12-003 LICENSING REQUIREMENTS AND PROCEDURES:

Any person intending to establish, operate, or maintain a skilled nursing facility, nursing facility, or intermediate care facility must first obtain a license from the Department. A facility must not hold itself out as a skilled nursing facility, nursing facility, or intermediate care facility or as providing skilled nursing, nursing or intermediate care nursing services unless licensed under the Health Care Facility Licensure Act. An applicant for an initial or renewal license must demonstrate that the facility meets the care, treatment, operational, and physical plant standards contained in 175 NAC 12.

12-003.01B Application Requirements:

The application must include:

...8. List of names and addresses of all persons in control of the facility. The list must include all individual owners, partners, limited liability company members, parent companies, and members of boards of directors owning or managing the operations and any other persons with financial interests or investments in the facility. In the case of publicly held corporations, the individual owners listed must include any stockholders who own 5% or more of the company’s stock...

...21. If applicable, the disclosure information required by the Alzheimer’s Special Care Disclosure Act, Neb. Rev. Stat. §§ 71-516.01 to 71-516.04. The following information must be submitted:  

a. The Alzheimer’s special care unit’s written statement of its overall philosophy and mission which reflects the needs of residents afflicted with Alzheimer’s disease, dementia, or a related disorder;

b. The process and criteria for placement in, transfer to, or discharge from the unit;

c. The process used for assessment and establishment of the plan of care and its implementation, including the method by which the plan of care evolves and is responsible to changes in condition;

d. Staff training and continuing education practices;

e. The physical environment and design features appropriate to support the functioning of cognitively impaired adult residents;

f. The frequency and types of resident activities;

g. The involvement of families and the availability of family support programs; and

h. The costs of care and any additional fees.

12-004 GENERAL REQUIREMENTS

12-004.01 Separate License: An applicant must obtain a separate license for each type of health care facility or health care service that the applicant seeks to operate. All buildings in which care and treatment is provided must comply with 175 NAC 12-006 and, if applicable, 175 NAC 12-007. A single license may be issued for:

1. A facility operating in separate buildings or structures on the same premises under one management;
2. An inpatient facility that provides services on an outpatient basis at multiple locations; or
3. A health clinic operating satellite clinics on an intermittent basis within a portion of the total geographic area served by such health clinic and sharing administration with such clinics.

12-004.02 Single License Document: The Department may issue one license document that indicates the various types of health care facilities or health care services for which the entity is licensed.

12-004.06 Change of Ownership or Premises: The licensee must notify the Department in writing ten days before a skilled nursing facility, nursing facility, or intermediate care facility is sold, leased, discontinued, or moved to new premises.

12-004.07 Notification: An applicant or licensee must notify the Department in writing by electronic mail, facsimile, or postal service:
1. At the time of license renewal, of any change in the use or location of beds;
2. At least 30 working days prior to the date it wishes to increase the number of beds for which the facility is licensed;
3. To request a single license document;
4. To request simultaneous facility or service licensure inspections for all types of licensure held or sought;
5. If new construction is planned, and submit construction plans for Department approval prior to any new construction affecting resident living, care, or treatment portions of the facility. The Department may accept certification from an architect or engineer in lieu of Department review;
6. Within 24 hours of any resident death that occurred due to suicide, a violent act, or the resident’s leaving the facility without staff knowledge when departure presented a threat to the safety of the resident or others;
7. Within 24 hours if a facility has reason to believe that a resident death was due to abuse or neglect by staff;
8. Within 24 hours of any facility fire requiring fire department response; or
9. Within 24 hours of an accident or natural disaster resulting in damage to the physical plant and having a direct or immediate adverse effect on the health, safety, and security of residents. This must include a description of the well-being of the facility’s residents and the steps being taken to assure resident safety, well-being, and continuity of care and treatment. The notification may be made by telephone if the accident or natural disaster has affected the facility’s capacity to communicate.

12-004.08 Information Available to Public: The licensee must make available for public inspection upon request licenses, license record information, and inspection reports. This information may be displayed on the licensed premises.

12-06 STANDARDS OF OPERATION, CARE, AND TREATMENT:

To assure adequate protection and promotion of the health, safety, and well-being of facility residents and compliance with state statutes, skilled nursing facilities, nursing facilities, and intermediate care facilities must meet the following standards except where specified otherwise.

