State Regulations Pertaining to Administration

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ALABAMA

420-5-10-.02 Licensing and Administrative Procedures.

...(3) Application and Fee
...(b) Name of Facility. Every facility shall be designated by a permanent and distinctive name, which shall be used in applying for a license and shall not be changed without prior written notice to the Board specifying the name to be discontinued as well as the new name.

(4) Licensing.
(a) Issuance of License. The license document issued by the State Board of Health shall set forth the name and location of the facility, the type of facility, and the bed capacity for which the institution is licensed, and the type of license (regular or probational).
(b) Separate License. A separate license shall be required for each nursing facility when more than one facility is operated under the same management; (separate licenses are not required for separate buildings on the same grounds used by the same facility). Facilities offering different types of health care services in one building or complex of buildings (e.g., a building housing a nursing facility and a hospital) shall also be separately licensed.

...(8) Compliance with State and Local Laws.
(a) Licensing of Staff. Staff of the facility shall be currently licensed or registered in accordance with the applicable laws.
(b) Compliance with Other Laws. The facility shall be in compliance with laws relating to fire and safety, sanitation, communicable and reportable diseases, Certificate of Need, and other relevant health and safety requirements.

420-5-10-.03 Administrative Management.

(1) A facility must 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.
(2) A facility must be licensed under applicable State and local law.
(3) The facility must operate and provide services in compliance with all applicable Federal, State, and local laws, regulations, and codes, and with accepted professional standards and principles that apply to professionals providing services in such a facility.
(4) Facilities must meet the applicable provisions of HHS regulations pertaining to nondiscrimination on the basis of race, color, or national origin; nondiscrimination on the basis of handicap; nondiscrimination on the basis of age; protection of human subjects of research and fraud and abuse. Although these regulations are not in themselves considered requirements under this part, their violation may result in the revocation of the facility license.
(5) Governing body. The facility must have a governing body, or designated persons functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operation of the facility; and
(6) The governing body appoints the administrator who is:
(a) Licensed by the State where licensing is required, and;
(b) Responsible for the management of the facility.
(7) A current roster of the governing authority members shall be maintained in the nursing facility. At its discretion, the Alabama Department of Public Health may request that a copy of this roster be placed on file with the Division.
(a) The facility must supply full and complete information to the Alabama Department of Public Health as to the identity: (1) of each officer and director of the corporation where the nursing facility is organized as a corporation and (2) where a nursing facility is organized as a partnership.
(b) Of each person who has any direct or indirect ownership interest of 10 percent or more in such nursing facility or who is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such nursing facility or any of the property or assets of such nursing facility, and
(c) In case a nursing facility is organized as a corporation, of each officer and director of the corporation, and
(d) In case a nursing facility is organized as a partnership, the name of each partner.
(e) The governing authority shall submit to the state agency within 15 days any changes in the information herein required.
(f) There must be an individual authorized in writing to act for the administrator during absences.
(g) Written notification shall be made to the Alabama Department of Public Health, within 15 days of the Administrator's appointment.
(h) The accounting method and procedures shall be sufficient to permit an annual audit, accurate determination of the cost of operation, the cost per resident day, and accounting for resident's funds.
(i) Whenever there is found to be evidence of fraud or misrepresentation to secure money or property from residents, or applicants, or there is any evidence of misappropriation or conversion of money or property of residents or applicants, this must be reported to the proper authorities at the Alabama Department of Public Health.
(j) Unusual Occurrences. Occurrences such as catastrophes and unusual occurrences which threaten the welfare, safety or health of residents, personnel, or visitors shall be documented within 24 hours of the incident or occurrence. This documentation shall be retained in the facility for at least 2 years. All records required by this subsection shall be, upon request, made immediately available to surveyors employed by the Alabama Department of Public Health. Copies of such records shall be forwarded to the Alabama Department of Public Health promptly upon request. The term, “Unusual occurrences” includes life threatening burns, and deaths under unusual circumstances.
(k) Fires shall be reported within 24 hours of the occurrence to the Technical Services Unit of the Department of Public Health.
(8) Required training of nursing aides - Definition. Licensed health professional means a physician; physician assistant; nurse practitioner; physical, speech, or occupational therapist; physical or occupational therapy assistant; registered professional nurse; licensed practical nurse; licensed or certified social worker, or dietitians.
Nurse aide means any individual providing nursing related services to residents in a facility who is not a licensed health professional, a registered dietitian, or someone who volunteers to provide such services without pay.
(9) General rule. A facility must not use any individual working in the facility as a nurse aide for more than four months, on a full-time basis, unless:
(a) That individual is competent to provide nursing related services; and
(b) That individual has completed a training and competency evaluation program; or
(c) That individual has been deemed or determined competent by the Alabama Nurse Aide Registry.
(10) Non-permanent employees. A facility must not use on a temporary, per diem, leased, or any basis other than a permanent employee any individual who does not meet the requirements in paragraphs b & c above as a nurse aide.

(11) Competency. A facility must not use any individual who has worked less than four months as a nurse aide in that facility unless the individual:
(a) Is a full-time employee in a State-approved training and competency evaluation program.
(b) Has demonstrated competence through satisfactory participation in a State-approved nurse aide training and competency evaluation program; or
(c) Has been deemed or determined competent by the Alabama Nurse Aide Registry.

(12) Registry verification. Before allowing an individual to serve as a nurse aide, a facility must receive registry verification that the individual has met competency evaluation requirements unless:
(a) The individual is a full-time employee in a training and competency evaluation program approved by the State; or
(b) The individual can prove that he or she has recently successfully completed training and competency evaluation program approved by the State and has not yet been included in the registry. Facilities must follow up to ensure that such an individual actually becomes registered.

(13) Multi-state registry verification. Before allowing an individual to serve as a nurse aide, a facility must contact the Alabama Nurse Aide registry to seek information from every State registry the facility believes includes information on the individual.

(14) Required retraining. If, since an individual's most recent completion of a training and competency evaluation program, there has been a continuous period of 24 consecutive months during none of which the individual provided nursing-related services for monetary compensation, the individual must complete a new training and competency evaluation program.

(15) Regular in-service education. The facility must complete a performance review of every nurse aide at least once every 12 months, and must provide regular in-service education based on the outcome of these reviews. The in-service training must:
(a) Be sufficient to ensure that continuing competence of nurse aides, but must be no less than 12 hours per year;
(b) Address areas of weakness as determined in nurse aides' performance reviews and may address the special needs of residents as determined by the facility staff; and
(c) For nurse aides providing services to individuals with cognitive impairments, also address the care of the cognitively impaired.

(16) Proficiency of Nurse Aides. The facility must ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents' needs, as identified through resident assessments, and described in the plan of care.

(17) Staff qualifications. The facility must employ on a full-time, part-time or consultant basis those professionals necessary to carry out the provisions of these requirements.

(18) Professional staff must be licensed, certified, or registered in accordance with applicable State laws.

(19) Use of outside resources. If the facility does not employ a qualified professional person to furnish a specific service to be provided by the facility, the facility must have that service furnished to residents by a person or agency outside the facility under an arrangement described in section 1861(w) of the Social Security Act as amended or an agreement described in paragraph (20) of this section.

(20) Arrangements as described in section 1861(w) of the Social Security Act as amended or agreements pertaining to services furnished by outside resources must specify in writing that the facility assumes responsibility for:
(a) Obtaining services that meet professional standards and principles that apply to professionals providing services in such a facility; and
(b) The timeliness of the services.

(21) Medical director. The facility must designate a physician to serve as medical director.

(22) The medical director is responsible for:

(a) Implementation of resident care policies; and
(b) The coordination of medical care in the facility.

(23) The facility must provide or obtain laboratory services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.

(24) If the facility provides its own laboratory services, i.e., bedside testing including glucose or lactometer, the services must meet the applicable condition for coverage of the services furnished by laboratories specified in Part 493 of Title 42 Code of Federal Regulations revised 10/1/93.

(25) If the facility does not provide laboratory services on site, it must have an agreement to obtain these services only from a laboratory that meets the requirements of Part 493 of Title 42 Code of Federal Regulations revised 10/1/93.

(26) The facility must:

(a) Provide or obtain laboratory services only when ordered by the attending physician;
(b) Promptly notify the attending physician of the findings;
(c) Assist the resident in making transportation arrangements to and from the source of service if the resident needs assistance; and
(d) File in the resident's clinical record laboratory reports that are dated and contain the name and address of the testing laboratory.

(27) If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory must be certified in the appropriate specialties and sub-specialties of services in accordance with the requirements of part 493 of Title 42 Code of Federal Regulations revised 10/1/93.

(28) Radiology and other diagnostic services. The facility must provide or obtain radiology and other diagnostic services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.

(29) If the facility provides its own diagnostic services, the services must meet the applicable conditions of participation for hospitals contained in Section 482.26 of Title 42 Code of Federal Regulations revised 10/1/93.

(30) If the facility does not provide its own diagnostic services, it must have an agreement to obtain these services from a provider or supplier that is approved to provide these services under Medicare.

(31) The facility must:

(a) Provide or obtain radiology and other diagnostic services only when ordered by the attending physician;
(b) Promptly notify the attending physician of the finding;
(c) Assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance; and
(d) File in the resident's clinical record signed and dated reports of x-ray and other diagnostic services.

(32) Clinical records. The facility must maintain clinical records on each resident in accordance with accepted professional standards and practices that are:

(a) Complete;
(b) Accurately documented;
(c) Readily accessible; and
(d) Systematically organized.

(33) Clinical records must be retained for:

(a) Five years from the date of discharge when there is no requirement in State law; or
(b) For a minor, three years after a resident reaches legal age under State law.
(34) The facility must safeguard clinical record information against loss, destruction, or unauthorized use.
(35) The facility must keep confidential all information contained in the resident's records, regardless of the form or storage method of the records, except when release is required by:
(a) Transfer to another health care institution;
(b) Law;
(c) Third party payment contract; or
(d) The resident.
(36) The clinical record must contain:
(a) Sufficient information to identify the resident;
(b) A record of the resident's assessments;
(c) The Plan of Care and services provided;
(d) The results of any pre-admission screening conducted by the State; and
(e) Progress notes.
(37) Disaster and emergency preparedness. The facility must have detailed written plans and procedures to meet all potential emergencies and disasters, such as fire, severe weather, and missing residents.
(a) The facility must train all employees in emergency procedures when they begin to work in the facility;
(b) Periodically review the procedures with existing staff;
(c) And carry out unannounced staff drills using those procedures.
(38) The facility must have in effect a written transfer agreement with one or more hospitals approved for participation under the Medicare and Medicaid programs that reasonably assures that:
(a) Residents will be transferred from the facility to the hospital, and ensured of timely admission to the hospital when transfer is medically appropriate, as determined by the attending physician; and
(b) Medical and other information needed for care and treatment of residents, and, when the transferring facility deems it appropriate, for determining whether such residents can be adequately cared for in a less expensive setting than either the facility or the hospital, will be exchanged between the institutions.
(39) The facility is considered to have a transfer agreement in effect if the facility has attempted in good faith to enter into an agreement with a hospital sufficiently close to the facility to make transfer feasible.
(40) Quality assessment and assurance. A facility must maintain a quality assessment and assurance committee consisting of:
(a) The director of nursing services;
(b) A physician designated by the facility; and
(c) At least three other members of the facility's staff.
(41) The quality assessment and assurance committee:
(a) Meets at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary; and
(b) Develops and implements appropriate plans of action to correct identified quality deficiencies.
(42) A State or the Secretary may not require disclosure of the records of such committee except insofar as such disclosure is related to the compliance of such committee with the requirements of this section.
(43) Disclosure of ownership. The facility must comply with the disclosure requirements of Sections 420.206 and 455.104 of Title 42 Code of Federal Regulations revised 10/1/93.
(44) The facility must provide written notice to the Alabama Department of Public Health, if a change occurs in:
(a) Persons with an ownership or control interest, as defined by 420-5-10.02(6)(a)(I)-(X);
(b) The officers, directors, agents, or managing employees;
(c) The corporation, association, or other company responsible for the management of the facility;
or
(d) The facility’s administrator or director of nursing
(45) The notice specified in the paragraph (44) of this section must include the identity of each new
individual or company.

420-5-10-.04 Personnel.
(1) General. The administrator shall be responsible for implementation and maintenance of written
personnel policies and procedures that support sound resident care and personnel practices.
Personnel records shall be in effect current and available for each employee and contain sufficient
information to support placement in the position to which assigned. Written policies for control of
communicable disease shall be in effect to ensure that employees with symptoms or signs of
communicable disease or infected skin lesions are not permitted to work, and that safe and sanitary
environment for personnel exists. Incidents and accidents to personnel shall be reviewed to
identify health and safety hazards.
(2) Personnel Records. Each nursing facility shall maintain a personnel record for each employee.
As a minimum, the record shall include:
(a) Application for employment which contains information regarding education, training,
experience, and if applicable, registration, and/or licensure information of the applicant.
(b) A job description.
(c) General administrative and job related orientation.
(4) Personnel Qualifications, Requirements and Training.
(a) Qualifications of Personnel. The name and qualifications of all professional employees shall be
kept on file for inspection by the State Board of Health.
(b) Staff Development. Each employee shall receive appropriate orientation to the facility and its
policies and to his/her position and job duties, to ensure competency in the job placement. All
employees shall participate in in-service educational programs planned and conducted for the
development and improvement of their skills.

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7 AAC 12.255. Services required
A nursing facility must provide nursing, pharmaceutical, either physical or occupational therapy,
social work services, therapeutic recreational activities, dietetic, central supply, laundry,
housekeeping, laboratory and radiological services.

7 AAC 012.260. Medical Director.
A medical director who is employed by or is a consultant to the nursing facility shall
(1) place a resident under the care of a physician;
(2) ensure that the use of an investigational drug is properly supervised by a member of the
medical staff, that an informed consent
form provided by the sponsoring company or agency is used, and that complete records on the
drug, including protocol and side
effects, are maintained; and
(3) supervise the infection control and employee health programs.
7 AAC 12.275. Nursing and medical services
...(d) A nursing facility must have a contract for diagnostic services with a laboratory and x-ray provider approved by the department.

