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 411-088-0050 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.

411-070-0470 NURSING ASSISTANT TRAINING AND COMPETENCY EVALUATION PROGRAMS COST REPORTS

(1) COST REPORT REQUIRED. Medicaid certified nursing facilities must file a Nursing Assistant Training and Competency Evaluation Program (NATCEP) cost report (Form SDS 451) quarterly with SPD's Financial Audit Unit that meets the following standards:

(a) A NATCEP cost report is due and must be postmarked by the last day of the calendar quarter subsequent to the quarter that it covers (or postmarked the first business day after the quarter if the last day of the quarter is a Sunday or holiday). The cost report must identify all costs incurred and related revenues (not including NATCEP payments from SPD) received during the reporting period. If a facility fails to file a report postmarked as described, NATCEP reimbursement must be reduced by 3 percent for each business day the report is past due until received.

(b) A cost report must:

(A) Be submitted on a form provided by SPD.

(B) Include actual costs incurred and paid by the facility. SPD may not reimburse a facility prospectively.

(C) Include all revenue (not including NATCEP payments from SPD) received by the facility for conducting nurse aide training. All revenue must be used to offset the costs incurred and paid in the period.

(D) Include appropriate documentation to support each specific area identified for payment by the state. For example, invoices for equipment purchases or to reimburse contract trainers, time sheets for qualified facility training staff, evidence an aide paid for NATCEP and was reimbursed by the facility as specified in section (2) of this rule. Failure to provide required documentation shall result in the form being rejected and returned to the facility.

(E) Include all appropriate NATCEP costs and revenues only. NATCEP costs, including costs disallowed, must not be reimbursed as part of the facility’s bundled rate. However, NATCEP costs, revenues, and reimbursement must be included on the facility's annual NFFS.

(F) Include only true and accurate information. If a facility knowingly or with reason to know files a report containing false information, such action must constitute cause for termination of the facility's provider agreement with SPD. Providers filing false reports may be referred for prosecution under applicable statutes.
(2) CHARGING OF FEES PROHIBITED. The nursing facility must not charge a trainee any fee for participation in NATCEP or for any textbooks or other materials required for NATCEP if the trainee is employed by or has an offer of employment from a nursing facility on the date on which the NATCEP begins.

(3) FEES PAID BY EMPLOYER.
(a) All charges and materials required for NATCEP and fees for nursing assistant certification must be paid by the nursing facility if it offered employment at the facility on the date training began.
(b) If a nursing assistant who is not employed by a Medicaid certified facility and does not have an offer of employment by a Medicaid nursing facility on the date on which the NATCEP began becomes employed by, or receives an offer for employment from, a nursing facility within twelve months after completing a NATCEP, the employing facility must reimburse the nursing assistant on a monthly basis for any NATCEP fees paid (including any fees for textbooks or other required course materials) by the nursing assistant. Evidence the nursing assistant paid for training must include the graduation certificate from the school and receipt of payment.
(c) Such reimbursement must be calculated on a pro rata basis. The reimbursement must be determined by dividing the cost paid by the nursing assistant by 12 and multiplying by the number of months during this 12-month period in which the aide worked for the facility. The facility must claim the appropriate pro rata amount on each report it submits not to exceed the lesser of 12 months or the total number of months the nursing assistant was employed at that facility. The facility must submit evidence provided by the nursing assistant of the training costs incurred at an approved training facility.