12-006.01 Licensee Responsibilities: The licensee of each facility must assume the responsibility for the total operation of the facility. The licensee may appoint a governing body. Licensee responsibilities include:
1. Monitoring policies to assure the appropriate administration and management of the facility;
2. Ensuring the facility’s compliance with all applicable state statutes and relevant rules and regulations;
3. Periodically reviewing reports and recommendations regarding the quality assurance/performance improvement program and implementing programs and policies to maintain and improve the quality of resident care and treatment;
4. Appointing a Nebraska-licensed administrator who is responsible for the day-to-day management of the facility;
5. Defining the duties and responsibilities of the administrator in writing;
6. Notifying the Department in writing within five working days when a vacancy in the administrator position occurs, including who will be responsible for the position until another administrator is appointed; and
7. Notifying the Department in writing within five working days when the vacancy in the administrator position is filled, including the effective date, license number, and the name of the person appointed administrator.

12-006.02 Administration: Every skilled nursing facility, nursing facility, and intermediate care facility must have a Nebraska-licensed administrator who is responsible for the overall management of the facility. Each administrator must be responsible for and oversee the operation of only one licensed facility or one integrated system, except that an administrator may be responsible for and oversee the operations of up to three licensed facilities if approval is granted by the Board of Examiners in Nursing Home Administration and such facilities are located within two hours’ travel time of each other, the distance between the two facilities the farthest apart does not exceed 150 miles, and the combined total number of beds in the facilities does not exceed 200. With approval of the Board, an administrator may act in the dual role of administrator and department head but not in the dual role of administrator and director of nursing. The administrator is responsible for:
1. The facility's compliance with rules and regulations.
2. Planning, organizing, and directing those responsibilities delegated to him or her by the licensee of the facility;
3. Maintaining liaison, through meetings and periodic reports, among the governing body, medical and nursing staff, and other professional and supervisory staff of the facility;
4. The facility's protection and promotion of residents' health, safety and wellbeing; promotion of resident individuality, privacy and dignity; and resident participation in decisions regarding care and services;
5. Ensuring staffing appropriate in number and qualification to meet the resident needs;
6. Designating an appropriate person to act as a substitute in his or her absence who is responsible and accountable for management of the facility. The administrator remains responsible for the acts of the designated person. In case of an extended absence, an appropriate person means one who holds a current license or provisional license issued by the Department to act as a nursing home administrator;
7. Ensuring that facility staff identify and review incidents and accidents, resident complaints and concerns, patterns and trends in overall facility operation such as provisions of resident care and service and take action to alleviate problems and prevent recurrence;
8. Ensuring that a report is made on any alleged abuse of a resident by a staff member,
volunteer, family member, visitor, or any other person to Adult Protective Services or local law enforcement as directed in the Adult Protective Services Act, Neb. Rev. Stat. §§ 28-348 to 28-387. All alleged abuse must be investigated and residents protected from further abuse throughout the investigation; and

9. Ensuring the establishment of a quality assurance/performance improvement committee and that the recommendations of the committee are addressed.

12-006.03 Medical Director: The facility must designate a physician to serve as medical director. The medical director is responsible for:
1. Ensuring adequate medical practitioner availability and support;
2. Ensuring effective medical practitioner and facility compliance with requirements;
3. Evaluating and improving the quality of the care; and
4. Evaluating and improving the quality of the systems and processes that influence the care.

12-006.04 Staff Requirements: The facility must maintain a sufficient number of staff with the required training and skills necessary to meet the resident population’s requirements for assistance or provision of personal care, activities of daily living, supervision, supportive services and medical care where appropriate.

12-006.04A Employment Eligibility: The facility must provide for and maintain evidence of the following:

12-006.04A1 Staff Credentials: The facility must verify the current licensure, certification, registration, or other credentials of staff prior to the staff assuming job responsibilities and must have procedures for verifying that current status is maintained.

12-006.04A2 Health Status: The facility must establish and implement policies and procedures related to the health status of staff to prevent the transmission of disease to residents.

12-006.04A2a Health History Screening: The facility must complete a health history screening for each staff prior to assuming job responsibilities. A physical examination is at the discretion of the employer based on results of the health history screening.

12-006.04A3 Criminal Background and Registry Checks: The facility must complete and maintain documentation of pre-employment criminal background and registry checks on each unlicensed direct care staff member.

12-006.04A3a Criminal Background Checks: The facility must complete criminal background checks through a governmental law enforcement agency or a private entity that maintains criminal background information.

12-006.04A3b Registry Checks: The facility must check for adverse findings on the following registries:
1. Nurse Aide Registry;
2. Adult Protective Services Central Registry;
3. Central Register of Child Protection Cases; and
4. Nebraska State Patrol Sex Offender Registry.

12-006.04A3c The facility must:
1. Determine how to use the criminal background and registry information, except for the Nurse Aide Registry, in making hiring decisions;
2. Decide whether employment can begin prior to receiving the criminal background and registry information; and
3. Document any decision to hire a person with a criminal background or adverse registry findings, except for the Nurse Aide Registry. The documentation must include the basis for the decision and how it will not pose a threat to patient safety or patient property.