7 AAC 12.630. Governing body
(a) Each facility, with the exception of birth centers, hospice agencies that do not provide inpatient care on agency premises, and intermediate care facilities for the mentally retarded, must have a governing body that assumes responsibility for implementing and monitoring policies that govern the facility's operation and for ensuring that those policies are administered in a manner that provides quality health care in a safe environment. The facility must provide to the department the name, title, and mailing address for
(1) each owner of the facility;
(2) each person who is principally responsible for directing facility operations; and
(3) the person responsible for medical direction.
(b) The governing body shall
(1) adopt, and revise when necessary, written bylaws providing for
(A) election or appointment of officers and committees;
(B) appointment of a local advisory board if the governing body is outside the state; and
(C) frequency of meetings;
(2) appoint an administrator, in accordance with written criteria;
(3) maintain written records on the appointment of members to the medical staff, and the granting of privileges based on the recommendations of the medical staff;
(4) require medical staff to sign an agreement to follow the bylaws of the medical staff;
(5) establish appeal procedures for applicants for and members of the medical staff;
(6) provide resources and personnel as necessary to meet patient needs; and
(7) provide adequate equipment and supplies for the facility.
(c) In addition to meeting the responsibilities of a governing body set out at (b) of this section, the governing body of a critical access hospital shall
(1) make agreements with one or more appropriate entities identified in 42 C.F.R. 485.603(c), as amended through July 1, 1999 and adopted by reference, for credentialing of medical staff and for review of the quality and effectiveness of the diagnosis and treatment furnished by medical staff at the hospital; and
(2) if the hospital provides inpatient care through mid-level practitioners under the offsite supervision of a physician, participate in a rural health network as described in 42 C.F.R. 485.603(a), as amended through July 1, 1999 and adopted by reference, and enter agreements with other members of the network addressing the subjects described in 42 C.F.R. 485.603(b), as amended through July 1, 1999 and adopted by reference.

7 AAC 12.640 ADMINISTRATION.
(a) Each facility, with the exception of birth centers, intermediate care facilities for the mentally retarded, home health agencies, and ambulatory surgical facilities must comply with the provisions of this section.
(b) A facility must have an administrator, who is directly responsible to the governing body. The administrator shall
(1) coordinate staff services;
(2) provide liaison between the governing body and facility staff;
(3) report to the governing body regularly and at least annually on facility operations;
(4) provide written notice to medical staff of initial and annual or, if approved by the governing body, biennial appointments;
(5) evaluate for implementation recommendations of the facility's committees and consultants;
(6) ensure that the facility complies with program standards; and
(7) delineate responsibility and accountability of each service component of the facility to the administration.
(c) Each facility must have an institutional budget plan which includes an annual operating budget and a capital expenditure plan for a projected three-year period. A committee comprised of representatives of the governing body and administrative staff shall prepare the plan.

7 AAC 12.660 Personnel.
(a) A facility must plan and retain records of employee orientation, in-service training programs, and employee supervision. ...the facility must maintain for each employee a file that includes ...(2) a copy of the employee's current license or certification, if a license or certification is required by statute for the employee's profession;
(b) If required by AS 08, patient care personnel must be currently licensed, certified, authorized, or registered in the state for the practice of their particular profession.
(c) Physicians, licensed nurses, pharmacists, physical therapists, dietitians, and social workers must be involved in the orientation and in-service education program for patient care personnel.
(d) The facility shall document in personnel files that each employee has completed all required orientation, education, and training.

7 AAC 12.700. Social work service
(a) ...The social worker shall ...(5) participate in in-service training.
(c) A social services specialist shall act as an assistant to the social worker and shall ...(4) participate in in-service training.

7 AAC 12.720. Dietetic service
(a) A facility that provides dietetic services, with the exception of frontier extended stay clinics, must comply with the provisions of this section.
...(f) A facility must maintain adequate space, equipment, and staple food supplies to provide food service to patients in emergencies.
...(2) the facility shall ensure that the dietitian ...(D) develops and implements continuing education programs for dietary services and nursing personnel.

7 AAC 12.760. Infection control
(a) Each facility, with the exception of home health agencies and hospice agencies that do not provide inpatient care on agency premises, must have an infection control committee.

7 AAC 12.770. Medical record service
(a) Each facility, with the exception of home health agencies, hospice agencies, intermediate care facilities for the mentally retarded, and birth centers, must have a medical record service that complies with the applicable provisions of this section. A frontier extended stay clinic must comply with (b), (d), (g), and (i) - (k) of this section in addition to the requirements of 7 AAC 12.483.
(b) A facility must keep records on all patients admitted or accepted for treatment. The medical records, including x-ray films, are the property of the facility and are maintained for the benefit of the patients, the medical staff, and the facility. Medical records are subject to the requirements of
AS 18.05.042, 7 AAC 43.030, and 7 AAC 43.032. This section does not affect other statutory or regulatory requirements regarding access to, use of, disclosure of, confidentiality of, or retention of record contents, or regarding maintenance of health information in patients' records by health care providers. A facility must maintain originals or accurate reproductions of the contents of the originals of all records, including x-rays, consultation reports, and laboratory reports, in a form that is legible and readily available

(1) upon request, to the attending physician or other practitioner responsible for treatment, a member of the facility's medical staff, or a representative of the department; and

(2) upon the patient’s written request, to another practitioner.

(c) Each in-patient medical record must include, as appropriate

(1) an identification sheet which includes the

(A) patient's name;
(B) medical record number;
(C) patient's address on admission;
(D) patient's date of birth;
(E) patient's sex;
(F) patient's marital status;
(G) patient's religious preference;
(H) date of admission;
(I) name, address, and telephone number of a contact person;
(J) name of the patient's attending physician;
(K) initial diagnostic impression;
(L) date of discharge and final diagnosis; and

(M) source of payment;

(2) a medical and psychiatric history and examination record;

(3) consultation reports, dental records, and reports of special studies;

(4) an order sheet which includes medication, treatment, and diet orders signed by a physician;

(5) progress notes for each service or treatment received;

(6) nurses’ notes which must include

(A) an accurate record of care given;
(B) a record of pertinent observations and response to treatment including psychosocial and physical manifestations;

(C) an assessment at the time of admission;

(D) a discharge plan;

(E) the name, dosage, and time of administration of a medication or treatment, the route of administration and site of injection, if other than by oral administration, of a medication, the patient’s response, and the signature of the person who administered the medication or treatment; and

(F) a record of any restraint used, showing the duration of usage;

(7) court orders relevant to involuntary treatment;

(8) laboratory reports;

(9) x-ray reports;

(10) consent forms;

(11) operative report on in-patient and out-patient surgery including pre-operative and post-operative diagnosis, description of findings, techniques used, and tissue removed or altered, if appropriate;

(12) anesthesia records including pre-operative diagnosis and post-anesthesia follow-up;

(13) a pathology report, if tissue or body fluid is removed;

(14) recovery room records;

(15) labor record;
(16) delivery record;
(17) record of a neonatal physical examination and condition on discharge;
(18) if the patient was in inpatient care for 48 hours or more, a discharge summary, prepared and signed by the attending physician or mid-level practitioner, that summarizes
(A) significant findings and events of the patient's stay in the facility;
(B) conclusions as to the patient's primary and any associated diagnoses; and
(C) disposition of the patient at discharge including instructions, medications, and recommendations and arrangements for future care; and
(19) if the patient was in inpatient care for less than 48 hours, a final discharge progress note signed by the attending physician or mid-level practitioner.

(d) A facility must maintain procedures to protect the information in medical records from loss, defacement, tampering, or access by unauthorized persons. A patient's written consent is required for release of information that is not authorized to be released without consent. A facility may not use or disclose protected health information except as required or permitted by 45 C.F.R. Part 160, subpart C, and 45 C.F.R. Part 164, subpart E, revised as of October 1, 2005, and adopted by reference.

(e) A record must be completed within 30 days of discharge and authenticated or signed by the attending physician, dentist, or other practitioner responsible for treatment. The facility must establish policies and procedures to ensure timely completion of medical records. A record may be authenticated by a signature stamp or computer key instead of the treating practitioner's signature if the practitioner has given a signed statement to the hospital administration that the practitioner is the only person who
(1) has possession of the stamp or key; and
(2) may use the stamp or key.

(f) Medical records must be filed in accordance with a standard health information archival system to ensure the prompt location of a patient's medical record.

(g) The facility must ensure that a transfer summary, signed by the physician or other practitioner responsible for treatment, accompanies the patient, or is sent by electronic mail or facsimile transmission to the receiving facility or unit, if the patient is transferred to another facility or is transferred to a nursing or intermediate care service unit within the same facility. The transfer summary must include essential information relative to the patient's diagnosis, condition, medications, treatments, dietary requirement, known allergies, and treatment plan.

(h) Each facility subject to the provisions of this section, with the exception of an ambulatory surgical facility and a frontier extended stay clinic, must employ the services of a health information administrator who is registered by the American Health Information Management Association or a records technician who is accredited by the American Health Information Management Association to supervise the medical record service. If the administrator or technician is a consultant only, the administrator or technician must visit the facility not less than biannually to organize and evaluate the operation of the service and to provide written reports to the medical record service and the administration of the facility.

(i) The facility must safely preserve patient records for at least seven years after discharge of the patient, except that
(1) x-ray films or reproductions of films must be kept for at least five years after discharge of the patient; and
(2) the records of minors must be kept until the minor has reached the age of 21 years, or seven years after discharge, whichever is longer.

(j) If a facility ceases operation, the facility must inform the department within 48 hours before ceasing operations of the arrangements made for safe preservation of patient records as required in this section. The facility must have a policy for the preservation of patients' medical records in the event of the closure of the facility.
(k) If ownership of the facility changes, the previous licensee and the new licensee shall, before the change of ownership, provide the department with written documentation that
(1) the new licensee will have custody of the patient's records upon transfer of ownership, and that the records are available to both the new and former licensee and other authorized persons; or
(2) arrangements have been made for the safe preservation of patients' records, as required in this section, and the records are available to the new and former licensees and other authorized persons.

7 AAC 12.780. Radiological service
(a) A facility that provides radiological services, with the exception of frontier extended stay clinics, must comply with the requirements of this section.
(b) If a facility which provides radiological services does not have a radiologist on its staff, a radiologist must provide consultation services to the facility at least twice a year to assure high quality of the diagnostic radiological service.
(c) A physician or a radiologist must have clinical responsibility for the radiological services.
(d) Radiological services may be performed only upon the order of a person lawfully authorized to diagnose and treat illness.
(e) If an x-ray examination is to be provided to a patient, a request by the attending physician for the x-ray examination must contain a diagnosis or a tentative diagnosis, or a concise statement of the reasons for the x-ray examination.
(f) A report of a radiological examination must be filed in the patient's medical record and maintained in the radiology unit.
(g) Diagnostic x-ray film processing must conform to the time and temperature recommendations of the manufacturer.
(h) All individuals who are employed or involved in providing radiological services or who may be exposed to radiation shall wear devices that monitor radiation exposure.
(i) A facility must keep records identifying employees who have been exposed to radiation and the amount of exposure for each employee.
(j) A facility which provides nuclear medicine services must report the type of those services provided to the department and must conform, unless specifically excepted by law, to the applicable standards of the Nuclear Regulatory Commission, 10 C.F.R. Parts 0 - 170, as in effect April 30, 1983, and 18 AAC 85.
(k) Radiation therapy may be given only under the direction of a radiation therapist using equipment which is specifically designed for radiation therapy.
(l) A facility which uses x-ray equipment must conform to the radiation protection standards set out in 18 AAC 85.010 - 18 AAC 85.770.
(m) In this section, "nuclear medicine services" means medical procedures that use radio isotopes or other atomic entities in the treatment or diagnosis of illness or disease.

7 AAC 12.790. Laboratory service
(a) A facility that provides laboratory services must comply with 7 AAC 12.790 - 7 AAC 12.850 and must meet the requirements of 42 C.F.R. Part 493, Laboratory Requirements, as revised as of October 1, 2005, and adopted by reference.
(b) A facility must have and maintain written procedures on the scope of onsite laboratory services necessary to support the facility's emergency and patient care services. For laboratory tests not performed in the facility, the facility must make arrangements with an approved laboratory to meet the requirements of this section. Information specifying the laboratory tests performed at the facility, and laboratory tests available under arrangement, must be provided to the medical staff.
(c) A laboratory that provides blood or blood products must
(1) have those products onsite or readily available from another source; and
(2) maintain storage areas for those products under adequate control and supervision.

7 AAC 12.830. Mailing of laboratory specimens
A laboratory specimen may be referred and mailed only to an approved laboratory. The mailing
containers to be used must be provided by the laboratory to which the specimens are sent.

7 AAC 12.840. Supervision and direction of laboratory service
(a) A laboratory must be under the supervision and direction of a physician, a laboratory specialist,
or a medical technologist who
(1) meets the applicable qualification requirements of 42 C.F.R. Part 493, adopted by reference in 7
AAC 12.790; and
(2) is either employed by the laboratory or under contract to the laboratory.
(b) If a medical technologist supervises the laboratory under contract, a consulting physician or
laboratory specialist supervising the laboratory under contract must make quarterly visits to the
laboratory and prepare a written evaluation with recommendations to the administrator and
medical staff of the facility after each visit. For a consulting physician, up to two of the required
visits and evaluations each year may be made by the physician's representative, who must be a
medical technologist competent in one or more laboratory specialties. If a medical technologist
supervises a laboratory as an employee of the laboratory, a consulting physician or a laboratory
specialist under contract must make at least biannual visits to the laboratory and prepare a written
evaluation and recommendations after each visit.
(c) In this section, "laboratory specialties" include microbiology, serology, chemistry, hematology,
and immunohematology.

