanitation and health.

Section 000.11 Inspection and Certification

- (a) The overseeing agency shall inspect any facility providing shelter and services to homeless persons for which a facility received, is currently receiving or expects to receive federal funds to ensure that the facility is in compliance with all applicable laws, regulations and standards set by the department, and to determine that the services and care provided are adequate and appropriate and which conform with the operational plan approved for the facility.
- (b) The facility must allow the inspecting agency full access at any time to its grounds, buildings, employees and residents, and books and papers including, but not limited to the residents' case records.
- (c) Inspection within the meaning of this section refers to periodic scheduled, announced or unannounced site investigation at least once a year, including gathering of written, photographic, or other physical evidence gathered by the overseeing agency, during regular business hours and/or at night or on weekends, for the purpose of determining facility compliance with this statute and the operational program for the homeless shelter facility receiving federal assistance.
- (d) Following a site visit, the overseeing agency must forward to the facility a written statement of findings resulting from the visit including specific notation of areas where the facility fails to meet the requirements of this statute and the operational program for the facility.
- (e) In order to qualify for federal funding or other federal assistance for the provision of shelter care for the

homeless, a facility must certify annually, to the overseeing agency, that the facility is in compliance with this statute, all state and local laws and regulations.

- (f) Upon receipt of a statement of findings noting areas where the facility fails to meet the requirements of this statute, but in no case later than five days thereafter, the facility must submit to the overseeing agency a plan to correct the noted deficiencies within 30 days. The plan must be approved by the overseeing agency.
- (g) Notwithstanding any other provisions of this section, in the event that an endangering condition exists and the overseeing agency finds that the health, safety or welfare of the public or any individual is in imminent danger, the overseeing agency may issue an order to correct such condition immediately or within any specified period of less than 30 days.
- (h) Failure of the facility to correct a noted deficiency within the time specified in an order issued pursuant to subdivision (g) of this section, or to correct deficiencies or submit certification in accordance with subdivision (f) of this section, may result in withdrawal of approval and denial of federal funding or reimbursement in accordance with this statute. If approval of a facility is withdrawn, a facility will no longer receive federal funds for the provision of shelter and services to homeless families in such facility.
- (i) Complaints of noncompliance may be submitted to the facility or the administering agency by or on behalf of homeless residents. Upon receipt of such a complaint, the overseeing agency must determine whether the facility is in compliance and advise both the complaining individual or group and the facility of its findings. If the facility is not in compliance, the overseeing agency must issue a notice of noncompliance to the facility in accordance with this statute.

Section 000.12 Penalties for noncompliance

- (a) Federal funding or reimbursement for the costs of operating a facility providing shelter and services to homeless individuals or families, either directly or indirectly, or for payments made to a facility operator for the provision of shelter and services to homeless individuals or families, will be subject to denial when a facility providing such care fails to comply with the

requirements of state or local laws, regulations and codes and the applicable provisions of this statute, or with the terms of its operational program as required by this statute.

- (b) The overseeing agency must notify the facility of all violations of the provisions of this statute prior to denying federal assistance or reimbursement.
- (c) If violations have not been corrected within 30 days from the date the facility receives notice of the violations or notice that the overseeing agency has not certified a facility in accordance with this statute, the overseeing agency may deny funding beginning the 31st day after such notice, or the day following the expiration of any lesser period ordered by the overseeing agency pursuant to this statute, and continuing until the overseeing agency notifies the facility in writing that it is in compliance with this statute.

