Conditions for Payment

Nursing facilities must meet the following conditions in order to receive payment under Title XIX (Medicaid):

(1) CERTIFICATION.

(a) The facility must be in compliance with Title XIX federal certification requirements.

(b) Except as provided in section (1)(c) of this rule, all beds in the facility must be certified as nursing facility beds.

(c) A facility choosing to discontinue compliance with section (1)(b) of this rule may elect to gradually withdraw from Medicaid certification but must comply with all of the following:

(A) Notify SPD in writing within 30 days of the certification survey that it elects to gradually withdraw from the Medicaid Program;

(B) Request Medicaid reimbursement for any resident who resided in the facility, or who was eligible for right of return under OAR 411088-0050 or right of readmission under OAR 411-088-0060, on the date of the notice required by this rule. If it appears the resident may be eligible within 90 days, such request may be initiated;

(C) Retain certification for any bed occupied by or held for any resident who is found eligible for Medicaid until the bed is vacated by:

(i) The death of the resident; or
(ii) The transfer or discharge of the resident pursuant to the transfer rules in OAR chapter 411, division 088.

(D) All Medicaid recipients exercising rights of return or readmission under the transfer rules must be permitted to occupy a Medicaid certified bed; and

(E) Notify in writing all persons applying for admission subsequent to notification of gradual withdrawal that, should the person later become eligible for Medicaid assistance, that reimbursement would not be available in that facility.

411-070-0315 Maximum Allowable Compensation of Administrator and Assistant Administrator.

(1) The maximum compensation of a full-time (40 hours per week) licensed administrator to a nursing facility may be allowable at the lower of compensation actually received or the maximum allowable administrator compensation amount determined annually using the calculation in section (4) of this rule.

(2) The maximum compensation of not more than one full-time (40 hours per week) assistant administrator to a nursing facility with at least 80 licensed beds may be allowable at the lower of compensation actually received or seventy-five percent of the allowable administrator compensation for the number of licensed beds in the nursing facility. The Department will not allow
the cost of an assistant administrator in a facility with less than 80 beds.

(3) If either of the above individuals works less than 40 hours in the average week, allowable compensation must be the lower of actual compensation received or the maximum allowable administrator compensation determined annually based on the calculation in section (4) of this rule, multiplied by the percentage of 40 hours worked in the average week. The provider must maintain adequate records to demonstrate time actually spent.

(4) The maximum allowable administrator compensation may be adjusted each year and will be effective as of January 1 each year. The rates must be established using the gross allowable compensation in Account 411 (Administrator Compensation) of the Nursing Facility Financial Statement for non-owner administrators. The applicable compensation amounts will be inflated by the U.S. CPI from the mid point of each facility's fiscal year to July 1. The 75th percentile of each bed-size category, 1-49, 50-79, 80-99, 100 and over, will be the ceiling for each grouping.

(5) When a single individual serves as the administrator of both a nursing facility and a hospital, the salary will be pro-rated to both functions. The nursing facility portion will then be compared to the pro-rated share of the allowable administrator compensation to determine the amount to be included as allowable.

411-085-0010 Issuance of License.

...(6) Separate Buildings. Separate licenses are not required for separate buildings located contiguously and operated as an integrated unit by the same ownership or management.

411-085-0030 Required Postings

(1) PUBLIC NOTICES:

(a) Content. Public notices required to be posted include:

(A) The most recent licensing and, if applicable, certification survey report(s);
(B) The placard provided by The Department that includes information on reporting of abuse and summarizes the nursing facility rules. In addition to the location specified in subsection (1)(b) of this rule, this placard must also be prominently and conspicuously posted in close proximity to each nursing station and in the area(s) where residents are admitted;
(C) The current week's menu and activities schedule;
(D) The facility license and the administrator's license. (It is recommended the titles and names of the administrator, the DNS, the Social Services Director, the Activities Director, the Dietary Services Supervisor and the RN Care Manager(s) are also posted);
(E) Waivers received from The Department pursuant to OAR 411-085-0040 and 411-087-0030, and waivers of any federal regulations; and
(F) Any other notice relevant to residents or visitors required by state or federal law.

(b) Location. The facility will designate a specific area where notices listed in subsection (1)(a) of this rule will be posted and that:

(A) Is routinely accessible and conspicuous to residents and visitors, including those in wheelchairs; and
(B) Provides sufficient space for prominent, conspicuous display of each notice.
(2) NOTICES FOR STAFF. The facility must post the names of registered nurses as required by OAR 411-086-0020 and the physician(s) available for emergencies as required by OAR 411-086-0200 at each nursing station.