7 AAC 12.860. Risk management
A facility, with the exception of home health agencies and hospice agencies that do not provide
inpatient care on agency premises, must have a risk management program that has
(1) provision for monitoring, evaluating, identifying, correcting, and reassessing care practices that
negatively affect quality of care and services provided or result in accident or injury to a patient,
resident, or staff, and provisions for documenting deficiencies found and remedial actions taken;
(2) a preventive maintenance program that is designed to ensure the proper functioning, safety and
performance of all electrical and mechanical equipment used in the care, diagnosis, and treatment
of patients or residents, and for the physical plant including the electrical, plumbing, heating, and
ventilation systems and their parts, including
(A) implementation of policies that specify procedures and frequencies for the maintenance of all
equipment and systems and all their parts, that meets or exceeds manufacturers' recommendations; and
(B) documentation of the preventive maintenance that has occurred;
(3) a procedure to investigate, analyze, and respond to patient or resident grievances that relate to
patient or resident care;
(4) a job-specific orientation program and an in-service training program for each employee that
provides annual instruction in
(A) policies and procedures for that service;
(B) the employee's job responsibilities and the skills necessary to meet those responsibilities;
(C) safety, fire, and disaster plans; and
(D) principles and techniques of infection control;
(5) provision of 24-hour emergency service by a physician, on site or on call, including posting the on-call physician's name and phone number at each nursing station; a frontier extended stay clinic or free-standing birth center is exempt from the requirements of this paragraph;
(6) quarterly fire drills for each work shift, a record showing when each drill was held, and coordination with community or area mass casualty drills;
(7) an annual review of written policies and procedures approved, signed, and dated by the administrator or the administrator's designee;
(8) a training program by an instructor certified in cardiopulmonary resuscitation (CPR) for all personnel who are engaged in patient care; the training program must include certification of employees by an approved organization;
(9) a method of ensuring safe storage and transportation of gas cylinder tanks; and
(10) a disaster plan developed in coordination with the local community to address the facility’s response in case of a disaster; the plan must include community and state resources for staffing and supplies, and prioritized options to account for staffing shortages, disruptions in the supply line, community allocation of staff resources, telephone triage, and plans for establishing and maintaining communication with local, state, and federal emergency response agencies; the disaster plan must be in place on or before January 1, 2007, and must address response to (A) an earthquake, flood, major fire, tsunami, or other potential disaster relative to the area; and (B) a pandemic influenza outbreak; the plan must include plans for (i) separate entrances to buildings, and segregated seating, for patients with influenza-like illness; and (ii) other measures to contain or prevent transmission of the illness.

7 AAC 12.910. Contracts
(a) A facility may contract with another facility or agent to perform services or provide resources to the facility.
(b) Services regulated under this chapter that are provided by contract must meet the requirements of this chapter.
(c) A contract for resources or services required by regulation and not provided directly by a facility must be in writing, must be dated and signed by both parties, and must
(1) specify the respective functions and responsibilities of the contractor and the facility, and the frequency of onsite consultation by the contractor;
(2) identify the type and frequency of services to be furnished;
(3) specify the qualifications of the personnel providing services;
(4) require documentation that services are provided in accordance with the agreement;
(5) specify how and when communication will occur between the facility and the contractor;
(6) specify the manner in which the care or services will be controlled, coordinated, supervised, and evaluated by the facility;
(7) identify the procedures for payment for services furnished under the contract; and
(8) include the current license or registration number of the contractor, if required by state statute or regulation.
(d) Ambulatory surgical facilities, specialized hospitals, rural primary care hospitals, critical access hospitals, nursing homes, and intermediate care facilities for the mentally retarded must have a signed agreement with a general acute care hospital for transfer of patients who require medical or emergency care beyond the scope of the ability or license of the facility.

7 AAC 12.920. Applicable federal, state, and local laws and regulations
A facility must comply with all applicable federal, state, and local laws and regulations. If a conflict or inconsistency exists between codes or standards, the more restrictive provision applies.
R9-10-101. Definitions
24. "Health care institution" means every place, institution, building or agency, whether organized for profit or not, which provides facilities with medical services, nursing services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in A.R.S. § 36-151 and hospice service agencies.

R9-10-103. Licensure Exceptions
A. Except for R9-10-122, this Article does not apply to a behavioral health service agency regulated under 9 A.A.C. 20.
B. A health care institution license is required for each health care institution except:
   1. A facility exempt from licensure under A.R.S. § 36-402, or
   2. A health care institution's administrative office.
C. The Department does not require a separate health care institution license for:
   1. An accredited facility of an accredited hospital under A.R.S. § 36-422(F) or (G);
   2. A facility operated by a licensed health care institution that is:
      a. Adjacent to the licensed health care institution; or
      b. Not adjacent to the licensed health care institution but is connected to the licensed health care institution by an all-weather enclosure and that is:
         i. Owned by the health care institution, or
         ii. Leased by the health care institution with exclusive rights of possession; or
   3. A mobile clinic operated by a licensed health care institution.

R9-10-904. Administration
A. A governing authority shall:
   1. Consist of one or more individuals responsible for the organization, operation, and administration of a nursing care institution;
   2. Approve or designate an individual to approve the nursing care institution policies and procedures required in subsection (E);
   3. Comply with applicable federal and state laws, rules, and local ordinances governing operations of a nursing care institution;
   4. Appoint a nursing care institution administrator licensed according to A.R.S. Title 36, Chapter 4, Article 6;
   5. Appoint an acting licensed administrator if the administrator is absent for more than 30 consecutive days;
   6. Except as permitted in subsection (A)(5), when there is a change of administrator, submit a copy of the new administrator’s license under A.R.S. Title 36, Chapter 4, Article 6 to the Department;
   7. Adopt a quality management program according to R910-918;
   8. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
   9. Approve contracted services or designate an individual to approve contracted services;
   10. Notify the Department immediately if there is a change in administrator according to A.R.S. § 36-425(E);
   11. Notify the Department at least 30 days before the nursing care institution terminates operations according to A.R.S. § 36-422(D); and
12. Notify the Department of a planned change in ownership at least 30 days before the change according to A.R.S. § 36-422(D).

B. Except as provided in subsection (C), a governing authority may not appoint an administrator to provide direction in more than one health care institution.

C. A single governing authority may appoint an administrator to provide direction in:
1. Both a hospital and a hospital-based nursing care institution if the licensed capacity in the hospital-based nursing care institution does not exceed 60; or
2. Not more than two nursing care institutions if:
   a. The distance between the two nursing care institutions does not exceed 25 miles; and
   b. Neither nursing care institution is operating under a provisional license issued by the Department under A.R.S. § 36-425;

D. An administrator shall:
1. Be responsible to the governing authority for the operation of the nursing care institution;
2. Have the authority and responsibility to administer the nursing care institution;
3. Designate an individual, in writing, who is available and responsible for the nursing care institution when the administrator is not available; and
4. Ensure the nursing care institution’s compliance with the fingerprinting requirements in A.R.S. § 36-411.

E. An administrator shall ensure that:
1. Nursing care institution policies and procedures are established, documented, and implemented that cover:
   a. Abuse of residents and misappropriation of resident property;
   b. Health care directives;
   c. Job descriptions, qualifications, duties, orientation, and in-service education for each staff member;
   d. Orientation and duties of volunteers;
   e. Admission, transfer, and discharge;
   f. Disaster plans;
   g. Resident rights;
   h. Quality management including incident documentation;
   i. Personal accounts;
   j. Petty cash funds;
   k. The nursing care institution’s refund policy;
   l. Food services;
   m. Nursing services;
   n. Dispensation, administration, and disposal of medication and biologicals;
   o. Infection control; and
   p. Medical records including oral, telephone, and electronic records;
2. An allegation of abuse of a resident or misappropriation of resident property is:
   a. Investigated by an individual designated by the administrator;
   b. Reported to the Department within five calendar days of the allegation; and
   c. Reported to Adult Protective Services of the Department of Economic Security if required by A.R.S. § 46-454;
3. During an investigation conducted according to subsection (E)(2), further abuse of a resident or misappropriation of resident property is prevented;
4. Nursing care institution policies and procedures are reviewed at least once every 24 months and updated as needed;
5. Nursing care institution policies and procedures are available to each staff member;
6. A known criminal conviction of a staff member who is licensed, certified, or registered in this state is reported to the appropriate licensing or regulatory agency;
7. An injury to a resident from an unknown source that requires medical services, a disaster, or an incident is investigated by the nursing care institution and reported to the Department within 24 hours or the first business day after the injury, disaster, or incident occurs;

8. A resident advocate assists a resident, the resident’s representative, or a resident group with a request or recommendation, and responds in writing to any complaint submitted to the nursing care institution;

9. The following are conspicuously posted on the premises:
   a. The current nursing care institution license and quality rating issued by the Department;
   b. The name, address, and telephone number of:
      i. The Department’s Office of Long Term Care,
      ii. The State Long Term Care Ombudsman Program, and
      iii. Adult Protective Services of the Department of Economic Security;
   c. A notice that a resident may file a complaint with the Department concerning the nursing care institution;
   d. A map for evacuating the facility; and
   e. A copy of the current license survey report with information identifying residents redacted, any subsequent reports issued by the Department, and any plan of correction that is in effect.

F. If an administrator administers a resident’s personal account at the request of the resident or the resident’s representative, the administrator shall:
1. Comply with nursing care institution policies and procedures established according to subsection (E)(1)(i),
2. Designate a staff member who is responsible for the personal accounts,
3. Maintain a complete and separate accounting of each personal account,
4. Obtain written authorization from the resident or the resident’s representative for each personal account transaction,
5. Document each account transaction and provide a copy of the documentation to the resident or the resident’s representative on request and at least every three months,
6. Transfer all money from the resident’s personal account in excess of $50.00 to an interest-bearing account and credit the interest to the resident’s personal account, and
7. Within 30 days of the resident’s death, transfer, or discharge, return all money in the resident’s personal account and a final accounting to the individual or probate jurisdiction administering the resident’s estate.

G. If a petty cash fund is established for use by residents, the administrator shall ensure that:
1. The nursing care institution policies and procedures established according to subsection (E)(1)(j) include:
   a. A prescribed cash limit of the petty cash fund, and
   b. The hours of the day a resident may access the petty cash fund; and
2. A resident’s written acknowledgment is obtained for each petty cash transaction.

R9-10-905. Staff and Volunteers
A. An administrator shall ensure that:
   1. A staff member who provides direct care is available to meet the needs of a resident based on the resident’s comprehensive assessment; 
   2. A staff member who provides direct care demonstrates and maintains competency and proficiency according to criteria established in the nursing care institution policies and procedures; 
   4. A staff member who provides direct care attends at least 12 hours of in-service education every 12 months from the starting date of employment. 
   5. A nursing care institution policy and procedure is established to provide criteria for in-service education;
6. Documentation of in-service education required in subsection (A)(4) includes:
   a. The date of the in-service education,
   b. The subject matter of the in-service education,
   c. The number of clock hours of the in-service education,
   d. The instructor’s name, and
   e. The signature of the staff member participating in the in-service education.

7. Orientation for a staff member or a volunteer begins in the first week of employment or volunteer service and covers:
   a. Nursing care institution policies and procedures;
   b. Resident rights;
   c. Infection control including:
      i. Hand washing,
      ii. Linen handling, and
      iii. Prevention of communicable diseases, and
   d. Disaster plans;

11. A staff member or volunteer record required under subsection (A)(10) and in-service education documentation required under subsection (A)(6) are provided to the Department for review:
   a. For a current staff member or volunteer, as soon as possible but not more than two hours from the time of the Department’s request; and
   b. For a staff member or volunteer who is not currently working or providing volunteer services in the nursing care institution, within two hours from the Department’s request; and

12. A staff member or volunteer record and in-service education documentation are maintained by the nursing care institution for at least two years after the last date of volunteer service or work.

R9-10-906. Nursing Services
   A. An administrator shall ensure that:
      ...3. The director of nursing or an individual designated by the administrator participates in the quality management program.

R9-10-910. Medical Services
   A. A governing authority shall appoint a medical director.
   B. A medical director shall ensure that:
      1. A resident has an attending physician;
      2. An attending physician is available 24 hours a day;
      3. An attending physician designates a physician who is available when the attending physician is not available;
      4. A physical examination is performed on a resident at least once every 12 months from the date of admission by an individual listed in R9-10-908(5);
      5. As required in A.R.S. § 36-406, vaccinations for influenza and pneumonia are available to each resident at least once every 12 months unless:
         a. The attending physician provides documentation that the vaccination is medically contraindicated;
         b. The resident or the resident’s representative refuses the vaccination or vaccinations and documentation is maintained in the resident’s medical records that the resident or the resident’s representative has been informed of the risks and benefits of each vaccination refused; or
         c. The resident or the resident’s representative provides documentation that the resident received a pneumonia vaccination within the last five years or the current recommendation from the U.S. Department of Health and Human Services, Center for Disease Control and Prevention; and
      6. A resident is assisted in obtaining, at the resident’s expense:
a. Vision services;
b. Hearing services;
c. Dental services;
d. Clinical laboratory services from a laboratory that holds a certificate of accreditation or certificate of compliance issued by the United States Department of Health and Human Services under the 1988 amendments to the Clinical Laboratories Improvement Act of 1967;
e. Psychosocial services;
f. Physical therapy;
g. Speech therapy;
h. Occupational therapy;
i. Behavioral health services; and
j. Services for an individual who has a developmental disability as defined in A.R.S. Title 36, Chapter 5.1, Article 1.

R9-10-913. Medical Records
A. An administrator shall ensure that:
1. A medical record is established and maintained for each resident;
2. An entry in a medical record is:
   a. Documented only by a staff member authorized by nursing care institution policies and procedures;
   b. Dated, legible, and authenticated; and
   c. Not changed to make the initial entry illegible;
3. If a rubber-stamp signature or an electronic signature code is used to authenticate an order, the individual whose signature the stamp or electronic code represents is responsible for the use of the stamp or the electronic code;
4. A medical record is available to staff, physicians, and physicians’ designees authorized by nursing care institution policies and procedures;
5. Information in a medical record is disclosed only with the written consent of a resident or the resident’s representative or as permitted by law;
6. If a nursing care institution terminates operations:
   a. A resident and the resident’s medical records are transferred to another health care institution; and
   b. The location of all other records and documents not transferred with residents is submitted in writing to the Department not less than 30 days before the nursing care institution services are terminated;
7. If the nursing care institution has a change of ownership, all nursing care institution records and documents, including financial, personnel, and medical records, are transferred to the new owner;
8. A medical record is:
   a. Protected from loss, damage or unauthorized use;
   b. Maintained in compliance with A.R.S. § 12-2297(D) for five years after the date of the resident’s discharge unless the resident is less than 18 years of age, in which case the record is maintained for three years after the resident reaches 18 years of age or for three years after the date of the resident’s transfer or discharge, whichever date occurs last; and
   c. Provided to the Department within two hours of the Department’s request;
B. If a nursing care institution keeps medical records electronically, an administrator shall ensure that:
1. Safeguards exist to prevent unauthorized access; and
2. The date and time of an entry in a medical record is recorded by the computer’s internal clock.
C. An administrator shall require that medical records for a resident contain:
1. Resident information that includes:
a. The resident’s name;
b. The resident’s date of birth;
c. The resident’s weight;
d. The resident’s social security number;
e. The resident’s last known address;
f. The home address and telephone number of a designated resident representative; and
g. Any known allergies or sensitivities to a medication or a biological;
2. The admission date and physician admitting orders;
3. The admitting diagnosis;
4. The medical history and physical examination required in R9-10-908(5);
5. A copy of the resident’s living will, health care power of attorney, or other health care directive, if applicable;
6. The name and telephone number of the resident’s attending physician;
7. Orders;
8. Care plans;
9. A record of medical services, nursing services, and medically-related social services provided to a resident;
10. Documentation of any incident involving the resident;
11. Notes by a physician, the physician’s designee, nursing personnel, and any other individual providing nursing care institution services to the resident;
12. Documentation of freedom from infectious pulmonary tuberculosis required in R9-10-908; and
13. Documentation of a medication or a biological administered to the resident that includes:
a. The date and time of administration;
b. The name, strength, dosage, and route of administration;
c. The type of vaccine, if applicable;
d. The signature and professional designation of the individual administering or observing the self-administration of the medication or biological; and
e. Any adverse reaction a resident has to the medication or biological.