(4) REIMBURSEMENT BY SPD. SPD shall reimburse the facility for the Medicaid portion of the costs described in this section unless limited by the application of section (5). This portion is calculated by multiplying the eligible costs paid by the facility by the percentage of resident days that are attributable to Medicaid residents during the reporting period. SPD’s payment to the facility for the NATCEP cost is in addition to payments based upon the facility’s bundled rate.
(a) Employee Compensation. Reimbursement for trainer hours must not exceed 1 1/3 times the number of hours required for certification. A facility may claim reimbursement for the portion of an employee’s compensation attributable to nurse aide training if:
(A) The employee meets the qualifications of 42 CFR 483.152 and OAR chapter 851, division 061;
(B) The employee directly conducts training or testing in a certified program;
(C) The employee’s compensation, including benefits, is commensurate with other RN compensation paid by the facility;
(D) The employee’s total compensated hours do not exceed 40 in any week during which NATCEP reimbursement is claimed;
(E) No portion of the claimed reimbursement is for providing direct care services while assisting in the training of nurse aides if providing direct care services is within the normal duties of the employee; and
(F) The facility provides SPD with satisfactory documentation to support the methodology for allocating costs between facility operation and NATCEP.
(b) Training Space and Utilities. Costs associated with space and utilities are eligible only if the space and utilities are devoted 100 percent to the NATCEP. The facility must provide
documentation satisfactory to SPD to support the need for, and use of, the space and utilities.

(c) Textbooks and Course Materials. A portion of the cost of textbooks and materials is eligible if textbooks and materials are used primarily for NATCEP. The portion reimbursable is equal to the percentage of use attributable to NATCEP. "Primarily" means more than 50 percent. The facility must provide satisfactory documentation supporting the NATCEP need for and percentage of use of textbooks and materials.

(d) Equipment. A portion of the cost of equipment is eligible if used primarily for NATCEP. However, equipment purchased for $500 or more per item must be prior approved by SPD to qualify for reimbursement. The portion reimbursable is equal to the percentage of use attributable to NATCEP. "Primarily" means more than 50 percent. The facility must provide satisfactory documentation supporting the NATCEP need for and percentage of use of the equipment. Disposition of equipment and software purchased in whole or in part under the Title XIX Medicaid Program must meet the requirements of the facility's provider agreement.

(e) Certification Fees. Nursing assistant certification and recertification fees paid to the Oregon State Board of Nursing for facility employees are eligible.

(f) Reimbursement for CNAs. Reimbursement provided to nursing assistants pursuant to section (3) of this rule is eligible. The training must have occurred at an approved training center, including nursing facilities in Oregon or other states.

(g) Contract Trainers. Payment for nurse aide certification classes provided under contract by persons who meet the qualifications of 42 CFR 483.152 is eligible for reimbursement. For this purpose, either the facility or the contractor must be certified for NATCEP.

Allowable

(h) Ineligible Costs -- Trainee Wages. Wages paid to nursing assistants in training are not eligible for NATCEP reimbursement, but may be claimed as part of the daily reimbursement costs.

(i) Reimbursement for Combined Classes. If two or more Medicaid certified facilities cooperate to conduct nurse aide training, SPD shall not reimburse any participating facility for the combined training class until all participating facilities have filed a cost report. For a combined class, SPD shall apportion reimbursement to participating facilities pro rata based on the number of students enrolled at the completion of the first 30 hours of classroom training or in any other equitable manner agreed to by the participating facilities. However, when cooperating facilities file separate NATCEP cost reports, nothing in this section authorizes SPD to deny or limit reimbursement to a facility based on a failure to file or a delay in filing by a cooperating facility.

(5) Notwithstanding section (4) of this rule, SPD shall calculate the 80th percentile of the Medicaid portion of reported NATCEP costs per trainee completing the training. If a facility's Medicaid portion exceeds the 80th percentile of costs, SPD shall evaluate the facility's NATCEP costs to determine whether its costs are necessary due to compelling circumstances including but not limited to:

(a) Rural or isolated location of the training facility;

(b) Critical individual care need;

(c) Shortage of nursing assistants available in the local labor market; or

(d) Absence or inadequacy of other training facilities or alternative training programs, e.g., community college certification programs.
(6) If, under the analysis in section (5) of this rule, SPD finds that a facility’s NATCEP costs are justified, SPD shall reimburse the reported costs pursuant to section (4) of this rule. However, if, under the analysis in section (5) of this rule, SPD finds that a facility's NATCEP costs are not justified, SPD shall reimburse the reported costs pursuant to section (4) of this rule but limited by the cost plateau.