411-085-0050 Hospital-Based Nursing Facilities

Facilities that are physically connected to and operated by a licensed general hospital will be considered to be in compliance with the following Oregon nursing facility requirements:

(1) Requirements for policies, procedures and quality assurance programs if such policies, procedures and programs exist for both hospital and nursing facility.

(2) Requirements for full-time staff positions, departments and committees if the hospital has similar positions/departments/committees that address needs in the nursing facility.

(3) Requirements for a drug room or pharmacy if the hospital has a pharmacy or drug room available to the nursing facility 24 hours per day.

(4) Rules requiring specific training for the DNS and the RN Care Manager until January 1, 1990.

(5) Requirements that the administrator be full-time in the nursing facility if the nursing facility has 40 or fewer licensed beds. The administrator, however, must work full-time, based on time spent on both the hospital and nursing facility responsibilities, and must be available to nursing facility staff on a full-time basis.

411-085-0060 Specialty Nursing Facilities

(1) APPLICATION. Facilities that have successfully obtained from the State Office of Health Policy a certificate of need for "specialty long-term care beds" pursuant to OAR 333-610 must make application to The Department for licensure as "Special Nursing Facility" in accordance with OAR 411-085-0010.

(2) ISSUANCE OF LICENSE. Licenses will only be issued to a Specialty Nursing Facility after written notification from the State Office of Health Policy that the facility is eligible for such licensure. The license issued will state "Specialty Nursing Facility" and will identify the type of residents and specialized services the facility is authorized to admit and retain.

(3) COMPLIANCE WITH RULES. Specialty Nursing Facilities will be required to meet all Oregon Administrative Rules that apply to Nursing Facilities.

(4) ADMISSIONS. Facilities and distinct parts of facilities licensed as Specialty Nursing Facilities must only admit and provide services for residents consistent with the Certificate of Need issued by the Office of Health Policy.

411-085-0200 Licensee, Employees, Consultants

(1) LICENSEE. The licensee will be responsible for the operation of the facility and the quality of care rendered in the facility.

(2) EMPLOYEES.
(b) Reference Check. The licensee must check and document references for all prospective employees prior to employment.

(c) Job Description. All employees' duties must be defined in writing and maintained in the facility. All employees must be instructed in and perform the duties assigned.

(e) The licensee must assure a criminal history check is completed on all employees, in accordance with OAR chapter 407, division 007, (Criminal History Checks). A licensee must not employ any individual who is determined to be ineligible to provide services as outlined in OAR chapter 407, division 007.

(3) PROHIBITION OF EMPLOYMENT. The facility must not employ or retain in employment any of the following:

(a) Any person found responsible for abusing, neglecting or mistreating a person receiving long-term care services in a final administrative action that is not under appeal or in a court of law;

(b) Any nursing assistant against whom a finding of resident abuse has been entered into the registry maintained under ORS 678.150; or

(c) Any person who is known or reasonably should be known to the facility to be abusive or to have been abusive.

411-085-0300 Civil Rights

(1) The facility must not make any distinction, discrimination or restriction based on a resident's, potential resident's or visitor's sex, marital status, race, color, national origin or disability.

(2) The facility must make reasonable accommodations in order to provide services needed by applicants who are disabled.

411-085-0360 Abuse.

(1) ABUSE IS PROHIBITED. The facility employees, agents and licensee must not permit, aid, or engage in abuse of residents under their care.

(2) REPORTERS AND MANDATORY REPORTERS. All persons are encouraged to report abuse and suspected abuse. The following persons are required to immediately report abuse and suspected abuse to The Department or law enforcement agency;

(a) Physicians, including any resident physician or intern;
(b) Licensed practical nurse or registered nurse;
(c) Employee of the Oregon Department of Human Services, Area Agency on Aging, county health department or community mental health program;
(d) Nursing facility employee or any individual who contracts to provide services in a nursing facility;
(e) Peace officer;
(f) Clergy;
(g) Licensed social worker;
(h) Physical, speech or occupational therapist; and
(i) Family member of a resident or guardian or legal counsel for a resident.
(3) FACILITY REPORTING OF ABUSE OR SUSPECTED ABUSE.