R9-10-916. Safety Standards.
A. An administrator shall ensure that:
1. A disaster plan is developed, documented, and implemented that includes:
a. Procedures for protecting the health and safety of residents and other individuals;
b. Assigned responsibilities for each staff member;
c. Instructions for the evacuation, transport, or transfer of residents,
d. Maintenance of medical records, and
e. Arrangements to provide any other nursing care institution services to meet the resident’s needs;
2. If applicable, a sign is placed at the entrance to a room or area indicating that oxygen is in use;
3. A plan exists for back-up power and water supply;
4. A fire drill is performed on each shift at least once every three months;
5. A disaster drill is performed at least once every six months;
6. Documentation of a fire drill required in subsection (A)(4) and a disaster drill required in subsection (A)(5) includes:
a. The date and time of the drill;
b. The names of each staff member participating in the drill;
c. A critique of the drill; and
d. Recommendations for improvement, if applicable;
7. Documentation of a fire drill or a disaster drill is maintained by the nursing care institution for 18 months from the date of the drill and provided to the Department for review within two hours of the Department’s request.

B. A fire safety inspection is conducted in the nursing care institution every 12 months by the fire authority having jurisdiction.

C. Documentation of the fire safety inspection is provided to the Department for review within two hours of the Department’s request.

R9-10-918. Quality Management
A. A governing authority shall ensure that a quality management program is established and implemented that evaluates the quality of nursing care institution services including contracted services provided to residents.

B. An administrator shall require that:
1. A plan is established, documented, and implemented for a quality management program that at a minimum includes a method to:
   a. Identify, document, and evaluate incidents;
   b. Collect data to evaluate nursing care institution services provided to residents;
   c. Evaluate the data collected to identify a concern about the delivery of nursing care institution services;
   d. Make changes or take action as a result of the identification of a concern about the delivery of nursing care institution services; and
   e. Monitor and evaluate actions taken; and
2. Documentation of the quality management program is maintained on the nursing care institution premises for 18 months and provided to the Department within two hours of the Department’s request.

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200 General Provisions for licensure
201 LICENSURE
Nursing homes, or related institutions, shall be operated, conducted, or maintained in this State by obtaining a license pursuant to the provisions of these Licensing Standards. Separate institutions operated by the same management require separate licenses. Separate licenses are not required for separate buildings on the same grounds. The classification of license shall be Skilled Nursing Facility, Intermediate Care Facility, and Intermediate Care Facility for the Mentally Retarded. Whenever ownership or controlling interest in the operation of a facility is sold, both the buyer and the seller must notify the Office of Long Term Care at least thirty (30) days prior to the completed sale. The thirty (30) day notice shall be the date the paperwork is stamped received by the Office of Long Term Care.

300 ADMINISTRATION
301 MANAGEMENT
301.1 BY-LAWS
The governing body shall adopt effective patient care policies and administrative policies and by-laws governing the operation of the facility in accordance with legal requirements.

301.2 ADMINISTRATOR
Each nursing home shall have a full-time (minimum forty (40) hours per week) administrator on the premises during normal business hours, who shall be currently licensed as a nursing home administrator in accordance with Act 58 of 1969, Statute 82-2201 through 82-2215 and the rules and regulations promulgated there under. Each facility administrator, if required, should provide verification that a minimum of forty (40) hours is spent in the facility. The administrator must have responsibility for overall operation of the facility and is responsible for any non-compliance with regulations found in the nursing home. Correspondence between this office and the facility shall be through the licensed administrator. The licensed administrator shall not leave the nursing home premises during the day tour of duty without first delegating authority in writing to a qualified individual who may manage the facility temporarily during the administrator’s absence. Nursing personnel on the day tour of duty shall not be delegated authority to operate the facility unless relief nursing personnel are employed to replace the selected nurse. Also, the facility administrator shall notify this office in writing if an absence from the facility will exceed seven (7) consecutive days. The name of the individual who will be administratively in charge of the facility should also be listed in the letter. Administrators-in-training shall receive training in facilities that employ a full-time licensed administrator. Administrators-in-training shall not serve as a nursing home administrator until such time that a nursing home administrator’s license is obtained. Applicants that qualify to take the administrator’s examination shall not practice as a nursing home administrator until licensed by this office. Arkansas Statute 82-2215 provides as follows: "It shall be unlawful for any person to act or serve in the capacity of nursing home administrator in this state unless such person has been licensed to do so as authorized in this Act."

302 GENERAL ADMINISTRATION

...302.3 An accurate daily census sheet as of midnight shall be available to the Division at all times.
302.4 There shall be keys readily available for all locked doors within the home.
...302.11 Laboratories and radiological facilities operated in nursing homes shall comply with the rules and regulations for hospitals and related institutions in Arkansas. Pharmacies operated in nursing homes shall be operated in compliance with Arkansas laws and shall be subject to inspection by personnel from the Division.

303 PERSONNEL ADMINISTRATION

303.1 The administrator shall establish and maintain a personnel file for each employee.
303.2 Applications for each employee shall contain sufficient information to support placement in the position to which assigned. All applications from licensed and/or registered personnel shall contain the appropriate certificate or registration number and current renewal date. These registrations and/or certifications shall be verified.
303.3 No employee caring for patients shall be less than sixteen (16) years of age. Employees shall wear uniforms and name pins with job title.
...303.6 Written job descriptions shall be developed for each employee classification, i.e., R.N., L.P.N., aide, housekeepers, maids, etc., and shall include, as a minimum the responsibilities and/or actual work to be performed in such classification. In addition, the job description shall include the physical and educational qualifications and licenses or certificates required for each job classification.
303.7 Sufficiently trained personnel shall be on duty at all times. Provisions shall be made for relief of direct care personnel during vacations and other relief periods.
303.8 Upon request, a nursing home must make available to employees of the Division, payroll records showing staff employed during recent pay periods. This is to verify that minimum staffing has been maintained.
303.9 Copies of these regulations shall be available to all personnel. All personnel shall be instructed by the administrator in the requirements of the law and in the regulations pertaining to their respective duties.

303.10 Nursing or personal care shall not be delegated to cooks, housekeeping, or laundry personnel.

303.11 A weekly time schedule shall be prepared and posted for each week and shall include the employee's first and last name, classification, i.e., aide, R.N., cook, etc., and the beginning and ending time of each tour of duty, such as 7:00 a.m. to 3:00 p.m., etc.

304 STAFF DEVELOPMENT

304.1 Job orientation shall be provided for all personnel to acquaint them with the needs of the residents, the physical facility, disaster plan, and the employee's specific duties and responsibilities. There should be written documentation maintained to verify that orientation and in-service training are planned and conducted. A continuing in-service training program is planned and conducted. Attendance at such training shall be verified by each employee by signing their names on the attendance record. Records of orientation shall include the signature of the employee as well as topic of instruction and date of successful completion.

304.2 A reasonable supply of textbooks of basic practices shall be available in the nursing home for the specific job needs of all employees.

304.3 At least ninety percent (90%) of personnel on each shift shall be trained at least on a quarterly basis in the proper use of all fire-fighting equipment, in the procedures for evacuation of patients, and in the procedures to follow in case of fire or explosion. Disaster drills, including tornado drills, should be conducted semi-annually for each shift. A record of the drills held shall be maintained, and this record shall include the time and date the drill was held, along with the signature of all staff participating. Facility policies and procedures regarding reporting, as addressed in these regulations, must be included in orientation training for all new employees, and must be addressed at least annually during in-service training for all facility staff.

306 REPORTING SUSPECTED ABUSE, NEGLECT, EXPLOITATION, INCIDENTS, ACCIDENTS, DEATHS FROM VIOLENCE AND MISAPPROPRIATION OF RESIDENT PROPERTY

Pursuant to federal regulation 42 CFR 483.13 (Resident Behavior and Facility Practices) and state law Ark. Code Ann. § 5-28-101 et seq. (Abuse of Adults) and 12-12-501 et seq. (Child Maltreatment Act), the facility must develop and implement written policies and procedures to ensure incidents, including:

• alleged or suspected abuse or neglect of residents;
• accidents, including accidents resulting in death;
• unusual deaths or deaths from violence;
• unusual occurrences; and,
• exploitation of residents or any misappropriation of resident property, are prohibited, reported, investigated and documented as required by these regulations. A facility is not required under this regulation to report death by natural causes. However, nothing in this regulation negates, waives or alters the reporting requirements of a facility under other regulations or statutes.

Facility policies and procedures regarding reporting, as addressed in these regulations, must be included in orientation training for all new employees, and must be addressed at least annually during in-service training for all facility staff.
308 PATIENT CARE POLICIES
The administrator, in consultation with one or more physicians and one or more registered professional nurses, department heads, and other related professional health care personnel, shall develop and at least annually review appropriate written policies and procedures for all services and/or patient care practices to include but not limited to dietary, medical records, nursing, pharmaceutical, diagnostic services, laboratory and radiological, housekeeping, maintenance, and laundry services.

325 OUTSIDE RESOURCE AGREEMENTS
326 SPECIALIZED REHABILITATIVE SERVICES
If the facility does not offer specialized rehabilitative services directly, patients in need of such services, i.e., physical therapy, occupational therapy, speech pathology, and audiology, shall not be admitted or retained in the facility unless arrangements for these services have been provided with an outside resource. Terms of the agreement should include reimbursement, responsibility of each party, and documentation responsibilities.

327 ADVISORY DENTIST
Facilities shall establish a written cooperative agreement with an advisory dentist or dental service. The agreement shall include provisions for a dentist or dental service. The agreement shall include provisions for a dentist to participate annually in the staff development program and to recommend oral hygiene policies and practices.

328 SOCIAL SERVICES
If a facility provides social services directly and the designated staff member is not a qualified social worker, a written agreement shall be established to provide consultation from such a qualified person or a recognized social agency.

329 ACTIVITY DIRECTOR
In a nursing facility, if the staff member designated responsible for the activity program is not a qualified patient activity coordinator, a written agreement shall be established with a person so qualified. The MSW consultant may also serve as consultant to the activity director.

330 PHARMACIST
If a facility does not employ a licensed pharmacist, it shall establish a written agreement with a licensed pharmacist to provide consultation on methods and procedures for ordering, storage, administration, disposal, and record keeping of drugs and biologicals.

331 MEDICAL AND REMEDIAL SERVICES
A nursing home shall establish a written agreement for all medical and remedial services, i.e., laboratory, radiological, and other services, required by the resident but not regularly provided within the facility.

332 TRANSFER AGREEMENT
A facility shall have in effect a written transfer agreement with one or more hospitals sufficiently close to the facility to make feasible the transfer of patients. It shall be the duty of each nursing home administrator to supply basic information at the time of a patient’s transfer from one nursing home to another or to a hospital.
333 ELECTRONIC RECORDS AND SIGNATURES

333.1 Facilities have the option of utilizing electronic records rather than, or in addition to, paper or “hardcopy” records. The facility must have safeguards to prevent unauthorized access to the records and a process for reconstruction of the records in the event of a system breakdown. Any electronic record or signature system shall, at a minimum:

a. Require authentication and dating of all entries. "Authentication" means identification of the author of an entry by that author and no other, and that reflects the date of entry. An authenticated record shall be evidence that the entry to the record was what the author entered. To correct or enhance an entry, further authenticated entries may be made, by the original author, or by any other author, as long as the subsequent entries are authenticated as to who entered them, complete with date and time stamp of the entry, and that the original entries are not modified. "Entry" means any changes, deletions, or additions to a record, or the creation of a record. The electronic system utilized by the facility shall retain all entries for the life of the medical record and shall record the date and time of any entry, as well as identifying the individual who performed the entry. The electronic system must not allow any original signed entry or any stored data to be modified from its original content except for computer technicians correcting program malfunction or abnormality. A complete audit trail of all events as well as all “before” and “after” data must be maintained.

b. Require data access controls using unique personal identifiers to ensure that unauthorized individuals cannot make entries to a record, or create or enter an electronic signature for a record. The facility shall maintain a master list of authorized users, past and present. Facilities shall terminate user access when the user leaves employment with the facility.

c. Include physical, technical, and administrative safeguards to ensure confidentiality of patient medical records, including procedures to limit access to only authorized users. The authorized user must certify in writing that the identifier will not be shared with or used by any other person and that they are aware of the requirements and penalties related to improper usage of their unique personal identifier.

d. Provide audit controls. The system must be capable of tracking and logging user activity within its electronic files. These audit logs shall include the date and time of access and the user ID under which access occurred. These logs shall be maintained a minimum of six years. The facility must certify in writing that it is monitoring the audit logs to identify questionable data access activities, investigate breaches, assess the security program, and are taking corrective actions when a breach in the security system becomes known.

e. Have a data recovery plan. Data must be backed up either locally or remotely. Backup media shall be stored at both on-site and off-site locations or alternatively at multiple offsite locations. The backup system must have the capability of timely restoring the data to the facility or to the central server in the event of a system failure. Barring a natural disaster of epic proportions (e.g., earthquake, tornado), timely means that the restoration of the backup occurs within a period of time that will permit no more than minimal disruption in the delivery of care and services to the residents. Pending restoration from backup, the facility shall maintain newly generated records in a paper format, and shall copy or transfer the contents of the paper records to the electronic system upon restoration of the system and backup. A full backup shall be performed at least weekly, with incremental or differential backups daily. Back up media shall be maintained both locally and at the off-site location or alternatively at multiple offsite locations until the next full weekly backup is successfully completed. Backups shall be tested periodically, but no less than monthly. Testing shall include restoration of the backup to a computer or system that shall not interfere with, or overwrite, current records. If utilizing a third party company for computer data storage and retrieval, the facility shall require that said third party company shall comply with these requirements.
f. Provide access to Department of Health and Human Services (DHHS), Office of Long Term Care (OLTC), and Centers for Medicaid or Medicare Services (CMS) personnel. Access may be by means of an identifier created for DHHS, OLTC, or CMS personnel, by a printout of the record, or both, as requested by DHHS, OLTC, or CMS personnel. Access must be in a “human readable” format, and shall be provided in a manner that permits DHHS, OLTC, or CMS personnel to view the records without facility personnel being present. Access shall include all entries and accompanying logs and shall list the date and time of any entry, as well as identifying the individual who performed the entry. Any computer system utilized, whether in-house or from a third-party vendor, must comply with this regulation.