(7) RECORDKEEPING, AUDIT, AND APPEAL.
(a) The facility must maintain supportive documentation for a period of not less than three years following the date of submission of the NATCEP cost report. This documentation must include records in sufficient detail to substantiate the data reported. If there are unresolved audit questions at the end of the three-year period, the records must be maintained until the questions are resolved. The records must be maintained in a condition that can be audited.
(b) SPD shall analyze by desk review each timely filed and properly completed NATCEP cost report. All cost reports are also subject to field audit at the discretion of SPD. The facility shall be notified in writing of the amount to be reimbursed and of any adjustments to the cost statement. Settlement of any amounts due to SPD must be made within 30 days of the date of notification to the facility.
(c) A facility is entitled to an informal conference and contested case hearing pursuant to ORS 183.413 through 183.470, as described in OAR 411-070-0435, to protest the reimbursement amount or the adjustment. If no request for an informal conference or contested case hearing is made within 30 days, the decision becomes final.

411-085-0010 ISSUANCE OF LICENSE.

(4) Application for Initial Licensure and License Renewal.
(a) The application(s) shall be on a form or forms provided by The Department and shall include all information requested by The Department including, but not limited to, identity and financial interest of any person, including stockholders who have an incident of ownership in the applicant representing an interest of ten percent or more or ten percent of a lease agreement for the facility.
NOTE: Facilities applying for Medicaid and/or Medicare certification are required by federal law to identify applicants representing a five percent or more interest.
(b) The application will require the identification of any person who has ten percent incident of ownership, direct or indirect, in a pharmacy or in any business that provides services or supplies to nursing facilities. If any such person(s) exist(s), the application must identify the person, the name and address of the pharmacy or business.
(c) Separate Buildings. Separate licenses are not required for separate buildings located contiguously and operated as an integrated unit by the same ownership or management.

411-085-0025 CHANGE OF OWNERSHIP OR OPERATOR/CESSATION OF BUSINESS

(1) PENDING CHANGE OF OWNERSHIP/MANAGEMENT. When a change of ownership or a change of operator is contemplated, the licensee and the prospective licensee must each notify The Department in writing of the contemplated change. The change of ownership/operator must be received by The Department at least 45 days prior to the proposed date of transfer. A shorter timeframe may be allowed at the sole discretion of The Department. The notification must be in writing and must include the following:
(a) Name and signature of the current licensee;
(b) The name of the prospective licensee;
(c) The proposed date of the transfer;
(d) Type of transfer (e.g., sale, lease, rental, etc.).
(e) A complete, signed nursing facility application from the prospective licensee.

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.

(a) Licensure, Registration, Certification Required. All health care personnel working in the facility must be licensed, registered, or certified as required. Documentation thereof is required for all such 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.

(d) Nursing Personnel. Before employing a registered nurse, licensed practical nurse or nursing assistant, the licensee must contact the Oregon State Board of Nursing and inquire whether the person is licensed or certified by the Board and whether there has been any disciplinary action by the Board against the person or any substantiated abuse findings against a nursing assistant.

(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.

(4) CONSULTANTS. When consultants are required, a facility will require consultants to file written reports at least quarterly. These reports must include date(s) of visit(s), length of
time spent on premises, action taken on previous reports, problems identified, recommendations, staff members contacted, services performed, distribution of reports, and date mailed or delivered. The facility must maintain these quarterly reports in the facility.

