1200-08-06-.02 LICENSING PROCEDURES.

(1) Satellite facilities shall be prohibited. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the nursing home.

1200-08-06-.04 ADMINISTRATION.

(1) The nursing home shall have a full-time (working at least 32 hours per week) administrator licensed in Tennessee, who shall not function as the director of nursing. Any change of administrators shall be reported in writing to the department within fifteen (15) days. The administrator shall designate in writing an individual to act in his/her absence in order to provide the nursing home with administrative direction at all times. The administrator shall assure the provision of appropriate fiscal resources and personnel required to meet the needs of the residents.

(2) The hospital administrator may serve as the administrator of a hospital-based nursing home provided that he/she is a Tennessee licensed nursing home administrator, the facilities are located on the same campus, and the surveys do not reflect substandard care.

(3) Any agreement to manage a nursing home must be reported in writing to the department within fifteen (15) days of its implementation.

(4) Upon the unexpected loss of the facility administrator, the facility shall proceed according to the following provisions:

(a) The term “unexpected loss” means the absence of a nursing home administrator due to serious illness or incapacity, unplanned hospitalization, death, resignation with less than thirty (30) days notice or unplanned termination.

(b) The facility must notify the department within twenty-four (24) hours after notice of the unexpected loss of the administrator. Notification to the department shall identify an individual to be responsible for administration of the facility for the immediate future not to exceed thirty (30) days. This responsible individual need not be licensed as an administrator and may be the facility's director of nursing.

(c) Within seven (7) days of notice of the unexpected loss, the facility must request a waiver of the appropriate regulations from the board.

(d) On or before the expiration of thirty (30) days after notice of the unexpected loss, the facility shall appoint a temporary administrator to serve until either a permanent administrator is employed or the request for a waiver is considered by the board, whichever occurs first. The temporary administrator shall be any of the following:

1. A full-time administrator licensed in Tennessee or any other state;
2. One (1) or more part-time administrators licensed in Tennessee. Part-time shall not be less than twenty (20) hours per week; or,

3. A full-time candidate for licensure as a Tennessee administrator who has completed the required training and the application process. Such candidate shall be scheduled for the next licensure exam and is eligible for the continued administrator role only with the successful completion of that exam.

(e) The procedures set forth above shall be followed until the next regularly scheduled meeting of the board in which the board considers the facility’s application for a waiver. After reviewing the circumstances, the board may grant, refuse or condition a waiver as necessary to protect the health, safety and welfare of the residents in the facility.

(f) Any facility which follows these procedures shall not be subject to a civil penalty for absence of an administrator at any time preceding the board’s consideration of the facility’s request for a waiver.

(5) The facility shall make reasonable efforts to safeguard personal property and promptly investigate complaints of such loss. A record shall be prepared of all clothing, personal possessions and money brought by the resident to the nursing home at the time of admission. The record shall be filled out in duplicate. One copy of the record shall be given to the resident or the resident’s representative and the original shall be maintained in the nursing home record. This record shall be updated as additional personal property is brought to the facility.

...(10) When licensure is applicable for a particular job, verification of the current license must be included as a part of the personnel file. Each personnel file shall contain accurate information as to the education, training, experience and personnel background of the employee. Documentation that references were verified shall be on file. Documentation that all appropriate abuse registries have been checked shall be on file. Adequate medical screenings to exclude communicable disease shall be required of each employee.

(11) All nursing homes shall initiate a criminal background check on any person who is employed by the facility in a position which involves providing direct care to a resident or patient, prior to or within seven (7) days of employment.

(a) Any person who applies for employment in a position which involves providing direct patient care to a resident in such a facility shall consent to:

1. Provide past work and personal references to be checked by the nursing home; and/or

2. Agree to release and use of any and all information and investigative records necessary for the purpose of verifying whether the individual has been convicted of a criminal offense in the state of Tennessee, to either the nursing home or its agent, to any agency that contracts with the state of Tennessee, to any law enforcement agency, or to any other legally authorized entity; and/or

3. Supply a fingerprint sample and submit to a state criminal history records check to be conducted by the Tennessee Bureau of Investigations, or a state and federal criminal history records check to be conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation; and/or
4. Release any information required for a criminal background investigation by a professional background screening organization or criminal background check service or registry.

(b) A nursing home shall not disclose criminal background check information obtained to a person who is not involved in evaluating a person’s employment, except as required or permitted by state or federal law.