333.2 Physicians’ Orders. When facility personnel take telephone orders from physicians or other individuals authorized by law or regulations to issue orders the facility documents the appropriate information, including but not limited to, the date and time of the order, and the identity of the physician or other authorized individual giving the order as well as the identity of the facility personnel taking the order. The facility shall ensure that the physician electronically countersigns the physician’s order upon the physician’s next rounds at the facility or through Internet access from the physician’s office.

333.3 For purposes of these regulations, in all instances in which the regulations requires, or appears to require, the facility to use written records or written signatures, the facility may use electronic records or electronic signatures in lieu of written records or written signatures when doing so conforms to the requirements of this section for the use of electronic records or electronic signatures.

400 Physical Environment

443 LIMITATIONS

The following limitations shall apply:

443.1 No nursing home shall be connected to any building other than a general hospital, chronic disease hospital, rehabilitation facility, boarding home, adult day care, or Home Health Agency. Upon request from the Office of Long Term Care, supporting documentation must be provided to evidence proper allocation of costs and compliance with all applicable state and federal laws and regulations.

443.2 A nursing home shall not be located within thirty (30) feet from another nonconforming structure or the property line of the facility except where prohibited by local codes.

443.3 Occupancies not under the control of, or not necessary to the administration of a nursing home are prohibited therein with the exception of the residence of the owner or manager.

500 Patient Care Services

511 PROFESSIONAL NURSE SUPERVISION

511.1 A licensed registered nurse shall be employed full-time as the Director of Nursing Services and normally work on the day shift.

513 NURSING STAFF

513.1 All registered nurses, licensed practical nurses, and licensed psychiatric technicians employed in the nursing home shall be currently licensed in the State of Arkansas

518 REHABILITATIVE NURSING

518.1 Nursing personnel shall be trained in rehabilitative nursing measures. This shall be documented in the orientation program, and in-service on this subject shall be conducted at least annually.
542 PHARMACY CONSULTANTS PERMIT
Each nursing home shall have a formal arrangement with a licensed pharmacist to provide
supervision and consultation on methods and procedures for ordering, storing, administering,
disposition, and record keeping of drugs and biologicals. A consultant pharmacist’s permit shall be
obtained yearly from the Arkansas State Board of Pharmacy and shall be displayed in a conspicuous
place in the facility.

561 STAFFING
...Certified Dietary Managers and food service supervisors shall complete fifteen (15) hours per
year of continuing education courses approved by the Office of Long Term Care. For purposes of
these regulations, the term continuing education courses approved by the Office of Long Term Care
means continuing education courses offered by the Dietary Managers Association or comparable
body, and approved by the Office of Long Term Care.

600 RESIDENT RECORDS
601 RESIDENT RECORD MAINTENANCE
The facility will maintain an individual record on all residents admitted in accordance with
accepted professional standards and practices. The resident record service must have sufficient
staff, facilities, and equipment to provide records that are completely and accurately documented,
readily accessible, and systematically organized.

602 CONTENTS OF RECORDS (TO FACILITATE RETRIEVING AND COMPILING INFORMATION)
The resident records will contain sufficient information to identify the resident, his/her
diagnosis(es) and treatment, and to document the results accurately.
602.1 Admission and Discharge Record
• Record number
• Date and time of Admission
• Name
• Last known address
• Age
• Date of Birth
• Sex
• Marital status
• Name, address, and telephone numbers of attending physician and dentist.
• Name, address, and telephone number of next of kin.
• Date and time of discharge or death.
• Admitting and final diagnosis.
602.2 History and Physical Examination Prior to Admission
• Medical history
• Physical findings which includes a complete review of systems and diagnosis(es)
• Date and signature of physician
602.3 Physician Orders
• Date
• Orders for medication, treatment, care, diet, restraints, extend of activity, therapeutic home visits,
discharge, or transfer.
• Telephone or verbal orders may be taken and written by licensed personnel and countersigned
by the physician given the order within seven (7) days. Telephone or verbal orders for restraints
must be signed by the physician giving the order within five (5) days.
602.4 Physician Progress Notes
- Written at the time of each visit.
- Dated.
- Signature of the physician.
- Written at least every sixty (60) days on skilled care patients and every one-hundred twenty (120) days on others.

602.5 Nursing Notes
- Each entry will be dated and signed by the person making such entry.
- PRN medications will be documented as to the time given, amount given, reason given, results, and signature of person giving the medication.
- Vital signs shall be taken and recorded on all patients as ordered by the attending physician, not less than weekly.
- Date and time of all treatments and dressings.
- Date and time of physician visits.
- Complete record of all restraints, including time of application and release, type of restraint, and reason for applying.
- Record all incidents and accidents, and follow-up involving the resident.
- The amount and type of bedtime nourishment taken by residents on calorie controlled diets.
- Condition on discharge or transfer.
- Disposition of personal belongings and medications upon discharge.
- Time of death and the name of person pronouncing the death of the resident and disposition of the body.
- Heights and weights of the residents will be obtained at the time of admission to the facility. Weights will then be recorded at least monthly.

602.6 Discharge Summaries Should Include:
- Signature of the physician
- Admitting and final diagnosis.
- Course of resident's treatment and condition while in the nursing home.
- Cause of death if applicable.
- Disposition of resident, i.e., transfer to hospital, nursing home, mortuary, or home.

603 INDEX
There will be an index of all residents admitted to the facility including:
- Name of resident.
- Record number.
- Former Address.
- Name of physician.
- Date of birth.
- Date of discharge.

604 RETENTION AND PRESERVATION OF RECORDS
604.1 Retention Requirements for Active Clinical Records
a. The maintenance schedule for records on resident charts are as follows:
1. Admission and Discharge Records Permanent
3. History and Physical Most recent
4. Rehabilitation Potential Evaluation Most recent
5. Physician's orders Six months  
6. Physician's Progress Notes Six months  
7. Resident Body Weight Six months  
8. Transfer Forms 12 months or Most recent if older than 12 months  
9. Laboratory and X-Ray Reports Six months or 12 months if ordered less often than monthly  
10. Nurse’s Notes/Nursing Flow Sheets Three months (ADL, Restraints, Clinitest: Results, Intake and Output, etc.)  
11. Medication and Treatment Records Three months  
12. Personal Effects Inventory Most recent  
13. Hospital Discharge Summary Current 12 (Including History and Physical) months  
14. TB Surveillance Record Permanent  
15. Classification Status Current  
16. Consultant Reports Initial and -Physicians Most recent -Occupational Therapist -Speech Therapist -Physical Therapist -Social Worker -Psychologist -Others  
b. The maintenance schedule for active records in the nurse’s station (other than those required to be maintained on the chart) are as follows:  
Assessments and Re-assessments Most recent 12 months  
Plan of Care 12 months Summary of Quarterly Progress Notes Change of Condition  
Pharmacy Reviews Six months  
PASSAR Level I Permanent  
PASSAR Level II Most recent  
c. Those portions of the active records not kept on the chart or at the nurse’s station must be maintained in the facility and retrievable within 15 minutes upon request.  
604.2 Requirements for Retention and Preservation of Inactive/Closed Records  
a. Resident records will be retained in the facility for a minimum of five years following discharge or death of the resident.  
b. Resident records for minors will be kept for at least three years after they reach legal age of 18 years old.  
c. The resident records will be kept on the premises at all times and will only be removed by subpoena.  
d. In the case of change of ownership, the resident records will remain with the facility.  
e. In case of closure, the records will be stored within the State of Arkansas for the retention period.  
f. After the retention period is met, the records may be destroyed either by burning or shredding.  
g. Records will be protected against loss, destruction or unauthorized use.  
605 CONFIDENTIALITY  
The information contained in the resident records is confidential and is not to be released without legal authorization or subpoena.  
The records will be available to State Survey Agency personnel.  
606 STAFFING  
An individual will be designated as responsible for the resident record service. There will be written job descriptions for the resident record service personnel.  
607 GENERAL INFORMATION  
All entries in the resident records will be recorded in ink. There will be no alteration of information in the resident records. If an error is made, a single line will be drawn through the error, the word “error” written above and initialed.
700 GREEN HOUSE™ FACILITIES
701 INTENT
Green House™ facilities are an attempt to enhance residents’ quality of life through the use of a non-institutional facility model resulting in a residential-style physical plant and specific principles of staff interaction. The Greenhouse model utilizes small, freestanding, self-contained homes surrounding or adjacent to a central administration unit, each housing between ten (10) and twelve (12) private rooms, each with full bathrooms. The residents’ rooms are constructed around a central, communal, family-style open space that includes a hearth, dining area, and residential-style kitchen. All residents’ room entrances are visible from the central communal area. Each home is built to blend architecturally with neighboring homes. The intent of these regulations is to create a framework that encourages the construction and operation of Green House™ facilities.

702 DESIGNATION
To be designated by the Office of Long Term Care as a Green House™ facility, the facility meet the minimum standards, and have approval to use the Green House™ service mark, issued by the Green House™ Project and NCB Capital Impact at the time of designation and at all times thereafter.

800 Homestyle Facilities
801 PILOT PROJECT
The construction and operation of HomeStyle facilities is a pilot project of the State of Arkansas to determine the efficacy of an alternative long-term care model. Facilities participating in the project will be required to maintain detailed medical and social records of residents. The records will contain an initial assessment of the medical and social conditions and needs of residents at the time of admission which will form a baseline measure. The baseline will be compared by the Office of Long Term Care or its designees with subsequent records maintained by the facility to determine the level of functioning, social interaction, and medical conditions of residents to determine whether HomeStyle facilities result in improvements in those areas, including but not limited to the type and dosage amounts and frequency of medications. Further, facilities will be required to maintain detailed financial records.
To ensure accurate and reliable findings, the number of HomeStyle beds shall be limited to no more than one thousand (1000) in the state at any time. In the event that applications for the pilot program exceed one thousand (1000), the Office of Long Term Care shall have sole discretion in determining projects that shall be designated as HomeStyle facilities. Factors to be considered shall include, but not be limited to, the projected opening date of the project, the location of the project (in an attempt to locate projects in geographically and demographically diverse areas), whether the applicant has secured a Permit of Approval, whether the proposed project would meet criteria for approval by a nationally recognized organization that licenses, certifies, or permits the use of service marks for HomeStyle-type facilities, and related factors.
To qualify for the project, a facility must return to the Health Services Permit Agency currently unoccupied facility beds in an amount equal to twenty percent (20%) of the total number of beds that will be utilized in the HomeStyle facility. The unused beds may originate from any location in the State of Arkansas. An exception will be provided when the owner of the proposed HomeStyle facility has no ownership interest, either directly or indirectly, in more than one other nursing facility.

803 DESIGNATION
Facilities meeting the requirements for HomeStyle shall be designated as such on the license issued to the facility, with the designation specifying the number of HomeStyle homes and the total
number of beds in the HomeStyle homes. Facilities designated as Green House® facilities shall be
deeded to be HomeStyle facilities, and the one thousand (1000) bed limitation shall include all
beds for facilities designated or deemed to be Green House® or HomeStyle.
A facility may combine HomeStyle homes with a traditional nursing facility. However, the
designation as HomeStyle shall apply only to those homes that meet the requirements for
HomeStyle set forth herein and not to the facility as a whole.

805 STAFF TRAINING
a. In addition to any state or federal training requirements pertaining to long term care facilities,
each CNA working in a HomeStyle home shall complete the following eighty (80) hours of training
to include but not limited to:
TRAINING: HomeStyle Model v. Traditional Model
HOURS: 4.0
Activities- development of, and appreciation for, activities designed to meet the individual’s
personal preferences and needs.
Replacing the medical model role of employees
Disregarding the medical model role of residents
Organizational Culture Change

TRAINING: Universal/Flexible Worker
HOURS: 4.0
Concept
Responsibilities of the Worker

TRAINING: Person-directed Care
HOURS: 4.0
Concepts and Relationship Building
Execution
Documentation

TRAINING: Self-Managed or Self-Directed Work Team
HOURS: 8.0
Concept
Responsibilities
Conflict Resolution and Learning Circles
Staffing

TRAINING: Food Safety
HOURS: 30.0
Introduction
Safety
Contamination
Allergies
Therapeutic Diets
Thickening Agents
Food Preparation
TRAINING: Family style dining  
HOURS: 4.0  
Concept  
Measuring intake  
Management  
Safety  
Documentation

TRAINING: Emergency Situations and Evacuation  
HOURS: 8.0  
Fire Drills  
Tornado Drills  
Disaster Drills  
Evacuation  
Emergency Equipment (fire extinguishers, generators, water and gas shut-offs, etc.)  
Behavioral Issues  
Choking  
Emergency calls  
Environmental policy

TRAINING: Cottage Equipment Use  
HOURS: 8.0  
Appliance Usage (microwave, vent-a-hood, stove, fryer, lifts, whirlpools, washer and dryers, air-conditioners, etc.)  
Appliance Safety (changing grease, cleaning vent-a-hood, etc.)