411-085-0210 FACILITY POLICIES

(1) POLICIES REQUIRED. A Quality Assessment and Assurance Committee must develop and adopt facility policies. The policies must be followed by the facility staff and evaluated annually by the Quality Assessment and Assurance Committee and rewritten as needed. Policies must be adopted regarding:
(a) Admission, fees and services;
(b) Transfer and discharge, including discharge planning;
(c) Physician services;
(d) Nursing services;
(e) Dietary services;
(f) Rehabilitative services and restorative services;
(g) Pharmaceutical services, including self administration;
(h) Care of residents in an emergency;
(i) Activities;
(j) Social services;
(k) Clinical records;
(l) Infection control;
(m) Diagnostic services;
(n) Oral care and dental services;
(o) Accident prevention and reporting of incidents;
(p) Housekeeping services and preventive maintenance;
(q) Employee orientation and inservice;
(r) Laundry services;
(s) Possession of firearms and ammunition;
(t) Consultant services; and
(u) Resident grievances.
(2) DOCUMENTATION. Each policy must be in writing and must specify the last date at which such policy was reviewed by the Quality Assessment and Assurance Committee.

411-085-0220 QUALITY ASSURANCE

(1) QUALITY ASSESSMENT AND ASSURANCE COMMITTEE. Each facility must have a Quality Assessment and Assurance Committee. The committee must include the administrator, medical director, Director of Nursing Services (DNS), consulting pharmacist and at least one other facility staff person. The committee must:
(a) Ensure a quality assurance program is conducted as required in this rule;
(b) Adopt facility policies as identified in OAR 411-085-0210;
(c) Ensure a pharmaceutical services review is completed as required by OAR 411-086-0260(2);
(d) Ensure that an infection control program as identified in OAR 411-086-0330 is conducted; and
(e) Meet no less often than quarterly.
QUALITY ASSURANCE. The Quality Assessment and Assurance Committee must conduct an annual review of care practices to ensure quality. The review must include:
(a) Evaluation of resident audits (biannual physical examination of a representative sample of facility residents). The sample must include a minimum of 20 percent of the residents or ten residents, whichever is greater;
(b) Clinical records, including medication administration and treatments;
(c) Resident nutritional status, including weights, intake, and output;
(d) Care plans to ensure that care needs have been identified and addressed;
(e) The services and functions required by the policies listed in OAR 411-085-0210; and
(f) Actions taken to resolve identified problems and to prevent their recurrence.

DOCUMENTATION. All meetings of the Quality Assessment and Assurance Committee must be documented. Documentation must include a listing of those in attendance, length of the meeting, issues discussed, findings, actions, recommendations made and assessment of previous actions and recommendations.

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.

411-086-0020 DIRECTOR OF NURSING SERVICES (DNS)

(1) Full-Time. Each facility shall have a director of nursing services who shall be full-time (40-hours per week) in a single nursing facility. Time spent in professional association workshops, seminars and continuing education may be counted in considering whether or not the DNS is full-time.
(2) Qualifications. The DNS shall be a registered nurse who has specific knowledge about nursing administration in a nursing facility:
...(c) The DNS shall successfully complete every two years at least 30 continuing education hours pertinent to nursing administration in a nursing facility.
(3) Responsibility:
(a) ...The DNS shall organize and direct the nursing service department to include as a minimum:
...(B) Develop and maintain personnel policies of recruitment, orientation, in-service education, supervision, evaluation and termination of nursing service staff...
...(D) Develop and maintain a quality assurance program for nursing services;
411-086-0050 ADMISSION OF DAY CARE RESIDENTS

Day care residents may be admitted to the facility only if the facility has written approval from the Division to admit day care residents, the facility is in compliance with OAR 411, divisions 85-89, and provided admittance does not interfere with care needs of other residents. Day care residents are considered "residents" for the purpose of OAR 411, divisions 85-89, unless specifically stated otherwise:

411-086-0130 NURSING SERVICES: NOTIFICATION

...(2) Notification of Division. The nursing care staff shall notify the Division of any situation in which the health or safety of the resident(s) was/is endangered such as:
...(b) Fire;
(c) Lost resident...

411-086-0140 Nursing Services: Problem Resolution and Preventive Care

(2) Safe Environment.
...(c) Reasonable Precautions. Reasonable precautions include, but are not limited to, provision and documentation of an assessment and evaluation of resident’s condition, medications, and treatments, and completion of a care plan, consistent with OAR 411-086-0060; and, when appropriate:
...(B) Provision of additional inservice training...

