§64-13-3. STATE ADMINISTRATIVE PROCEDURES.

3.1.b. A separate license is required for nursing homes maintained or operated on separate premises even though maintained or operated under the same ownership or management.
3.1.c. Separate buildings on the same premises, operated under the same ownership and management, are one (1) nursing home unless the director determines otherwise.
3.1.j. The words "clinic," "hospital," "sanitarium," or any other word that suggests a type of institution other than the proposed or existing nursing home shall not appear in the name.

3.7. License; Posting; Licensed Capacity.
3.7.a. The owner shall post the license in a conspicuous place on the licensed premises.

3.11. Transfer Agreements.
3.11.a. The nursing home shall have in effect a transfer agreement with one (1) or more hospitals approved for participation under the Medicare and Medicaid programs that reasonably assures:
3.11.b. Timely admission of a resident to the hospital when transfer is medically appropriate as determined by a physician; and
3.11.c. Medical and other information needed for care and treatment of residents is exchanged between the institutions.

§64-13-4. RESIDENTS' RIGHTS.

4.1.a. The governing body of a nursing home shall establish written policies and procedures regarding the rights and responsibilities of residents. The policies adopted shall be consistent with the provisions of this rule.
4.1.b. Through the administrator, the governing body is responsible for on-going development of and adherence to procedures implementing policies regarding the rights and responsibilities of residents.

4.2. Duties of Staff.
4.2.b. The nursing home staff shall at least annually receive training from or approved by the Department in the proper implementation of residents' rights policies under Paragraph 11.5.c.4 of this rule.

4.14.a. Each resident or person requesting admission to a nursing home shall be free from discrimination by the nursing home, unless the discrimination:
4.14.a.1. Is the result of the nursing home not being able to provide adequate and appropriate care, and treatment and services to the resident or applicant due to the resident’s or applicant’s history of mental or physical disease or disability; and
4.14.a.2. Is not contrary to a federal or State law, regulation or rule:
4.14.a.2.A. That prohibits the discrimination; or
4.14.a.2.B. That requires the care to be provided if the nursing home participates in a financial program requiring the admittance or continued residence of the person.
4.14.b. For all persons, regardless of source of payment, a nursing home shall establish and maintain a set of policies and procedures regarding admission, transfer, discharge and the provision of services.
4.14.c.1. A nursing home shall not segregate a resident, give separate treatment, restrict the enjoyment of any advantage or privilege enjoyed by others in the nursing home, or provide any aid, care services, or other benefits that are different from or are provided in a different manner from those provided to others in the nursing home on the grounds of race, color, religion or national origin, age, disability, sex or other protected status.
4.14.c.2. A nursing home shall not deny admission to a prospective resident on the grounds of race, religion or national origin, age, disability, sex or other protected status.

4.16.c. Abuse.
4.16.c.1. A resident has the right to be free from verbal, sexual, physical, and mental abuse, financial exploitation, discrimination, denial of privileges, corporal punishment and involuntary seclusion.
4.16.c.2. Staff treatment of residents.
4.16.c.2.A. The nursing home shall develop and implement written policies and procedures that prohibit neglect, abuse of residents, and misappropriation of resident property.
4.16.c.3. A nursing home shall not employ persons who have:
4.16.c.3.A. Been found guilty of abusing, neglecting, exploiting or mistreating residents, incapacitated adults or children by a court of law; or
4.16.c.3.B. Had a finding entered into the Certified Nursing Assistant Registry or the West Virginia Adult Abuse Registry concerning abuse, neglect, exploitation or mistreatment of residents or misappropriation of their property.
4.16.c.4. A nursing home shall report any knowledge it has of actions by a court of law against an employee, that would indicate unfitness for service as a nurse aide or other nursing home staff to the West Virginia Certified Nursing Assistant Registry or the appropriate licensing authority and the director.
4.16.c.4.A. Actions by a court of law which indicate unfitness for service include a substantiated charge of abuse, neglect or exploitation against an employee, or conviction of an offense for actions related to bodily injury, theft or misuse of funds or property, or other crimes related to public welfare, in any jurisdiction within or outside of the State of West Virginia.
4.16.c.5. A nursing home shall ensure that all alleged violations involving mistreatment, neglect, exploitation or abuse, including injuries of unknown source, and misappropriation of resident property are reported in accordance with State law.
4.16.c.6. A nursing home shall document that all alleged violations are thoroughly investigated and shall take appropriate steps to prevent further potential abuse while the investigation is in progress.
The results of all investigations shall be reported to the administrator or his or her designated representative and to other officials in accordance with State law, including the director within five (5) working days of the incident, and if the alleged violation is verified appropriate corrective action shall be taken.