TRAINING: Cottage Orientation  
HOURS: 2.0  
Phone system  
Call system  
Cleaning Supply Storage  
Cleaning Supply Usage  
Workplace Organization

TRAINING: Communication  
HOURS: 4.0  
Communication Skills  
Coaching Skills  
Accountability  
Support

TRAINING: Observation skills  
HOURS: 4.0  
HOW TO OBTAIN A HISTORY FROM FAMILY  
How to initiate a resident observation  
How a care plan is developed  
How to read a care plan  
How to modify a care plan  
How to identify a resident’s change in condition
900 ALZHEIMER'S SPECIAL CARE UNITS

DEFINITIONS

For the purposes of these regulations the following terms are defined as follows:

c. Alzheimer's Special Care Unit: A separate and distinct unit within a Long Term Care facility that segregates and provides a special program for residents with a diagnosis of probable Alzheimer's disease or related dementia, and that advertises or otherwise holds itself out as having one (1) or more special units for residents with a diagnosis of probable Alzheimer's disease or related dementia.

901 GENERAL ADMINISTRATION

a. General Program Requirements

1. Each long-term care facility that advertises or otherwise holds itself out as having one (1) or more special units for residents with a diagnosis of probable Alzheimer's disease or a related dementia shall provide an organized, continuous 24-hour-per-day program of supervision, care and services that shall:

A. Meet all state, federal and ASCU regulations.
B. Require the full protection of residents' rights;
C. Promote the social, physical and mental well-being of residents;
D. Is a separate unit specifically designed to meet the needs of residents with a physician’s diagnosis of Alzheimer's disease or other related dementia;
E. Provide 24-hour-per-day care for those residents with a dementia diagnosis and meets all admission criteria applicable for that particular long-term care facility; and,
F. Receive approval of its disclosure statement from the Office of Long Term Care prior to advertising its ASCU.

1. Documentation shall be maintained by the facility and shall include, but not be limited to, a signed copy of all training received by the employee. Documentation shall be signed by the trainer and employee at the time of training.

2. Provide for relief of direct care personnel to ensure minimum staffing requirements are maintained at all times.

3. Upon request, make available to the Department payroll records of all staff employed during those pay periods for which the unit or facility is being surveyed or inspected.

4. Nursing, direct-care, or personal care staff shall not perform the duties of cooks, housekeepers, or laundry personnel during the same shift they perform nursing, direct-care or personal care duties.

5. Regardless of other policies or procedures developed by the facility, the ASCU will have specific policies and procedures regarding:

A. Facility philosophy related to the care of ASCU residents;
B. Use of ancillary therapies and services;
C. Basic services provided;
D. Admission, discharge, transfer; and,
E. Activity programming.

b. Disclosure Statement and Notice to the Office of Long Term Care

1. Each facility, prior to advertising that it has an Alzheimer's Special Care Unit, shall develop a disclosure statement and submit it to the Office of Long Term Care. The Office of Long Term Care shall examine the disclosure statement to ensure compliance with these regulations, and shall notify the facility of its determination. Thereafter, the Office of Long Term Care will, when surveying the facility and unit, determine continued compliance with the disclosure statement. The disclosure statement, once approved by OLTC, shall be made available to any person or the person's
guardian or responsible party seeking placement within the ASCU prior to admission. Specifics as to the minimum requirements of the disclosure statement are listed in Sections 902-907 below.

2. Upon any changes to the services offered by the ASCU, the disclosure statement shall be amended, and shall be submitted to the Office of Long Term Care within thirty (30) days of the amendment. The Office of Long Term Care will examine the amended disclosure statement to ensure compliance with these regulations, and shall notify the facility of its determination. Thereafter, the Office of Long Term Care will, when surveying the facility and unit, determine continued compliance with the amended disclosure statement. The amended disclosure statement, once approved by OLTC, shall be made available to any person or the person’s guardian or responsible party seeking placement within the ASCU prior to admission.

3. The facility shall submit to the Office of Long Term Care in writing the number of beds allocated by the facility for the ASCU. The notification shall state the number of beds allocated to the ASCU as of the date of the notice, and shall be submitted:
   A. With the initial disclosure statement;
   B. With any amendment to the disclosure statement; and,
   C. No less than July 1 of each year.

1. The facility shall notify the Office of Long Term Care in writing when the facility no longer provides a special program for residents with a diagnosis of probable Alzheimer’s disease or related dementia. The notice shall be provided to the Office of Long Term Care at least thirty (30) days prior to the cessation of services.

2. Prior to admission into the Alzheimer’s Special Care Unit, the facility shall provide a copy of the disclosure statement and Residents’ Rights policy to the applicant or the applicant’s responsible party. The mission statement and treatment philosophy shall be documented in the disclosure statement. A copy of the disclosure statement signed by the resident or the resident's responsible party shall be kept in the resident's file. The disclosure statement shall include, but not be limited to, the following information about the facility's ASCU:
   A. The philosophy of how care and services are provided to the residents;
   B. The pre-admission screening process;
   C. The admission, discharge and transfer criteria and procedures;
   D. Training topics, amount of training time spent on each topic, and the name and qualifications of the individuals used to train the direct care staff utilized in the ASCU;
   E. The minimum number of direct care staff assigned to the ASCU each shift;
   F. A copy of the Residents' Rights;
   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 responsive to changes in condition of the residents;
   H. Planning and implementation of therapeutic activities and the methods used for monitoring; and,
   I. Identification of what stages of Alzheimer’s or related dementia for which the ASCU will provide care.

J. Each facility shall document in their disclosure statement the assessments and dates assessments shall be completed and revised.

K. Admission, discharge and transfer requirements shall be documented in the facility's disclosure statement.

L. Staffing ratios and staff training requirements shall be documented in the facility's disclosure statement.

M. The facility shall, in their disclosure statement, state the physical requirements and safety standards for the ASCU.

N. Types and frequency of therapeutic activities shall be listed in the facility's disclosure statement.
d. Resident Record Maintenance
The ASCU shall develop and maintain a record-keeping system that includes a separate record for each resident and that documents each resident’s health care, individual support plan, assessments, social information, and protection of each resident’s rights.
e. Resident Records
The ASCU must follow the facility’s policies and procedures and applicable state and federal laws and regulations governing:
The release of any resident information, including consent necessary from the client, parents or legal guardian;
Record retention;
Record maintenance; and,
Record content.

902 TREATMENT PHILOSOPHY
Each Alzheimer’s Special Care Unit shall develop a mission statement that reflects the ASCU’s treatment philosophy for those residents diagnosed with Alzheimer’s or related dementia.

905 STAFFING
Alzheimer’s Special Care Units shall staff according to the Rules and Regulations for Nursing Facilities. Furthermore, the following staffing requirements are established for Alzheimer’s Special Care Units.
b. Staff and Training
In addition to any training requirements for any certification or licensure of the employee, training shall consist of, at a minimum:
B. On-going, in-service training consisting of at least two (2) hours every quarter. The topics to be addressed in the in-service training shall include the following, and each topic shall be addressed at least once per year:
i. The nature of Alzheimer’s disease and other dementia, including:
   a. The definition of dementia;
   b. The harm to individuals without a correct diagnosis; and,
   c. The stages of Alzheimer’s disease.
ii. Common behavior problems resulting from Alzheimer’s or related dementia, and recommended behavior management for the problems;
iii. Communication skills to facilitate improved staff relations with residents;
iv. Positive therapeutic interventions and activities, such as:
   a. Exercise;
   b. Sensory stimulation; and,
   c. Activities of daily living.
v. The benefits of family interaction with the resident, and the need for family interaction;
vi. Developments and new trends in the fields of Alzheimer’s or related dementia, and treatments for same;
vii. Environmental modifications to minimize the effects and problems associated with Alzheimer’s or related dementia; and,
viii. Development of ISPs, including but not limited to instruction on the method of updating and implementing ISPs across shifts.
Section IV NURSING ASSISTANT TRAINING
E. Orientation Program
1. All nursing assistants must receive an orientation program that includes, but is not limited to, an explanation of:
   - The organizational structure of the facility;
   - Policies and procedures (including fire/disaster plans, etc.)
   - The philosophy of care of the facility;
   - The description of the resident population; and
   - Employee rules.
2. This facility orientation training program is not included in the required 90 hours of nursing assistant training.
F. Ongoing InService Training
1. All facilities will continue to provide ongoing inservice training on a routine basis both in groups and as necessary in specific situations on a one-to-one basis. Each nursing assistant must receive one (1) hour of inservice training per month.
2. The facility must complete a performance review of each nursing assistant at least once per year and provide regular inservice training based on the outcome of these reviews. The inservice training should address areas of weakness and be sufficient to ensure the continuing competence of the nursing assistants.
3. In addition to training needs identified by performance reviews, inservice training should also address the special needs of residents as determined by each facility. Training can be received on the unit as long as it is directed toward skills improvement, provided by appropriately trained staff and documented (for example, skills demonstration with return demonstration recorded on a check list).
4. Effective July 1, 2006, facilities are strongly encouraged to offer inservice training for nursing home employed CNAs who were certified in Arkansas prior to July 1, 2006 that covers the Barbara Broyles Alzheimer and Dementia Training that is included in Arkansas LTCF Nursing Assistant Training Curriculum. Facilities should maintain records that verify each employed CNA, who was certified in Arkansas prior to July 1, 2006, has received this training. After July 1, 2006 and ongoing, the new Alzheimer’s training is strongly encouraged for CNAs registered in Arkansas through reciprocity from other states and test candidates that are allowed to challenge the State competency test based on exemptions found in Section VII (D) (3 through 6).
(a) The licensee shall notify the Department in writing of any changes in the information provided pursuant to Sections 1265 and 1267.5, Health and Safety Code, within 10 days of such changes. This notification shall include information and documentation regarding such changes.
...(d) When a change in the principal officer of a corporate licensee (chairman, president or general manager) occurs the Department shall be notified within 10 days in writing by the licensee. Such writing shall include the name and business address of such officer.

s 72213. Program Flexibility.
(a) All skilled nursing facilities shall maintain compliance with the licensing requirements. These requirements do not prohibit the use of alternate concepts, methods, procedures, techniques, equipment, personnel qualifications or the conducting of pilot projects, provided such exceptions are carried out with the provisions for safe and adequate care and with the prior written approval of the department. Such approval shall provide for the terms and conditions under which the exception is granted. A written request and substantiating evidence supporting the request shall be submitted by the applicant or licensee to the Department.
(b) Any approval of the Department granted under this Section, or a true copy thereof, shall be posted immediately adjacent to the facility's license.

§ 72301. Required Services.
...(c) Skilled nursing facilities providing intermediate care services shall do so in a distinct part separately approved by the Department and shall be in conformity with the licensing regulations for the type of service provided in that distinct part. The facility license shall indicate approval of the distinct part by the Department.
(d) Written arrangements shall be made for obtaining all necessary diagnostic and therapeutic services prescribed by the attending physician, podiatrist, dentist, or clinical psychologist subject to the scope of licensure and the policies of the facility. If the service cannot be brought into the facility, the facility shall assist the patient in arranging for transportation to and from the service location.
(e) Arrangements shall be made for an advisory dentist to participate at least annually in the staff development program for all patient care personnel and to approve oral hygiene policies and practices for the care of patients.

§ 72305. Physician Services - Medical Director.
(a) The facility shall have a medical director who shall be responsible for standards, coordination, surveillance and planning for improvement of medical care in the facility.
(b) The medical director shall:
(1) Act as a liaison between administration and attending physicians.
(2) Be responsible for reviewing and evaluating administrative and patient care policies and procedures.
(3) Act as a consultant to the director of nursing service in matters relating to patient care services.
(4) Be responsible for reviewing employees’ pre employment and annual health examination reports.

§ 72335. Dietetic Service - Food Service.
(a) The dietetic service shall provide food of the quality and quantity to meet each patient’s needs in accordance with the physicians’ orders and to meet "The Recommended Daily Dietary Allowance," the most current edition, adopted by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, and the following:
§ 72381. Activity Program -Requirements.
...(d) The activity leader, at a minimum, shall:
...(2) Plan and conduct in-service training of the staff of the facility at least annually.

§ 72433. Social Work Service Unit--Services.
...(b) Social work services unit shall include but not be limited to the following:
...(6) Orientation and in-service education of other staff members on all shifts shall be conducted at least monthly by the social worker in charge of the social work service.

§ 72451. Special Treatment Program Service Unit -Program Requirements.
...(f) Orientation and in-service training of staff members by a qualified person to assist them in the recognition and understanding of the emotional problems and social needs of patients and the means of taking appropriate action. Available community resources and services should be included in the orientation.

§ 72463. Special Treatment Program Service Unit -Restrictions on Applying Restraints and Utilizing Seclusion.
(a) In applying physical restraints, each of the following requirements shall be met in addition to those set forth in Section 72319:
(1) Careful consideration shall be given to the methods by which the restraints may be speedily removed in the event of fire or other emergency.

§ 72465. Special Treatment Program Service Unit -Staff.
...(b) Nursing service charge personnel on all shifts shall have at least one year of experience or training related to the special treatment program services, or shall participate in in-service provided by the facility.

§ 72467. Special Treatment Program Service Unit -Program Director.
...(c) The program director shall ensure that the in-service education program is provided.

§72469. Special Treatment Program Service Unit--In-Service Education.
(a) The facility shall provide to all program staff an average of at least one hour per week of ongoing, planned academic and on-the-job in-service education. The education shall include, but not be limited to the following:
(1) Specific program techniques for the mentally disordered.
(2) Setting behavioral program objectives for patients.
(3) Evaluation and assessment procedures and criteria.
(4) Noting and documenting patient progress in the program.
...(b) The facility shall maintain a record of the in-service education. This record shall include the signature of staff in attendance, the number of hours, the date and the subjects covered.

§ 72471. Special Treatment Program Service Unit -Patient Health Records and Plans for Care.
(a) The facility shall maintain an individual health record for each patient which shall include but not be limited to the following:
(1) A list of the patient’s care needs, based upon an initial and continuing individual assessment with input as appropriate from the health professionals involved in the care of the patient. Initial
assessments by a licensed nurse shall commence at the time of admission of the patient and shall be completed within seven days after admission.