12-006.04A3d: The facility must not employ a person with adverse findings on the Nurse Aide Registry regarding resident abuse, neglect, or misappropriation of resident property.

12-006.04B Training: The facility must provide initial and ongoing training designed to meet the needs of the resident population. Training must be provided by a person qualified by education, experience, and knowledge in the area of the service being provided. The training must include the following:

12-006.04B1 Initial Orientation: The facility must ensure each employee of the facility receives initial orientation within two weeks that includes as a minimum, but is not limited to:
1. Resident rights;
2. Emergency procedures including fire safety and disaster preparedness plans including availability and notification;
3. Information on abuse, neglect, and misappropriation of money or property of a resident and reporting requirements according to the Adult Protective Services Act, and facility procedures;
4. Job duties and responsibilities; and,
5. Nursing staff must receive information on medical emergencies directives.

12-006.04B2 Ongoing Training: The facility must ensure each employee receives ongoing training to ensure continued compliance with regulations and facility policy. The record of such training must include a notation of type of training, name of employee(s), date of training, and name of person providing the training.

12-006.04B2a Nursing Assistant Training: Ongoing training for nursing assistants must consist of at least 12 hours per year on topics appropriate to the employee’s job duties, including meeting the physical, psychosocial, and mental needs of the residents in the facility.

12-006.04B2b Medication Aides: When medication aides are utilized by the facility, there must be ongoing training to ensure competencies are met as provided in 172 NAC 95.

12-006.04B2c Director of Food Service: When the director of food service is not a qualified dietitian, the director must have at least 15 hours of continuing education related to dietetics each year, 5 hours of which relate to sanitation. Evidence of credentials and of continuing education must be available within the facility.

12-006.04C1 Director of Nursing Services: ...The Director of Nursing Services of the facility must be a registered nurse. The Director of Nursing Services is responsible for the following:

... 2. Orientation and inservice education of the nursing services staff...

12-006.04C7 Other Nursing Personnel: The facility must assign a sufficient number of qualified nursing personnel who are awake, dressed and assigned to resident care duties at all times.

12-006.04C7a The facility must ensure personnel who provide direct resident care but are not required to be licensed or registered, including Nursing Assistants and Medication Aides, meet the following requirements:
12-006.04C7a(1) Nursing Assistants must be at least 16 years of age and must have completed a training course approved by the Department in accordance with 175 NAC 13.

12-006.04D1 Qualified Dietitian
12-006.04D1a The qualified dietitian is responsible for...developing and implementing inservice education programs...

12-006.04G Medical Records Staffing: The facility must assign overall supervisory responsibility for the medical record service to a full-time employee of the facility, and must maintain sufficient supporting personnel competent to carry out the functions of the medical record services.

12-006.07 Quality Assurance/Performance Improvement: The facility must have a quality assurance/performance improvement committee responsible for identifying issues which necessitate action, development and implementation of action plan to correct problems and reevaluation of the problem to promote quality care and treatment provided to residents.
12-006.07A Committee Participants: The facility must ensure the following individuals serve on the quality assurance/performance improvement committee:

1. Director of Nursing Services;
2. Medical Director or designee; and
3. At least three other members of the facility’s staff.

12-006.07B Other Participants: The facility must request participation of other members of the facility staff as well as consultants on the quality assurance/performance improvement committee as necessary to identify issues which necessitate action and to participate in development and implementation of action plan to correct the problem and reevaluation of the problem.

12-006.07C Committee Responsibilities: The quality assurance/performance improvement committee is responsible for:
   1. Identifying issues that necessitate action by the committee;
   2. Developing and implementing plans of action to correct identified problems;
   3. Monitoring the appropriateness and effectiveness of corrective actions; and
   4. Reevaluating corrective actions, revising of plans of corrective action, and revising facility policies and clinical policies as necessary.

12-006.15 Outside Resources: If the facility does not employ a qualified professional person to furnish a specific service required to meet the needs of a resident, the facility must have the services furnished to residents by a person or agency outside the facility under an arrangement/agreement. The facility is responsible for obtaining services that meet professional standards that apply to professionals and the timeliness of the services. This includes such services as laboratory and radiology and other diagnostic services.
12-006.16 Record-Keeping Requirements: The facility must maintain and safeguard clinical and other records.