(c) Any costs incurred by the Tennessee Bureau of Investigation, professional background screening organization, law enforcement agency, or other legally authorized entity, in conducting such investigations of such applicants may be paid by the nursing home, or any agency that contracts with the state of Tennessee requesting such investigation and information, or the individual who seeks employment or is employed. Payment of such costs to the Tennessee Bureau of Investigation are to be made in accordance with T.C.A. §§38-6-103 and 38-6-109. The costs of conducting criminal background checks shall be an allowable cost under the state Medicaid program, if paid for by the nursing home.

(d) Criminal background checks are also required by any organization, company, or agency that provides or arranges for the supply of direct care staff to any nursing home licensed in the state of Tennessee. Such company, organization, or agency shall be responsible for initiating a criminal background check on any person hired by that entity for the purpose of working in a nursing home, and shall be required to report the results of the criminal background check to any facility in which the organization arranges the employee to work, upon request by a facility.

(e) A nursing home that declines to employ or terminates a person based upon criminal background information provided to the facility shall be immune from suit by or on behalf of that person for the termination of or the refusal to employ that person.

(12) Whenever the rules of this chapter require that a licensee develop a written policy, plan, procedure, technique, or system concerning a subject, the licensee shall develop the required policy, maintain it and adhere to its provisions. A nursing home which violates a required policy also violates the rule establishing the requirement.

(13) Policies and procedures shall be consistent with professionally recognized standards of practice.

(14) No nursing home shall retaliate against or, in any manner, discriminate against any person because of a complaint made in good faith and without malice to the board, the department, the Department of Human Services Adult Protective Services, the long term care ombudsman, the Comptroller of the State Treasury, or any government agency. A nursing home shall neither retaliate, nor discriminate, because of information lawfully provided to these authorities, because of a person’s cooperation with them, or because a person is subpoenaed to testify at a hearing involving one of these authorities.

(15) Each nursing home shall adopt safety policies for the protection of residents from accident and injury.

(16) Each nursing home shall post whether they have liability insurance, the identity of their primary insurance carrier, and if self-insured, the corporate entity responsible for payment of any claims. It shall be posted on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height and displayed at the main public entrance.
...(18) The nursing home shall ensure a framework for addressing issues related to care at the end of life.

(19) The nursing home shall provide a process that assesses pain in all patients. There shall be an appropriate and effective pain management program.

(20) The nursing home shall carry out the following functions, all of which shall be documented in a written medical equipment management plan:

(a) Develop and maintain a current itemized inventory of medical equipment used in the facility, that is owned or leased by the operator of the facility;

(b) Develop and maintain a schedule for the maintenance, inspection and testing of medical equipment according to manufacturers’ recommendations or other generally accepted standards. The schedule shall include the date and time such maintenance, inspection and testing was actually performed, and the name of the individual who performed such tasks; and

(c) Ensure maintenance, inspection and testing were conducted by facility personnel adequately trained in such procedures or by a contractor qualified to perform such procedures.

(21) All health care facilities licensed pursuant to T.C.A. §68-11-201, et. seq. shall post on a sign no smaller than eight and one-half inches (8½”) in width and eleven inches (11”) in height the following in the main public entrance:

(a) a statement that any person, regardless of age, who may be the victim of domestic violence may call the nationwide domestic violence hotline, with that number printed in boldface type, for immediate assistance.

(22) “No Smoking” signs or the international “No Smoking” symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted at every entrance.

(23) Residents of the facility are exempt from the smoking prohibition. The resident smoking practices shall be governed by the policies and procedures established by the facility. Smoke from such areas shall not infiltrate into the areas where smoking is prohibited.

(24) The facility shall develop a concise statement of its charity care policies and shall post such statement in a place accessible to the public.

1200-08-06-.07 SPECIAL SERVICES: ALZHEIMER’S UNITS. Structurally distinct parts of a nursing home may be designated as special care units for ambulatory residents with dementia or Alzheimer’s Disease and related disorders. Such units shall be designed to encourage self-sufficiency, independence and decision-making skills, and may admit residents only after the unit is found to be in compliance with licensure standards and upon final approval by the department. Units which hold themselves out to the public as providing specialized Alzheimer’s services shall comply with the provisions of T.C.A. § 68-111404 and shall be in compliance with the following minimum standards:

(1) In order to be admitted to the special care unit:
(a) A diagnosis of dementia must be made by a physician. The specific etiology causing the dementia shall be identified to the best level of certainty prior to admission to the special care unit; and,

(b) The need for admission must be determined by an interdisciplinary team consisting at least of a physician experienced in the management of residents with Alzheimer’s Disease and related disorders, a social worker, a registered nurse and a relative of the resident or a resident care advocate.