(2) The plan for meeting behavioral objectives. The plan shall include but not be limited to the following:
   (A) Resources to be used.
   (B) Frequency of plan review and updating.
   (C) Persons responsible for carrying out plans.

(3) Development and implementation of an individual, written care plan based on identified patient care needs. The plan shall indicate the care to be given, the objectives to be accomplished, and the professional discipline responsible for each element of care. The objectives shall be measurable, with time frames, and shall be reviewed and updated at least every 90 days.

§ 72501. Licensee - General Duties.
(a) The licensee shall be responsible for compliance with licensing requirements and for the organization, management, operation and control of the licensed facility. The delegation of any authority by a licensee shall not diminish the responsibilities of such licensee.
(b) The licensee, if an administrator, may act as the administrator or shall appoint an administrator, to carry out the policies of the licensee. A responsible adult who is knowledgeable in the policies and procedures of the licensee shall be appointed, in writing, to carry out the policies of the licensee in the absence of the administrator. If the administrator is to be absent for more than 30 consecutive days, the licensee shall appoint an acting administrator to carry out the day-to-day functions of the facility.
(c) The licensee shall delegate to the designated administrator, in writing, authority to organize and carry out the day-to-day functions of the facility.
(d) Except where provided for in approved continuing care agreements, or except when approved by the Department, no facility owner, administrator, employee or representative thereof shall act as guardian or conservator of a patient therein or of that patient's estate, unless that patient is a relative within the second degree of consanguinity.
(e) The licensee shall employ an adequate number of qualified personnel to carry out all the functions of the facility and shall provide for initial orientation of all new employees, a continuing in-service training program and competent supervision.
(f) If language or communication barriers exist between skilled nursing facility staff and patients, arrangements shall be made for interpreters or for the use of other mechanisms to ensure adequate communication between patients and personnel.
(g) The Department may require the licensee to provide additional professional, administrative or supportive personnel whenever the Department determines through a written evaluation that additional personnel is needed to provide for the health and safety of patients.
(h) The licensee shall ensure that all employees serving patients or the public shall wear name and title badges unless contraindicated.

§ 72503. Consumer Information to Be Posted.
(a) The following consumer information shall be conspicuously posted in a prominent location accessible to the public.
   (1) Name, license number and date of employment of the current administrator of the facility.
   (2) A listing of all services and special programs provided in the facility and those provided through written contracts.
   (3) The current and following week's menus for regular and therapeutic diets.
   (4) A notice that the facility's written admission and discharge policies are available upon request.
   (5) Most recent licensing visit report supported by the related follow-up plan of correction visit reports.
§ 72511. Use of Outside Resources.
(a) If a facility does not employ qualified personnel to render a specific service to be provided by the facility, there shall be arrangements through a written agreement with outside resources which shall meet the standards and requirements of these regulations.
(b) Copies of affiliation agreements, contracts or written arrangements for advice, consultation, services, training or transportation, with other facilities, organizations or individuals, public or private agencies, shall be on file in the facility’s administrative office. These shall be readily available for inspection and review by the Department.
(c) The affiliation agreement, contracts and written arrangements shall include, but not be limited to:
(1) Description of the services to be provided.
(2) Financial arrangements.
(3) Methods by which the services are to be provided.
(4) Conditions upon which the agreement, contract or written arrangement can be terminated.
(5) Time frame of the affiliation agreement, contract or written arrangement.
(6) Effective date of affiliation agreement, contract or written arrangement.
(7) Date affiliation agreement, contract or written arrangement was signed.
(8) Signatures of all parties to the written agreement.
(d) The outside resource, when acting as a consultant, shall apprise the administrator in writing of recommendations, plans for implementation and continuing assessment through dated and signed reports which shall document the length of the visit and shall be retained by the administrator for follow-up action and evaluation of performance. The administrator shall provide evidence of review of the recommendations.

§ 72513. Administrator.
(a) Each skilled nursing facility shall employ or otherwise provide an administrator to carry out the policies of the licensee. The administrator shall be responsible for the administration and management of only one skilled nursing facility unless all of the following conditions are met:
(1) If other skilled nursing facilities for which the administrator is responsible are in the same geographic area, and within one hour surface travel time of each other, and are operated by the same governing body.
(2) The administrator shall not be responsible for more than three facilities or a total of no more than 200 beds.
(3) The administrator shall designate a responsible adult who is knowledgeable in the policies and procedures of the licensee in each facility to be responsible for carrying out the policies of the licensee in the administrator’s absence.
(b) The administrator shall have sufficient freedom from other responsibilities and shall be on the premises of the skilled nursing facility a sufficient number of hours to permit adequate attention to the management and administration of the facility. The Department may require that the administrator spend additional hours in the facility whenever the Department determines through
a written evaluation that such additional hours are needed to provide adequate administrative management.
(c) A copy of the current skilled nursing facility regulations contained in this chapter shall be maintained by the administrator and shall be available to all personnel.
(d) The administrator shall be responsible for informing appropriate staff of the applicable additions, deletions and changes to skilled nursing facility regulations.
(e) The administrator shall be responsible for informing the Department, via telephone within 24 hours of any unusual occurrences as specified in Section 72541. If the unusual occurrence involves the discontinuance or disruption of services occurring during other than regular business hours of the Department or its designee, a telephone report shall be made immediately upon the resumption of business hours of the Department.
(f) The administrator or designee shall be responsible for screening patients for admission to the facility to ensure that the facility admits only those patients for whom it can provide adequate care. The administrator, or designee, shall conduct preadmission personal interviews as appropriate with the patient’s physician, the patient, the patient’s next of kin or sponsor or the representative of the facility from which the patient is being transferred. A telephone interview may be substituted when a personal interview is not feasible.

§72517. Staff Development.
(a) Each facility shall have an ongoing educational program planned and conducted for the development and improvement of necessary skills and knowledge for all facility personnel. Each program shall include, but not be limited to:
(1) Problems and needs of the aged, chronically ill, acutely ill and disabled patients.
(2) Prevention and control of infections.
(3) Interpersonal relationship and communication skills.
(4) Fire prevention and safety.
(5) Accident prevention and safety measures.
(6) Confidentiality of patient information.
(7) Preservation of patient dignity, including provision for privacy.
(8) Patient rights and civil rights.
(9) Signs and symptoms of cardiopulmonary distress.
(10) Choking prevention and intervention.
(b) In addition to (a) above, all licensed nurses shall have training in cardiopulmonary resuscitation.
(c) Records of each staff development program shall be maintained. The records shall include name and title of presenter, date of presentation, title of subject presented, description of content and the signatures of those attending.
(d) Each facility shall have a written orientation program for all newly hired employees. Each employee shall receive orientation to the facility, the employee’s job description and duties, the patient population, the pertinent policies and procedures and the facility staff.
(e) Consultants employed by the facility shall participate in the staff development program.

§ 72519. Patient Transfer.
(a) The licensee shall maintain written transfer agreements with other nearby health facilities to make the services of those facilities accessible and to facilitate the transfer of patients. Complete and accurate patient information, in sufficient detail to provide for continuity of care shall be transferred with the patient at time of transfer.
(a) Written administrative, management and personnel policies shall be established and
implemented to govern the administration and management of the facility.
(b) All policies and procedures required by these regulations shall be in writing and shall be carried
out as written. They shall be made available upon request to patients or their agents and to
employees and the public. Policies and procedures shall be reviewed at least annually, revised as
needed and approved in writing by the governing body or licensee.
(c) Each facility shall establish at least the following:
(1) Personnel policies and procedures which shall include:
(A) Written job descriptions detailing qualifications, duties and limitations of each classification of
employee available to all personnel.
(B) Employee orientation to facility, job, patient population, policies, procedures and staff.
(C) Staff Development.
(D) Employee benefits.
(E) Employee health and grooming.
(F) Verification of licensure, credentials and references.
(2) Policies and procedures for patient admission, leave of absence, transfer, pass and discharge,
categories of patients accepted and retained, rate of charge for services included in the basic rate,
type of services offered, charges for extra services, limitations of services, cause for termination of
services and refund policies applying to termination of services.
(3) Policies and procedures for admission or discharge of a patient which state that a patient shall
not be admitted or discharged on the basis of race, color, religion, ancestry or national origin
except: Any bona fide nonprofit religious, fraternal or charitable organization which can
demonstrate to the satisfaction of the Department that its primary or substantial purpose is not to
 evade this subsection may establish admission policies limiting or giving preference to its own
members or adherents and such policies shall not be construed as a violation of (c)(3) above. Any
admission of nonmembers or nonadherents shall be subject to (c)(3) above.
(4) Written policies and procedures governing patient health records which shall be developed
with the assistance of a person skilled in record maintenance and preservation.
(A) Policies and procedures governing access to, duplication of and dissemination of, information
from the patient’s health record.
(B) Policies and procedures shall be established to ensure the confidentiality of patient health
information, in accordance with applicable laws and regulations.
(5) Policies and procedures to assure that the facility accepts and retains only those patients for
whom it can provide care.
(6) Procedures for reporting of unusual occurrences.
(d) The facility shall have a written organizational chart showing the major programs of the facility,
the person in charge of each program, the lines of authority, responsibility and communication and
the staff assignments.

§ 72525. Required Committees.
(a) Each facility shall have at least the following committees: patient care policy, infection control
and pharmaceutical service.
(b) Minutes of every committee meeting shall be maintained in the facility and indicate names of
members present, date, length of meeting, subject matter discussed and action taken.
(c) Committee composition and function shall be as follows:
(1) Patient care policy committee.
(A) A patient care policy committee shall establish policies governing the following services:
Physician, dental, nursing, dietetic, pharmaceutical, health records, housekeeping, activity
programs and such additional services as are provided by the facility.
(B) The committee shall be composed of: at least one physician, the administrator, the director of nursing service, a pharmacist, the activity leader and representatives of each required service as appropriate.

(C) The committee shall meet at least annually.

(D) The patient care policy committee shall have the responsibility for reviewing and approving all policies relating to patient care. Based on reports received from the facility administrator, the committee shall review the effectiveness of policy implementation and shall make recommendations for the improvement of patient care.

(E) The committee shall review patient care policies annually and revise as necessary. Minutes shall list policies reviewed.

(F) The Patient Care Policy Committee shall implement the provisions of the Health and Safety Code, Sections 1315 and 1316.5, by means of written policies and procedures.

1. Facilities which choose to allow clinical psychologists to refer patients for admission shall do so only if there are physicians who will provide the necessary medical care for the referred patients.

2. Only physicians shall assume overall care of patients, including performing admitting history and physical examinations and issuing orders for medical care.

(G) The Patient Care Policy Committee shall implement the provisions of the Health and Safety Code, Section 1316, by means of written policies and procedures.

1. Facilities which choose to allow podiatrists to refer patients for admission shall do so only if there are physicians who will provide the necessary medical care for the referred patients.

2. Only physicians shall assume overall care of patients, including performing admitting history and physical examinations.

(2) Infection control committee.

(A) An infection control committee shall be responsible for infection control in the facility.

(B) The committee shall be composed of representatives from the following services; physician, nursing, administration, dietetic, pharmaceutical, activities, housekeeping, laundry and maintenance.

(C) The committee shall meet at least quarterly.

(D) The functions of the infection control committee shall include, but not be limited to:

1. Establishing, reviewing, monitoring and approving policies and procedures for investigating, controlling and preventing infections in the facility.

2. Maintaining, reviewing and reporting statistics of the number, types, sources and locations of infections within the facility.

(3) Pharmaceutical service committee.

(A) A pharmaceutical service committee shall direct the pharmaceutical services in the facility.

(B) The committee shall be composed of the following: a pharmacist, the director of nursing service, the administrator and at least one physician.

(C) The committee shall meet at least quarterly.

(D) The functions of the pharmaceutical service committee shall include, but not be limited to:

1. Establishing, reviewing, monitoring and approving policies and procedures for safe procurement, storage, distribution and use of drugs and biologicals.

2. Reviewing and taking appropriate action on the pharmacist's quarterly report

3. Recommending measures for improvement of services and the selection of pharmaceutical reference materials.

§ 72541. Unusual Occurrences.

Occurrences such as epidemic outbreaks, poisonings, fires, major accidents, death from unnatural causes or other catastrophes and unusual occurrences which threaten the welfare, safety or health of patients, personnel or visitors shall be reported by the facility within 24 hours either by telephone (and confirmed in writing) or by telegraph to the local health officer and the Department.
An incident report shall be retained on file by the facility for one year. The facility shall furnish such other pertinent information related to such occurrences as the local health officer or the Department may require. Every fire or explosion which occurs in or on the premises shall be reported within 24 hours to the local fire authority or in areas not having an organized fire service, to the State Fire Marshal.

§ 72543. Patients' Health Records.
(a) Records shall be permanent, either typewritten or legibly written in ink, be capable of being photocopied and shall be kept on all patients admitted or accepted for care. All health records of discharged patients shall be completed and filed within 30 days after discharge date and such records shall be kept for a minimum of 7 years, except for minors whose records shall be kept at least until 1 year after the minor has reached the age of 18 years, but in no case less than 7 years. All exposed X-ray film shall be retained for seven years. All required records, either originals or accurate reproductions thereof, shall be maintained in such form as to be legible and readily available upon the request of the attending physician, the facility staff or any authorized officer, agent, or employee of either, or any other person authorized by law to make such request.
(b) Information contained in the health records shall be confidential and shall be disclosed only to authorized persons in accordance with federal, state and local laws.
(c) If a facility ceases operation, the Department shall be informed within three business days by the licensee of the arrangements made for the safe preservation of the patients’ health records.
(d) The Department shall be informed within three business days, in writing, whenever patient health records are defaced or destroyed before termination of the required retention period.
(e) If the ownership of the facility changes, both the licensee and the applicant for the new license shall, prior to the change of ownership, provide the Department with written documentation stating:
(1) That the new licensee shall have custody of the patients’ health records and that these records or copies shall be available to the former licensee, the new licensee and other authorized persons; or
(2) That other arrangements have been made by the licensee for the safe preservation and the location of the patients’ health records, and that they are available to both the new and former licensees and other authorized persons; or
(3) The reason for the unavailability of such records.
(f) Patients’ health records shall be current and kept in detail consistent with good medical and professional practice based on the service provided to each patient. Such records shall be filed and maintained in accordance with these requirements and shall be available for review by the Department. All entries in the health record shall be authenticated with the date, name, and title of the persons making the entry.
(g) All current clinical information pertaining to a patient’s stay shall be centralized in the patient’s health record.
(h) Patient health records shall be filed in an accessible manner in the facility or in health record storage. Storage of records shall provide for prompt retrieval when needed for continuity of care. Health records can be stored off the facility premises only with the prior approval of the Department.
(i) The patient health record shall not be removed from the facility, except for storage after the patient is discharged, unless expressly and specifically authorized by the Department.