§64-13-7. COMPREHENSIVE CARE PLANS.

7.4. Plans for Care and Medical Records.
7.4.a. Plans for care.
...7.4.a.4. A nursing home shall have written policies and procedures to ensure that through the resident care conferences or other means of coordination, the resident care plan shall be reviewed and revised as needed, but at least quarterly. The review shall be noted in the medical record.
7.4.b. Discharge.
...7.4.b.4. A nursing home shall complete medical records promptly within a time period specified in the nursing homes policies and procedures manual, not to exceed thirty (30) days after the resident is discharged.

§64-13-8. QUALITY OF CARE

8.14.f. Director of Nursing. A nursing home shall designate in writing a registered nurse to serve as the director of nursing services on a full-time basis...

8.15. Dietary Services.
8.15.h.1. A nursing home shall have a planned three (3) day disaster menu that correlates with the emergency food supply.
8.15.h.2. The emergency food supply shall be maintained on the premises with non-perishable foods and disposable supplies to meet all resident needs for three (3) days.
8.15.h.3. The emergency food supply may be incorporated with the regular stock of food supplies.

§64-13-9. PHYSICAL FACILITIES, EQUIPMENT AND SITE INFORMATION

9.11.a. A nursing home shall provide evidence of compliance with applicable rules of the State Fire Commission.
9.11.a.1. Any variation to compliance with the fire code shall be coordinated with the department and approved in writing by the state fire marshal.
9.11.b. A nursing home shall have a written internal and external disaster and emergency preparedness plan approved by the director that sets forth procedures to be followed in the event of an internal or external disaster or emergency that could severely affect the operation of the nursing home.
9.11.c. The disaster and emergency preparedness plan shall have procedures to be followed in the event of the following: fire, missing resident, high winds, tornadoes, bomb threats, utility failure, flood and severe winter weather.
9.11.d. The disaster and emergency preparedness plan shall include at least an alternate shelter agreement, an emergency transportation policy, and an emergency food supply list.
and menu that will provide nutrition for all persons residing in the nursing home for a minimum of seventy-two (72) hours.

9.11.e. The disaster and emergency preparedness plan shall be developed and maintained with the assistance of qualified fire safety and other emergency response teams.

9.11.f. There shall be copies of the disaster and emergency preparedness plan at all staff stations or emergency control stations.

9.11.f.1. The disaster and emergency preparedness plan shall be located in an area that allows visual contact at all times. The nursing home staff shall know the location of the plan at all times.

9.11.g. The local fire department shall be provided with a floor and disaster plan and be given opportunities to become familiar with the nursing home.

9.11.h. A nursing home shall have a written plan and procedures for transferring casualties and uninjured residents.

9.11.h.1. These procedures shall include the transfer of pertinent resident records including identification information, diagnoses, allergies, advance directives, medications and treatments, and other records needed to ensure continuity of care.

9.11.i. A nursing home shall have written instructions regarding the location and use of alarm systems, signals and fire fighting equipment.

9.11.j. A nursing home shall have information regarding methods of fire containment.

9.11.k. A nursing home shall have written instructions regarding accessibility for evacuation routes.

9.11.l. The disaster and emergency preparedness plan shall be reviewed and updated by the administrator or his or her designee on an annual basis and signed and dated by the administrator or his or her designee to verify the plan was reviewed.