12-006.16A Clinical Records: The facility must maintain clinical records on each resident in accordance with accepted professional standards and practice. Clinical records must contain at a minimum:
1. Sufficient information to identify the resident;
2. A record of the resident’s assessments, including those assessments performed by services under agreement with the facility;
3. The plan of care and services including medication administration, provided by facility staff and services provided under agreement with the facility;
4. Interdisciplinary progress notes to include effect of care provided, residents’ response to treatment, change in condition, and changes in treatment;
5. Medical practitioner orders which are signed and dated;
6. Allergies;
7. Person to contact in an emergency situation;
8. Name of attending medical practitioner; and
9. Advanced directives if available.

12-006.16B The clinical record must be:
1. Complete;
2. Accurately documented;
3. Readily accessible;
4. Systematically organized; and
5. Legible.

12-006.16C Clinical Record Safeguards: The facility must safeguard clinical record information against loss, destruction, or unauthorized use.

12-006.16C1 If the facility maintains a resident’s record by computer, electronic signatures are acceptable. If attestation is done on computer records, safeguards to prevent unauthorized access, and to provide for reconstruction of information must be in place.

12-006.16C2 The facility must protect the confidentiality of all information contained in the resident’s records, regardless of the form or storage method of the records, except when release is authorized by:
1. Transfer agreement to another health care facility or health care service;
2. Law;
3. Third party payment contract; or
4. The resident or designee.

12-006.16C3 Records are subject to inspection by authorized representatives of the Department.

12-006.16D Record Retention and Preservation: Resident clinical records must be maintained and preserved for a period of at least five years or, in case of a minor, five years after the resident becomes of age under Nebraska law. In cases in which a facility ceases operation, all records of each resident must be transferred to the health care facility to which the resident moves. All other resident records of a facility ceasing operation must be disposed of by shredding, burning, or other similar protective measures in order to preserve the resident’s rights of confidentiality. Records or documentation of the actual fact of resident medical record destruction must be permanently maintained.
12-006.16F Chronological Resident Register: The facility must maintain a chronological resident register. This register, if kept on computer, must be reproducible and safeguarded from destruction. The register must identify:

1. Name of resident;
2. Date of admission;
3. Date of birth;
4. Social Security number;
5. Admission number;
6. Gender;
7. Names of medical practitioner and dentist; and
8. Date of discharge and destination.

12-006.16G Other Facility Records: The facility must have and maintain the following records:

12-006.16G1 Daily Census Record: A count of residents must be taken at the same hour each day, and must be noted and totaled at the end of 365 days. The total represents the number of “individual care days for the past 12 months.”

12-006.16G2 Written policies and procedures that govern all services provided by the facility. Policies and procedures must address the following areas but are not limited to:
1. Admission of residents to facility which ensure that only individuals whose needs can be met by the facility or by providers of care under contract to the facility are admitted;
2. Transfer and discharge;
3. Methods the facility uses to receive complaints and recommendations from its residents and ensuring facility response;
4. Clinical record protection;
5. Care and services provided by facility staff and contracted services; and
6. All areas identified in 175 NAC 12-006.09, 12-006.10, and 12-006.12.

12-006.16G3 Written disaster plan;

12-006.16G4 Records of each orientation and inservice or other training program, including names of staff attending, subject matter of the training, names and qualifications of instructors, dates of training, length of training sessions and any written materials provided;

12-006.16G5 Current employment records for each staff person. Information kept in the record must include information on the length of service; orientation; inservice; licensure, certification, registration, or other credentials; performance; health history screening; and previous work experience;

12-006.16G6 Contracts with outside resources to furnish required facility services not provided directly by the facility; and

12-006.16G7 Records regarding operation and maintenance of the facility.

12-006.16H Inspection of Records: Records required by 175 NAC 12 must be available for inspection and copying by authorized representatives of the Department.

12-006.18F Disaster Preparedness and Management: The facility must establish and implement disaster preparedness plans and procedures to ensure that residents’ care and
treatment, safety, and well-being are provided and maintained during and following instances of natural (tornado, flood, etc.) and other disasters, disease outbreaks, or other similar situations. Such plans and procedures must address and delineate:
1. How the facility will maintain the proper identification of each resident to ensure that care and treatment coincide with the resident’s needs;
2. How the facility will move residents to points of safety or provide other means of protection when all or part of the building is damaged or uninhabitable due to natural or other disaster;
3. How the facility will protect residents during the threat of exposure to the ingestion, absorption, or inhalation of hazardous substances or materials;
4. How the facility will provide food, water, medicine, medical supplies, and other necessary items for care and treatment in the event of a natural or other disaster; and
5. How the facility will provide for the comfort, safety, and well-being of residents in the event of 24 or more consecutive hours of:
   a. Electrical or gas outage;
   b. Heating, cooling, or sewer system failure; or
   c. Loss or contamination of water supply.