411-086-0200 PHYSICIAN SERVICES.

(1) MEDICAL DIRECTOR. Each nursing facility shall have a physician medical director designated in writing. The medical director shall:
(a) Serve on the Quality Assessment and Assurance Committee;
(b) Assist the facility to assure that adequate medical care is provided on a timely basis in accordance with OAR 411-085-0210 (Facility Policies); and
(c) Serve as attending physician for those residents who are not able to obtain services of another physician or ensure another physician is available to serve as attending physician.

(4) PHYSICIAN VISITS.
(d) Failure to Visit. If the physician or physician designee fails to visit the resident according to resident’s need, fails to respond to requests for assistance in resident’s care, or fails to return verbal or telephone orders reduced to writing and forwarded to the physician by the facility, then the facility administrator shall ensure:
(A) Reasonable and repeated attempts are made and documented in the clinical record to get the physician or physician designee to visit resident or return signed orders;
(B) The medical director is notified and the Quality Assessment and Assurance Committee reviews the situation...

411-086-0210 DENTAL SERVICES

(1) Consulting Dentist. The facility shall have an consulting dentist who shall:
...(c) Recommend procedures for oral health inservice training. This training shall be provided to appropriate staff at least annually.
411-086-0220 REHABILITATIVE SERVICES

...(5) Documentation. All rehabilitative services provided and results of those services shall be clearly documented in the resident’s clinical record. Progress notes relevant to the plan shall be documented in the resident’s clinical record as frequently as the resident’s condition or ability changes, but no less often than quarterly.

411-086-0230 ACTIVITY SERVICES

(2) Activity Director.
...(b) Responsibilities. The Director shall:
...(B) Plan and participate in activities in-service required by OAR 411-086-0310....

411-086-0240 SOCIAL SERVICES

(2) Social Services Director.
(b) Responsibilities. The Social Services Director shall:
...(C) Participate in resident care planning conferences and social service inservices for facility staff;
...(H) Plan and participate in facility in-service required by OAR 411-086-0310...

411-086-0250 DIETARY SERVICES

(2) DIETARY SERVICES DIRECTOR.
...(ii) The consultant shall have at least one year of supervisory experience in an institutional dietary service and shall participate in continuing education annually.

411-086-0260 PHARMACEUTICAL SERVICES

(2) Pharmaceutical Services Review. The Quality Assessment and Assurance Committee shall:
(a) Develop written policies and procedures for safe and effective drug therapy, distribution and use;
(b) Oversee pharmaceutical services in the facility, monitor the service to ensure accuracy and adequacy and make recommendations for improvement; and
(c) Meet at least quarterly and document its activities, findings and recommendations.
(4) Drug Administration:
... (c) Stop Order Policy. An automatic stop order policy shall be adopted and enforced. This policy shall provide guidance when medications ordered are not specifically limited as to time or number of doses. The policy shall be developed by the Quality Assessment and Assurance Committee.
(6) Emergency Medication Kit:
(a) An emergency medication kit shall be prepared and authorized by a registered pharmacist for use in the facility in accordance with written facility policy. The contents shall be selected by the Quality Assessment and Assurance Committee.
411-086-0300 CLINICAL RECORDS