(a) The nursing facility administration must immediately notify The Department, local designee of The Department, or local law enforcement agency of any incident of abuse or suspected abuse. Physical injury of an unknown cause must be reported to The Department as suspected abuse, unless an immediate facility investigation reasonably concludes the physical injury is not the result of abuse.

(b) The local law enforcement agency must be called first when the suspected abuse is believed to be a crime (for example; rape; murder, assault, burglary, kidnapping, theft of controlled substances).

(c) The local law enforcement agency must be called if the offices of The Department or designee are closed and there are no arrangements for after hours investigation.

(4) ABUSE COMPLAINT. The oral or written abuse complaint must include the following information when available;

(a) Names, addresses and phone numbers of alleged perpetrator(s), resident(s) and witness(es);
(b) The nature and extent of the abuse or suspected abuse (including any evidence of previous abuse);
(c) Any explanation given for the abuse or suspected abuse; and
(d) Any other information that the person making the report believes might be helpful in establishing the circumstances surrounding the abuse and the identity of the perpetrator.

(5) PRIVILEGE. In the case of abuse of a resident, the physician-patient privilege, the husband-wife privilege, and the privileges extended under ORS 40.225 to 40.295 will not be a ground for excluding evidence regarding the abuse, or the cause thereof, in any judicial proceeding resulting from an abuse complaint made pursuant to this section.

(6) IMMUNITY AND PROHIBITION OF RETALIATION.

(a) The facility licensee, employees and agents must not retaliate in any way against anyone who participates in the making of an abuse complaint, including but not limited to restricting otherwise lawful access to the facility or to any resident, or, if an employee, to dismissal or harassment;

(b) The facility licensee, employee and agents must not retaliate against any resident who is alleged to be a victim of abuse.

(c) Anyone who, in good faith, reports abuse or suspected abuse will have immunity from any liability that might otherwise be incurred or imposed with respect to the making or content of an abuse complaint. Any such person will have the same immunity with respect to participating in judicial or administrative proceedings relating to the complaint.

(7) INVESTIGATION BY FACILITY. In addition to immediately reporting abuse or suspected abuse to The Department or law enforcement agency, the facility must promptly investigate all reports of abuse and suspected abuse and must take measures necessary to protect residents from abuse and prevent recurrence of abuse.

411-085-0370 Confidentiality
This rule applies to facility licensees, employees and agents, to Division staff and the staff of all Area Agencies on Aging.

(1) RESIDENTS. The names of residents and all documentation that would allow the identification of a resident must be kept confidential and are not accessible for public inspection.

(2) COMPLAINANTS, WITNESSES. The names and identity of complainants and witnesses referred to in Division complaint investigations must be kept confidential and are not accessible for public inspection.

411-086-0010 Administrator

(1) Full-Time. Each licensed nursing facility shall be under the supervision of a full-time Oregon licensed nursing home administrator:

(a) In facilities physically connected with an Oregon licensed general hospital, the nursing home administrator shall be considered "full-time" if the administrator works full-time based on time worked in both nursing facility and hospital, and if the administrator is available to the nursing facility staff on a full-time basis;

(b) In facilities with 40 or fewer beds and which admit only residents requiring intermediate care, a person who meets the requirements for both administrator and director of nursing services (DNS) may function simultaneously in both capacities.

(2) Responsibility:

(a) The administrator shall ensure that the facility uses its resources effectively and efficiently to attain and maintain the highest practicable physical, mental and psychosocial well-being of each resident;

(b) The administrator shall comply with the rules of the Board of Examiners of Nursing Home Administrators;

(c) The administrator shall provide a comprehensive review of Division survey reports and inspections to the licensee.

(3) Temporary Absence of Administrator:

(a) The licensee shall designate, by written policy, an individual who is familiar with the operation of the facility to assume administration in the temporary absence of the administrator. If the designee is the DNS, another RN shall assume the DNS’ responsibilities for this period;

(b) If the absence of the administrator is to exceed 30 days, the facility must notify the Division and obtain approval for the arrangements prior to the absence. The Division shall determine whether a licensed administrator shall serve in the administrator’s absence.

(4) Change of Administrator:

(a) Upon termination of the administrator, the licensee shall immediately replace the administrator with a full-time administrator;
(b) The licensee shall notify the Division and the Board of Examiners of Nursing Home Administrators within seven days from the date the administrator leaves employment of the facility.