(2) Special care units shall be separated from the remaining portion of the nursing home by a locked door and must have extraordinary and acceptable fire safety features and policies which ensure the well being and protection of the residents.

(3) The residents must have direct access to a secured, therapeutic outdoor area. This outdoor area shall be designed and maintained to facilitate emergency evacuation.

(4) There must be limited access to the designated unit so that visitors and staff do not pass through the unit to get to other areas of the nursing home.

(5) Each unit must contain a designated dining/activity area which shall accommodate 100% seating for residents.

(6) Corridors or open spaces shall be designed to facilitate ambulation and activity, and shall have an unobstructed view from the central working or nurses’ station.

(7) Drinking facilities shall be provided in the central working area or nurses’ station and in the primary activities areas. Glass front refrigerators may be used.

(8) The unit shall be designed, equipped and maintained to promote positive resident response through the use of:

   (a) Reduced-glare lighting, wall and floor coverings, and materials and decorations conducive to appropriate sensory and visual stimulation; and,
   (b) Meaningful wandering space shall be provided that encourages physical exercise and ensures that residents will not become frustrated upon reaching dead-ends.

(9) The designated units shall provide a minimum of 3.5 hours of direct care to each resident every day including .75 hours of licensed nursing personnel time. Direct care shall not be limited to nursing personnel time and may include direct care provided by dietary employees, social workers, administrator, therapists and other care givers, including volunteers.

(10) In addition to the classroom instruction required in the nurse aide training program, each nurse aide assigned to the unit shall have forty (40) hours of classroom instruction which shall include but not be limited to the following subject areas:

   (a) Basic facts about the causes, progression and management of Alzheimer’s Disease and related disorders;
   (b) Dealing with dysfunctional behavior and catastrophic reactions in the resident;
   (c) Identifying and alleviating safety risks to the resident;
   (d) Providing assistance in the activities of daily living for the resident; and,
   (e) Communicating with families and other persons interested in the resident.
(11) Each resident shall have a treatment plan developed, periodically reviewed and implemented by an interdisciplinary treatment team consisting at least of a physician experienced in the management of residents with Alzheimer's Disease and related disorders, a registered nurse, a social worker, an activity coordinator and a relative of the resident or a resident care advocate.

(12) A protocol for identifying and alleviating job related stress among staff on the special care unit must be developed and carried out.

(13) The staff of the unit shall organize a support group for families of residents which meets at least quarterly for the purpose of:

(a) Providing ongoing education for families;
(b) Permitting families to give advice about the operation of the unit;
(c) Alleviating stress in family members; and
(d) Resolving special problems relating to the residents in the unit.

1200-08-06-.11 RECORDS AND REPORTS.

(2) Unusual events shall be reported by the facility to the Department of Health in a format designed by the Department within seven (7) business days of the date of the identification of the abuse of a patient or an unexpected occurrence or accident that results in death, life threatening or serious injury to a patient.

(a) The following represent circumstances that could result in an unusual event that is an unexpected occurrence or accident resulting in death, life threatening or serious injury to a patient, not related to a natural course of the patient’s illness or underlying condition. The circumstances that could result in an unusual event include, but are not limited to:

9. procedure related incidents, regardless of setting and within thirty (30) days of the procedure and includes readmissions, which include:

...(xx) patient abuse, patient neglect, or misappropriation of resident/patient funds....

(b) Specific incidents that might result in a disruption of the delivery of health care services at the facility shall also be reported to the department, on the unusual event form, within seven (7) days after the facility learns of the incident. These specific incidents include the following:

1. strike by the staff at the facility...

(3) The nursing home shall retain legible copies of the following records and reports for thirty-six months following their issuance. They shall be maintained in a single file and shall be made available for inspection during normal business hours to any person who requests to view them:

(a) Local fire safety inspections;
(b) Local building code inspections, if any;
(c) Fire marshal reports;
(d) Department licensure and fire safety inspections and surveys;
(e) Federal Health Care Financing Administration surveys and inspections, if any;
(f) Orders of the Commissioner or Board, if any;
(g) Comptroller of the Treasury's audit reports and findings, if any; and,
(h) Maintenance records of all safety and patient care equipment.
1. Routine maintenance shall be administered according to the manufacture’s recommended maintenance for the above equipment.

2. Ensure that facility staff or contract personnel are appropriately trained to conduct safety and patient care equipment inspections.

(4) A yearly statistical report, the “Joint Annual Report of Nursing Homes”, shall be submitted to the Department. The forms are mailed to each nursing home by the Department each year. The forms shall be completed and returned to the Department as requested.