9.11.m. Emergency call information shall be conspicuously posted near each telephone in the nursing home, exclusive of telephones in resident rooms. This information shall include at least the following:

9.11.m.1. The telephone numbers of the fire department, the police, and ambulance service and other appropriate emergency services; and

9.11.m.2. Key personnel telephone numbers, including at least the following:

9.11.m.2.A. The administrator;

9.11.m.2.B. The director of nursing or nurse on call;

9.11.m.2.C. The maintenance director or safety director;

9.11.m.2.D. The physician on call; and

9.11.m.2.E. Other appropriate personnel.

9.11.n. A nursing home shall have at least one non-coin operated telephone or one extension on each resident occupied unit and additional telephones and extensions if needed to summon help in case of an emergency.

9.11.o. A nursing home shall provide an area of sufficient space to hold the congregate population of the nursing home with a heat source that is supplied with emergency electrical power from the emergency power source.


9.12.a. A nursing home shall operate an internal disaster preparedness program that includes orientation and ongoing training and drills in procedures and specific assignments.

9.12.b. The internal disaster plan shall be rehearsed at least annually.

9.12.c. Fire drills shall be held at least quarterly for each shift.
9.12.d. Disaster Rehearsal and Fire Drill Reports. A nursing home shall keep on file for at least two (2) years, a dated written report and an evaluation of each disaster rehearsal and fire drill conducted on the premises.

§64-13-10. ADMINISTRATION.

10.1. A nursing home shall be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

10.2. Licensure.

10.2.a. A nursing home shall be licensed pursuant to section 3 of this rule.

10.2.b. A nursing home shall operate and provide services in compliance with all applicable federal, state, and local laws, rules, and codes and with accepted professional standards and principles that apply to professionals providing services in a nursing home.

10.3. Governing Body.

10.3.a. A nursing home shall have a governing body.

10.3.b. The governing body shall adopt and enforce rules governing the health care and safety of residents, the protection of their personal and property rights, and the operation of the nursing home.

10.3.c. The governing body shall develop a written nursing home plan that will be reviewed annually. In addition to the other requirements described in law and in this rule, the nursing home plan shall include:

10.3.c.1. An annual operating budget, including all anticipated income and expenses; and

10.3.c.2. A capital expenditure plan for at least a three (3) year period.

10.3.d. The governing body shall assure the development and maintenance of written policies and procedures that govern the services the nursing home provides.

10.3.d.1. The policies and procedures shall include as a minimum all policies and procedures required by this rule.

10.3.d.2. A copy of each written policy and procedure shall be available for inspection on request by the nursing home’s staff and residents and by members of the public.

§64-13-11. HUMAN RESOURCES.

11.1. Professional Staff.

11.1.a. A nursing home shall employ on a full-time, part-time or consultant basis those professionals necessary to carry out the provisions of this rule.

11.2. Professional Qualifications.

11.2.a. Professional staff shall be licensed, certified, or registered in accordance with applicable laws.

11.3. Criminal Background Checks.

11.3.a. A nursing home shall conduct a criminal conviction investigation on all applicants for employment.

11.3.b. If an applicant has been convicted of a misdemeanor or a felony offense constituting child abuse or neglect or abuse or neglect of an incapacitated adult, he or she may not be employed by a nursing home.

11.3.c. An applicant may also not be employed by the nursing home if he or she is under indictment for, or convicted of, in any court of a crime punishable by imprisonment for more than one year or is a fugitive from justice.
11.4. Use of Outside Resources.
11.4.a. If a nursing home does not employ a qualified professional person to furnish a specific service to be provided by the nursing home, the nursing home shall have that service furnished to residents by a person or agency outside the nursing home under an arrangement or an agreement as described in 42 U.S.C. §1395x(w) or an agreement as described in Subsection 11.2 of this rule, and services shall meet the ongoing identified needs of residents to ensure implementation of the plan of care and to avoid unnecessary duplication of services.
11.4.b. Under arrangements as described in 42 U.S.C. §1395x(w) or written agreements pertaining to services furnished by outside resources, the nursing home is responsible for the following:

11.4.b.1. Obtaining services that meet professional standards and principles that apply to professionals providing services in a nursing home; and
11.4.b.2. The timeliness of the services.