(1) Clinical Records Department. The facility shall ensure the preparation, completeness, accuracy, preservation, and filing of a clinical record for each resident in accordance with facility policy (OAR 411-085-0210). This rule does not apply to nonmedical records.
(2) Director. The facility shall designate in writing a staff person to function as clinical records coordinator who shall ensure compliance with this rule. Services of a qualified medical record consultant (RRA or ART) shall be provided as needed.
(3) Staffing, Equipment. There shall be personnel, space, and equipment to provide efficient, systematic processing of clinical records including but not limited to reviewing, indexing, filing, and prompt retrieval.
(4) Filing. A system of identification and filing to ensure the rapid location of resident clinical records shall be maintained. A resident master index containing at least the full name of each resident, date of birth, clinical record number as applicable, date of admission, date of discharge, legal representative and physician of record shall be maintained.
(5) Content of Clinical Record. A clinical record shall be maintained for each resident. Each record shall contain supporting data, written in sequence of events to justify the diagnosis and warrant the treatment and results. All entries shall be kept current, accurate, dated and signed. All clinical records shall be either typewritten or recorded legibly in ink and shall include but not be limited to the following information:
(a) Admitting diagnosis and identification data including the resident’s name, previous address, date and time of admission, sex, date of birth, marital status, religious preference and social security number; name, address, and telephone number of nearest relative or personal agent; place admitted from; attending physician; alternate physician (clinic or service); dentist; legal representative and RN care manager;
(b) A medical history and physical exam or medical summary as to the resident’s condition which is signed by a physician. If a resident is re-admitted within 30 days for the same condition, the previous history and physical or medical summary, with an interval note signed by a physician, will suffice. If an ongoing clinical record is maintained in a comprehensive care facility, it may be used if accompanied by a physical exam report completed within the previous 30 days;
(c) Clinical reports, current, dated, and signed. Such reports include, but are not limited to, laboratory, x-ray, and results of tests/exams including those for communicable diseases;
(d) Physician’s orders, current, dated and signed;
(e) Physician’s progress notes dated and signed;
(f) Timely, written, dated, pertinent, complete and signed clinical observations. Clinical observations shall include changes in condition, results of treatments and medications, and unusual events. Clinical observations shall include outcome of the resident care plan and shall be summarized by nursing staff at least quarterly unless the resident's condition dictates otherwise;
(g) Record of medication administration including name of drug, dosage, frequency, mode of administration, date, time and signature of the person administering medication. Documentation shall also include, when applicable, site of injection, reaction, reason for withholding any medication, and reason for administering any "prn" (as needed) medication;
(h) Record of treatments administered which shall be dated, timed and signed by those performing treatments;
(i) Miscellaneous items such as releases, consent forms, mortician’s receipts, valuables list and medical correspondence as applicable;

(j) Discharge summary prepared in accordance with OAR 411-086-0160 and signed by the attending physician. The summary shall include admitting diagnosis/reason for admission, summary of the course of treatment in the facility, final diagnosis with a follow-up plan if appropriate, condition on discharge or cause of death; and

(k) The "Directive to Physicians" ("Living Will"), the Power of Attorney for Health Care and similar legal documents regarding resident care directives, if any, shall be filed in the resident’s clinical record in a manner which makes them prominent and conspicuous.

(6) Record Retention. All clinical records shall be kept for a period of five years after the date of last discharge of the resident. A clinical record for each resident for whom care has been provided in the previous six months shall be immediately available for review by Division representatives upon request.

(7) Resident Transfer. When a resident is transferred to another facility, the following information shall accompany the resident:

(a) The name of the facility from which transferred;
(b) The names of attending physicians prior to transfer;
(c) The name of physician to assume care;
(d) The date and time of discharge;
(e) Most recent history and physical;
(f) Current diagnosis, orders from a physician for immediate care of the resident, nursing, and other information germane to the resident's condition;
(g) A copy of the discharge summary. If the discharge summary is not available at time of transfer, it shall be transmitted as soon as available, but no later than seven days after transfer; and

(h) A copy of the current Directive and Power of Attorney for Health Care, if any.

(8) Ownership of Records. Clinical records are the property of the licensee. The clinical record, either in original or microfilm form, shall not be removed from the control of the facility except where necessary for a judicial or administrative proceeding. Authorized representatives of the Division shall be permitted to review and obtain copies of clinical records as necessary to determine compliance with OAR 411:

(a) If a facility changes ownership all clinical records in original or microfilm form shall remain in the facility and ownership shall be transferred to the new licensee;
(b) In the event of dissolution of a facility, the administrator shall ensure that clinical records are transferred to another health care facility or to the resident’s primary care physician, and shall notify the Division as to the location of each clinical record. The party to whom the records are transferred must have agreed to serve as custodian of the records.