11.5. Staff Development.
11.5.a. All personnel shall attend and participate in regularly scheduled in-service training programs developed for the staff by either nursing home personnel or outside resources. The purpose of the in-service program shall be to:

11.5.a.1. Plan and organize a system of training that begins with an orientation program and continues throughout employment with scheduled in-service training programs;
11.5.a.2. Develop in each employee an awareness of his or her abilities and limitations in providing care for residents; and
11.5.a.3. Develop the abilities of each employee by an in-depth review of operational policies and procedures, instruction of methods and procedures to follow in implementing assigned duties as it relates to a specific job description, and to provide current information that will assist in providing quality care.

11.5.b. A nursing home shall maintain records of attendance, and if absences occur shall schedule a make-up class to be completed.

11.5.c. A nursing home shall complete a performance review of every employee at least once every twelve (12) months and provide regular in-service education based on the outcome of these reviews. The in-service training shall:

11.5.c.1. Be sufficient to ensure the continuing competence of certified nursing assistants, but shall be no less than twelve (12) hours per year;
11.5.c.2. Address areas of weakness as determined in the employee’s evaluation and may address the special needs of residents as determined by the nursing home staff;
11.5.c.3. For nursing staff providing services to residents with cognitive impairments, also address the care of the cognitively impaired; and
11.5.c.4. Include in-service instruction to all personnel on the following:

11.5.c.4.A. The problems and needs of the aged, ill and disabled;
11.5.c.4.B. The prevention and control of infections;
11.5.c.4.C. Disaster preparedness and fire and safety rules;
11.5.c.4.D. Accident prevention;
11.5.c.4.E. Confidentiality of resident information;
11.5.c.4.F. Protection of a resident’s privacy and personal property rights, and dignity and protection of residents’ rights;
11.5.c.4.G. Complaint procedures, abuse, neglect, and misappropriation of personal property.
11.5.c.5. The nursing home shall provide training to all new employees, staff, and independent health contractors used by the nursing home, within thirty (30) days of employment or the next regularly scheduled orientation program, whichever occurs first, on Alzheimer’s disease and other dementias. The training shall be a minimum of two (2) hours in duration and shall include all of the following: a basic explanation of how the disease process affects persons with Alzheimer’s disease and other dementias; communication approaches and techniques for use when interacting with persons with Alzheimer’s disease or other dementias; prevention and management of problem behaviors; and activities and programming appropriate for these individuals.

11.5.c.6. The nursing home shall provide training on Alzheimer’s disease and other dementias to all employees, staff, and independent health contractors used by the nursing home each calendar year. The training shall be a minimum of two (2) hours in duration and shall include all of the following: a basic explanation of how the disease process affects persons with Alzheimer’s disease and other dementias; communication approaches and techniques for use when interacting with persons with Alzheimer’s disease or other dementias; prevention and management of problem behaviors; and activities and programming appropriate for these individuals.

11.6. Personnel Records. A nursing home shall maintain a confidential personnel record for each employee containing the following information:

11.6.a. A dated application;
11.6.b. Reference verification;
11.6.c. Results indicating a satisfactory health status for the employees’ current job assignment as required in Subsection 8.19 of this rule.
11.6.d. Results of annual physical;
11.6.e. Evaluations of work performance;
11.6.f. Current license, registration, or certification status if applicable to the job;
11.6.g. A summary of each employee’s in-service training for the previous two years;
11.6.h. Any nursing home specific required forms; and
11.6.i. A job description signed by the employee.

11.7. Medical Director. A nursing home shall designate, in writing, a physician accountable to the governing body to serve as medical director to ensure that medical care provided to residents is adequate and appropriate.

11.7.a. The medical director is responsible for:
11.7.a.1. Reviewing policies, procedures, and guidelines to ensure adequate, comprehensive services;
11.7.a.2. Coordinating medical care provided, including the attending physician, in the nursing home so it is adequate and appropriate;
11.7.a.3. Assisting in the evaluation of credentialing and re-credentialing of licensed independent practitioners, physicians’ assistants and nurse practitioners to determine whether they will be authorized to practice within the organization by recommendation;
11.7.a.4. Approving in-service training programs; and
11.7.a.5. Reviewing and evaluating incident reports or summaries of incident reports, identifying hazards to health and safety, and making recommendations as needed.
§64-13-12. LABORATORY, RADIOLOGY, AND OTHER DIAGNOSTIC SERVICES.

12.1. Laboratory Services.
12.1.a. A nursing home shall provide or obtain laboratory services to meet the needs of its residents. The nursing home is responsible for the timeliness of the services.
12.1.b. If a nursing home provides its own laboratory services, the services shall meet the requirements in the federal regulation, 42CFR Part 493.
12.1.c. If a nursing home arranges for outside laboratory services, the nursing home shall ensure that the laboratory services meet the requirements in the federal regulation, 42CFR Part 493.
12.1.d. If a nursing home provides blood bank and transfusion services, the nursing home shall ensure that the services are federally certified in the appropriate specialties and sub-specialties of services in accordance with the requirements to which it is subject.
12.1.e. A nursing home shall:
   12.1.e.1. Provide or obtain laboratory services only when ordered by a physician;
   12.1.e.2. Promptly notify the physician of the findings;
   12.1.e.3. Assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance; and
   12.1.e.4. File laboratory reports in the resident’s clinical record that are dated and contain the name and address of the testing laboratory.

12.2. Radiology and Other Diagnostic Services.
12.2.a. A nursing home shall provide or obtain radiology and other diagnostic services to meet the needs of its residents. The nursing home is responsible for the timeliness of the services.
12.2.b. If a nursing home provides its own diagnostic services, the services shall meet the applicable licensing and certification requirements established for those services.
12.2.c. If a nursing home does not provide its own diagnostic services, it shall have an agreement to obtain these services from a provider or supplier that meets all applicable licensing and certification requirements established for those services.
12.2.d. A nursing home shall:
   12.2.d.1. Provide or obtain radiology and other diagnostic services only when ordered by the attending physician;
   12.2.d.2. Promptly notify the physician of the findings;
   12.2.d.3. Assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance; and
   12.2.d.4. File in the resident’s clinical record signed and dated reports of x-ray and other diagnostic services, with the name and address of the provider of the service.

§64-13-13. CLINICAL RECORDS.

13.1.a. A nursing home shall maintain clinical records on each resident in accordance with accepted professional standards and practices that are:
   13.1.a.1. Complete;
   13.1.a.2. Accurately documented;
   13.1.a.3. Readily accessible; and
   13.1.a.4. Systematically organized.
13.1.b. All of a resident's clinical records shall be retained for the longer of the following time periods:
13.1.b.1. Five (5) years from the date of discharge or death; or
13.1.b.2. For a minor, three (3) years after a resident reaches eighteen (18) years of age.
13.1.c. A nursing home shall safeguard clinical record information against loss, destruction, or unauthorized use.
13.1.d. A nursing home shall ensure that each clinical record contains a photograph of the resident, unless the resident objects.

13.2. Confidentiality. A nursing home shall keep all information contained in the resident's clinical record confidential, except when release is required by:
13.2.a. Transfer to another health care institution;
13.2.b. Law;
13.2.c. Third party payment contract; or
13.2.d. The resident.

13.3. Contents. The clinical record shall contain:
13.3.a. Sufficient information to identify the resident;
13.3.b. All the resident's assessments;
13.3.c. The resident's plan of care and services provided;
13.3.d. The results of any pre-admission screening conducted by the State;
13.3.e. Progress notes; and
13.3.f. Physician orders.

§64-13-14. QUALITY ASSESSMENT AND ASSURANCE.