411-086-0310 Employee Orientation and In-Service Training

(1) Orientation. The nursing facility shall ensure that each employee, temporary employee, and volunteer completes an orientation program sufficient to ensure that the safety and comfort of all residents is assured in accordance with facility policies (OAR 411-085-0210). Orientation to each task must be completed prior to the employee or volunteer performing such task independently. Orientation for nursing staff and nursing assistants in training shall be supervised by a registered nurse. The orientation shall include:

(a) Explanation of facility organizational structure;
(b) Philosophy of care of the facility, including purpose of nursing facility requirements as defined in these administrative rules;
(c) Description of resident population;
(d) Employee rules; and
(e) Facility policy and procedures.
(2) Inservice. The Administrator or his/her designee shall coordinate all inservice training. Inservice training shall be designed to meet the needs of all facility staff in accordance with facility policy (OAR 411-085-0210). Each certified nursing assistant shall receive a minimum of three hours of inservice training each calendar quarter. Each calendar year the inservice training agenda shall include at least the following:
(a) Resident rights, including, but not limited to, those rights included in ORS 441.600-441.625;
(b) Rules and statutes pertaining to abuse, including, but not limited to, ORS 441.630-441.675;
(c) The transfer/discharge rules, including, but not limited to, the obligations of facility personnel to forward requests for conferences and hearings to the appropriate authorities;
(d) Measures to prevent cross-contamination, including universal precautions;
(e) Oral care, including oral screenings (required for nursing staff only);
(f) Emergency procedures, including, but not limited to, the disaster plan;
(g) Procedures for life-threatening situations, including, but not limited to, cardiopulmonary resuscitation and the life-saving techniques for choking victims (including abdominal thrust and chest thrust);
(h) Application and use of physical restraints (required for nursing staff only);
(i) Procedures to prevent residents from wandering away from the facility and how to deal with the wandering resident;
(j) Restorative services, including benefits thereof (required for nursing staff only);
(k) Activity program, including benefits thereof;
(l) The social services program, including benefits thereof;
(m) Accident prevention;
(n) Alzheimer’s disease and other dementias, including recognition of symptoms, treatments, and behavioral management; and
(o) Other special needs of the facility population.
(3) Documentation. Inservice training and orientation shall be documented and shall include the date, content, and names of attendees.

411-086-0320 EMERGENCY AND DISASTER PLANNING

An emergency preparedness plan is a written procedure that identifies a facility's response to an emergency or disaster for the purpose of minimizing loss of life, mitigating trauma, and to the extent possible, maintaining services for residents, and preventing or reducing property loss.
(2) The emergency preparedness plan must:
(a) Include analysis and response to potential emergency hazards including but not limited to:
(A) Evacuation of a facility;
(B) Fire, smoke, bomb threat, or explosion;
(C) Prolonged power failure, water, or sewer loss;
(D) Structural damage;
(E) Hurricane, tornado, tsunami, volcanic eruption, flood, and earthquake;
(F) Chemical spill or leak; and
(G) Pandemic.

(b) Address the medical needs of the residents including:
(A) Access to medical records necessary to provide care and treatment; and
(B) Access to pharmaceuticals, medical supplies, and equipment during and after an evacuation.

(c) Include provisions and supplies sufficient to shelter in place for a minimum of five days without electricity, running water, or replacement staff.

(3) The facility must notify SPD, or the local AAA office or designee, of their status in the event of an emergency that requires evacuation and during any emergent situation when requested.

(4) The facility must conduct a drill of the emergency preparedness plan at least twice a year in accordance with the OFC in OAR chapter 837, division 040 and other applicable state and local codes as required. One of the practice drills may consist of a walk-through of the duties or a discussion exercise with a hypothetical event, commonly known as a tabletop exercise. These simulated drills do not take the place of the required fire drills.

(5) The facility must annually review or update the emergency preparedness plan as required by the OFC in OAR chapter 837, division 040 and the emergency preparedness plan must be available on-site for review upon request.

(6) A summary of the facility’s emergency preparedness plan must be submitted to SPD annually on July 1, and at a change of ownership, in a format provided by SPD.

411-086-0330 INFECTION CONTROL AND UNIVERSAL PRECAUTIONS

(1) Infection Control:
(a) The Quality Assurance and Assessment Committee shall establish, maintain and enforce an infection control program, including universal precautions and isolation procedures, which assures protection of residents and staff from infections;
(b) The committee shall meet quarterly and as needed to review facility policies, procedures, and monitor staff performance relative to infection control. These meetings and the results thereof shall be documented;
(c) In reviewing and developing facility infection control policies and procedures, the committee shall consider all guidelines relative to infection control issued by the Division and by the Center for Disease Control, Atlanta, GA.

NURSES; NURSING HOME ADMINISTRATORS OCCUPATIONS AND PROFESSIONS

(Nursing Assistants)
678.440 Nursing assistants; training; effect of employing untrained assistant; civil penalties. (1) It is the intent of the Legislative Assembly to require that nursing assistants be adequately trained.

(2) The Oregon State Board of Nursing shall prepare curricula and standards for training programs for nursing assistants. Such curricula and standards shall provide for additional training for nursing assistants to administer noninjectable medications.
(3) The Department of Human Services may impose civil penalties or revoke the license of any long term care facility that employs any untrained nursing assistant for a period of more than eight weeks without providing for the training prescribed by the board. Any license which is revoked shall be revoked as provided in ORS 441.030.

(4) The Oregon Health Authority may impose civil penalties or revoke the license of any health care facility that employs any untrained nursing assistant for a period of more than eight weeks without providing for the training prescribed by the board. Any license which is revoked shall be revoked as provided in ORS 441.030.

(5) As used in this section, “nursing assistant” means a person who assists licensed nursing personnel in the provision of nursing care.

678.442 Certification of nursing assistants; rules.

(1) The Oregon State Board of Nursing shall establish standards for certifying and shall certify as a nursing assistant any person who applies therefor, shows completion of an approved training program for nursing assistants and passes a board approved examination.

(2) In the manner prescribed in ORS chapter 183, the board may revoke or suspend a certificate issued under this section or may reprimand a nursing assistant for the following reasons:

(a) Conviction of the certificate holder of a crime where such crime bears demonstrable relationship to the duties of a nursing assistant. A copy of the record of such conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of the conviction.

(b) Any willful fraud or misrepresentation in applying for or procuring a certificate or renewal thereof.

(c) Impairment as defined in ORS 676.303.

(d) Violation of any provisions of ORS 678.010 to 678.445 or rules adopted thereunder.

(e) Physical condition that makes the certificate holder unable to perform safely the duties of a nursing assistant.

(f) Conduct unbecoming a nursing assistant in the performance of duties.

(3) The board shall establish by rule a procedure for the biennial renewal of nursing assistant certificates. The certificate renewal procedure shall be substantially like the procedure established for the licensing of nurses under ORS 678.101.

678.444 Standards for training programs for nursing assistants. The Oregon State Board of Nursing shall establish standards for training programs for nursing assistants. Upon application therefor, the board shall review and approve programs that meet board standards. The board by means of a contested case proceeding under ORS chapter 183 may revoke approval of any training program that ceases to meet board standards. [1989 c.800 §2]

678.445 Authority of nursing assistants to administer noninjectable medication; authority of nurse to report questions about continuation of medication.

(1) It is the intent of the Legislative Assembly that the Oregon State Board of Nursing not adopt any standard the practical effect of which is to prohibit a nursing assistant in a long term care facility from administering noninjectable medication except under direct supervision of a registered nurse.
(2) Where a nurse employed by the long term care facility questions the efficacy, need or safety of continuation of medications being dispensed by that nurse or by another employee of the facility to a patient therein, the nurse shall report that question to the physician or a nurse practitioner, if authorized to do so, ordering or authorizing the medication and shall seek further instructions concerning the continuation of the medication.