14.1.a. A nursing home shall maintain a quality improvement and assessment committee consisting of:
14.1.a.1. The director of nursing services;
14.1.a.2. The medical director; and
14.1.a.3. At least three (3) other members of the nursing home's staff.
14.1.b.1. Meet at least quarterly to identify issues of quality assessment and improvement activities;
14.1.b.2. Develop and implement appropriate plans of action to correct identified quality deficiencies;
14.1.b.3. Continuously measure, assess, and improve all important resident care and nursing home functions;
14.1.b.4. Collect and review outcome data and use it to systematically benchmark the level of quality with that of other extended care providers; and
14.1.b.5. Collect and review resident satisfaction.
14.2. Disclosure of Records. The State may not require disclosure of the quality improvement committee records insofar as the disclosure is related to the compliance with the requirements of this section.
14.3.a. The agency shall not use good faith attempts as documented by a nursing home's committee to identify and correct areas of concern or deficiencies as a basis for citing a new deficiency or as a basis for sanctions.
§64-85-3. STATE ADMINISTRATIVE PROCEDURES. [ALZHEIMER'S /DEMENTIA SPECIAL CARE UNIT]

3.1. General licensing provisions.
3.1.a. A facility that proposes to advertise, market, or otherwise promote the facility as providing a specialized unit or program for residents requiring Alzheimer's /dementia care services in an Alzheimer’s /dementia special care unit or program shall first obtain an additional license from the secretary, to operate the special care unit or program.
3.1.b. A facility shall be licensed or eligible for a license as a health care facility in accordance with West Virginia law, to operate an Alzheimer’s /dementia special care unit or program. The facility shall meet the requirements of this rule in addition to any other applicable federal or state law and rule.
3.1.c. The facility shall make application to the secretary, prior to operation and on an annual license renewal application, on a form provided by the secretary. The applicant shall complete, sign and date the application.
3.1.d. The applicant shall submit a disclosure and application for approval, completed on forms provided by the secretary.
3.1.e. The secretary may, at his or her discretion, deny the application, if the facility is the subject of enforcement action by the department or has a history of noncompliance.
3.1.f. Prior to occupancy, the applicant shall submit architectural plans for an Alzheimer’s /dementia special care unit, including any new additions or renovations, to the secretary and state fire marshal for approval.

§64-85-4. HUMAN RESOURCES. [ALZHEIMER'S /DEMENTIA SPECIAL CARE UNIT]

4.1. Qualifications, Orientation and Training
4.1.a. A designated staff member shall be responsible for the coordination of the Alzheimer’s /dementia special care unit or program. The coordinator shall:
4.1.a.1. Coordinate as needed outside psychiatric and psychosocial services to assist with behavior modification plans;
4.1.a.2. Advocate for resident rights;
4.1.a.3. Ensure individualized interventions are provided to allow residents to express feelings resulting from the disease process, lost roles and life status;
4.1.a.4. Obtain and utilize a listing of community resources available to residents and family members, including Alzheimer’s networks; and
4.1.a.5. Offer monthly educational and family support group meetings.
4.1.b. The coordinator shall meet the minimum qualifications which include:
4.1.b.1. A license or degree as a health related professional;
4.1.b.2. A minimum of one year working directly with dementia or Alzheimer’s care patients; and
4.1.b.3. Completion of at least a thirty (30) hour training course by a nationally recognized Alzheimer’s /dementia care giving resource or association, or have comparable training and experience.
4.1.c. All assigned staff members shall complete a minimum of thirty (30) hours of training on the care of residents with Alzheimer’s disease and related dementia. Staff shall have a minimum of fifteen (15) hours of documented training prior to supervised direct hands on resident care. An additional fifteen (15) hours of training shall be completed prior to
unsupervised direct care. Supervision shall be provided by a staff person who has completed the entire training. Training shall include at a minimum:
4.1.c.1. The facility’s philosophy and resident care policies;
4.1.c.2. The nature, stages, and treatment of Alzheimer’s disease and related dementia;
4.1.c.3. Positive therapeutic interventions and activities;
4.1.c.4. Communication techniques
4.1.c.5. Behavior management;
4.1.c.6. Medication management;
4.1.c.7. Therapeutic environmental modifications;
4.1.c.8. Individualized comprehensive assessments and care plans;
4.1.c.9. The role of the family and their need for support;
4.1.c.10. Staff burnout prevention; and
4.1.c.11. Abuse prevention.
4.1.d. The facility shall provide a minimum of eight (8) hours of documented annual training to all staff on the topics in subdivision 4.1.c. of this subsection.
4.1.e. The facility shall maintain and utilize an orientation manual and policies and procedures specific to the Alzheimer’s/dementia special care unit or program.