§ 72547. Content of Health Records.
(a) A facility shall maintain for each patient a health record which shall include:
(1) Admission record.
(2) Current report of physical examination, and evidence of tuberculosis screening.
(3) Current diagnoses.
(4) Physician orders, including drugs, treatment and diet orders, progress notes, signed and dated on each visit. Physician’s orders shall be correctly recapitulated.
(5) Nurses’ notes which shall be signed and dated. Nurses’ notes shall include:
   (A) Records made by nurse assistants, after proper instruction, which shall include:
      1. Care and treatment of the patient.
      2. Narrative notes of observation of how the patient looks, feels, eats, drinks, reacts, interacts and the degree of dependency and motivation toward improved health.
      3. Notification to the licensed nurse of changes in the patient’s condition.
   (B) Meaningful and informative nurses’ progress notes written by licensed nurses as often as the patient’s condition warrants. However, weekly nurses’ progress notes shall be written by licensed nurses on each patient and shall be specific to the patient’s needs, the patient care plan and the patient’s response to care and treatments.
   (C) Name, dosage and time of administration of drugs, the route of administration or site of injection, if other than oral. If the scheduled time is indicated on the record, the initial of the person administering the dose shall be recorded, provided that the drug is given within one hour of the scheduled time. If the scheduled time is not recorded, the person administering the dose shall record both initials and the time of administration. Medication and treatment records shall contain the name and professional title of staff signing by initials.
   (D) Justification for the results of the administration of all PRN medications and the withholding of scheduled medications.
   (E) Record of type of restraint and time of application and removal. The time of application and removal shall not be required for postural supports used for the support and protection of the patient.
   (F) Medications and treatments administered and recorded as prescribed.
   (G) Documentation of oxygen administration.
(6) Temperature, pulse, respiration and blood pressure notations when indicated.
(7) Laboratory reports of all tests prescribed and completed.
(8) Reports of all X-rays prescribed and completed.
(9) Progress notes written and dated by the activity leader at least quarterly.
(10) Discharge planning notes when applicable.
(11) Observation and information pertinent to the patient’s diet recorded in the patient’s health record by the dietitian, nurse or food service supervisor.
(12) Records of each treatment given by the therapist, weekly progress notes and a record of reports to the physician after the first 2 weeks of therapy and at least every 30 days thereafter. Progress notes written by the social service worker if the patient is receiving social services.
(13) Consent forms for prescribed treatment and medication not included in the admission consent for care.
(14) Condition and diagnoses of the patient at time of discharge or final disposition.
(15) A copy of the transfer form when the patient is transferred to another health facility.
(16) An inventory of all patients’ personal effects and valuables as defined in Section 72545 (a) (12) made upon admission and discharge. The inventory list shall be signed by a representative of the facility and the patient or his authorized representative with one copy to be retained by each.
(17) The name, complete address and telephone number where the patient was transferred upon discharge from the facility.

§ 72551. External Disaster and Mass Casualty Program.
(a) A written external disaster and mass casualty program plan shall be adopted and followed. The plan shall be developed with the advice and assistance of county or regional and local planning
offices and shall not conflict with county and community disaster plans. A copy of the plan shall be available on the premises for review by the Department.
(b) The plan shall provide procedures in event of community and widespread disasters. The written plan shall include at least the following:
1. Sources of emergency utilities and supplies, including gas, water, food and essential medical supportive materials.
2. Procedures for assigning personnel and recalling off-duty personnel.
4. Procedures for the conversion of all usable space into areas for patient observation and immediate care of emergency admissions.
5. Prompt transfer of casualties when necessary and after preliminary medical or surgical services have been rendered, to the facility most appropriate for administering definitive care. Procedures for moving patients from damaged areas of the facility to undamaged areas.
6. Arrangements for provision of transportation of patients including emergency housing where indicated. Procedures for emergency transfers of patients who can be moved to other health facilities, including arrangements for safe and efficient transportation and transfer information.
7. Procedures for emergency discharge of patients who can be discharged without jeopardy into the community, including prior arrangements for their care, arrangements for safe and efficient transportation and at least one follow-up inquiry within 24 hours to ascertain that patients are receiving required care.
8. Procedures for maintaining a record of patient relocation.
9. An evacuation plan, including evacuation routes, emergency phone numbers of physicians, health facilities, the fire department and local emergency medical services agencies and arrangements for the safe transfer of patients after evacuation.
10. A tag containing all pertinent personal and medical information which shall accompany each patient who is moved, transferred, discharged or evacuated.
11. Procedures for maintaining security in order to keep relatives, visitors and curious persons out of the facility during a disaster.
12. Procedures for providing emergency care to incoming patients from other health facilities.
13. Assignment of public relations liaison duties to a responsible individual employed by the facility to release information to the public during a disaster.
(c) The plan shall be reviewed at least annually and revised as necessary to ensure that the plan is current. All personnel shall be instructed in the requirements of the plan. There shall be evidence in the personnel files, or the orientation checklist, indicating that all new employees have been oriented to the plan and procedures at the beginning of their employment.
(d) The facility shall participate in all local and state disaster drills and test exercises when asked to do so by the local or state disaster or emergency medical services agencies.
(e) A disaster drill shall be held by the facility at six-month intervals. There shall be a written report of the facility's participation in each drill or test exercise. Staff from all shifts shall participate in drills or test exercises.

§ 72553. Fire and Internal Disasters.
(a) A written fire and internal disaster plan incorporating evacuation procedures shall be developed with the assistance of qualified fire, safety and other appropriate experts. A copy of the plan shall be available on the premises for review by the staff and the Department.
(b) The written plan shall include at least the following:
1. Procedures for the assignment of personnel to specific tasks and responsibilities.
2. Procedures for the use of alarm systems and signals.
3. Procedures for fire containment.
4. Priority for notification of staff including names and telephone numbers.
(5) Location of fire-fighting equipment.
(6) Procedures for evacuation and specification of evacuation routes.
(7) Procedures for moving patients from damaged areas of the facility to undamaged areas.
(8) Procedures for emergency transfer of patients who can be moved to other health facilities, including arrangements for safe and efficient transportation.
(9) Procedures for emergency discharge of patients who can be discharged without jeopardy into the community, including prior arrangements for their care, arrangements for safe and efficient transportation and at least one follow-up inquiry within 24 hours to ascertain that patients are receiving their required care.
(10) A disaster tag containing all pertinent personal and medical information to accompany each patient who is moved, transferred, discharged or evacuated.
(11) Procedures for maintaining a record of patient relocation.
(12) Procedures for handling incoming or relocated patients.
(13) Other provisions as dictated by circumstances.
(c) Fire and internal disaster drills shall be held at least quarterly, under varied conditions for each individual shift of the facility personnel. The actual evacuation of patients to safe areas during a drill is optional.
(d) The evacuation plan shall be posted throughout the facility and shall include at least the following:
(1) Evacuation routes.
(2) Location of fire alarm boxes.
(3) Location of fire extinguishers.
(4) Emergency telephone number of the local fire department.
(e) A dated, written report and evaluation of each drill and rehearsal shall be maintained and shall include signatures of all employees who participated.

COLORADO

Part 1. GOVERNING BODY
1.1 GOVERNING BODY. The governing body is the individual, group of individuals, or corporate entity that has ultimate authority and legal responsibility for the operation of the long-term care facility.
1.1.1 The governing body shall provide the necessary facilities, qualified personnel, and services to meet the total needs of the facility's residents.
1.1.2 The governing body shall appoint for the facility a full-time administrator, qualified as provided in Section 2.1, and delegate to that officer the executive authority and full responsibility for day-to-day administration of the facility.
1.1.3 The governing body is responsible for the performance of all persons providing services within the facility.
1.2 STRUCTURE. If the governing body includes more than one individual, the group shall be formally organized with written constitution or articles of incorporation and by-laws; hold regular, periodic meetings; and maintain meeting records.
1.2.2 The governing body shall provide a formal means of obtaining local community involvement and opportunity to communicate with the administrator on issues of residents’ rights. The means of community input shall provide opportunity for regular input and such input shall be documented.
(a) The input may come through a formally organized community advisory committee that is given the opportunity to comment and advise the governing body on matters of facility policy; is
composed of members, a majority of whom reside in the facility’s service area, and none of whom are owners or employees of or consultants to the facility.

(b) The input may come through membership of at least 25% of the governing body representing citizens in the facility’s service area, none of whom are owners or employees of or consultants to the facility.

(c) The facility may request Department approval of an alternative means of obtaining community input on residents’ rights.

1.3 QUALITY ASSURANCE.
The governing body shall assure that there is an effective quality assurance program to evaluate the availability, appropriateness, effectiveness, and efficiency of resident care, including without limitation, a continuous program of evaluating medical, nursing care, social services, activities, dietary, housekeeping, maintenance, infection control, and pharmacy services.

1.3.1 The quality assurance plan shall be in writing and shall include objectives; personnel involved; responsibility for reviewing critical incidents; methods for monitoring and evaluating care; and methods for monitoring effectiveness of actions taken to improve quality of resident care.

1.3.2 The facility shall maintain evidence of actions taken in response to quality assurance activity and their effectiveness and shall report annually to the governing body.

...1.5 POSTING DEFICIENCIES. The facility shall post conspicuously in public view either the statement of deficiencies following its most recent survey or a notice stating the location and times at which the statement can be reviewed.

Part 2 - Administration
2.1 ADMINISTRATOR. The administrator is responsible to the governing body for planning, organizing, developing, and controlling the operations or the facility.

2.1.1 The administrator shall be licensed in the State of Colorado.

2.1.2 The administrator’s responsibilities: 1) liaison among the governing body, medical staff, and physicians whose patients reside in the facility, 2) financial and personnel management, 3) providing for appropriate resident care; and 4) maintaining relationships with the community and with other health care facilities, organizations, and services; 5) assuring facility and staff compliance with all regulations; and 6) any responsibilities prescribed by facility policy.

2.2 ORGANIZATION. The facility shall be organized formally to carry out its responsibilities with a plan of organization clearly defining the authority, responsibilities, and functions of each category of personnel.

2.3 POLICIES. In consultation with the Medical Advisor and one or more registered nurses and other related health care professionals, the administrator shall develop and at least annually review written resident care policies and procedures that govern resident care in the following areas: nursing, housekeeping, maintenance sanitation, medical, dental, dietary, diagnostic, emergency, and pharmaceutical care; social services; activities; rehabilitation; physical, occupational, and speech therapy; resident admission, transfer, and discharge; notification of physician and family or other responsible party of resident’s incidents, accidents and changes of status; disasters; and health records and any other policies the department determines the facility needs based on its characteristics of its resident population.

2.4 FACILITY STAFFING PLAN. The facility shall have a master staffing plan for providing staffing in compliance with these regulations, distribution of personnel, replacement of personnel, and forecasting future personnel needs.

2.5 OCCURRENCE REPORTING. [Eff. 07/30/2008]
Notwithstanding any other reporting required by state regulation, each facility shall report the following to the department within 24 hours of discovery by the facility.
(1) Any occurrence involving neglect of a resident by failure to provide goods and services necessary to avoid the resident's physical harm or mental anguish.
(2) Any occurrence involving abuse of a resident by the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish.
(3) Any occurrence involving an injury of unknown source where the source of the injury could not be explained and the injury is suspicious because of the extent or location of the injury.
(4) Any occurrence involving misappropriation of a resident's property including the deliberate misplacement, exploitation, or wrongful use of a resident's belongings or money without the resident's consent.

Part 4 - Personnel
4.1 POLICIES. The facility shall maintain written approved personnel policies, job descriptions, and rules prescribing the conditions of employment, management of employees, and quality and quantity of resident care to be provided.
4.1.1 The facility shall provide job-specific orientation to all new employees within 90 days of employment.
4.1.2 All personnel shall be informed of the purpose and objectives of the facility.
4.1.3 All personnel shall be provided access to the facility's personnel policies and the facility shall provide evidence that each employee has received them.
4.2 DEPARTMENTS. Each department of the facility shall be under the direction of a person qualified by training, experience, and ability to direct effective services.
4.2.1 The facility shall provide a sufficient number of qualified personnel in each department to operate the department.
4.2.2 All persons assigned to direct resident care shall be prepared through formal education or on-the-job training in the principles, policies, procedures, and appropriate techniques of resident care. The facility shall provide educational programs for employees to be informed of new methods and techniques.
4.3 STAFF DEVELOPMENT COORDINATOR. The long-term care facility shall employ a staff development coordinator who shall be responsible for coordinating orientation, inservice, on-the-job training, and continuing education programs and for determining that staff have been properly trained and are implementing results of their training. The objective of this standard is that staff be appropriately trained in necessary aspects of resident care to carry out their job responsibilities.
4.3.1 The coordinator shall have experience in and ability to prepare and coordinate inservice education and training programs for adult learners in the area of geriatrics.
4.3.2 The facility shall employ a staff development coordinator for a sufficient amount of time to meet in-service, orientation, training, and supervision needs of staff. The facility shall provide for appropriate staff follow-up.
4.3.3 The facility shall provide annual inservice education for staff in at least the following areas: infection control, fire prevention and safety, accident prevention, confidentiality of resident information, rehabilitative nursing, resident rights, dietary, pharmacy, dental, behavior management, disaster preparedness, and, if it has developmentally disabled residents, developmental disabilities, residents with Alzheimer's conditions, those conditions, or mentally ill residents, mental illness.
4.3.4 The facility shall maintain attendance records with original signatures on inservice programs and course materials or outlines that staff who are unable to attend the program may review.
4.4 RECORDS. The facility shall maintain personnel records on each employee, including an employment application, that includes training and past experience, verification of credentials, references of past work experience, orientation, and evidence that health status is appropriate to perform duties in the employee's job description.
4.5 REFERENCE MATERIALS. The facility shall provide current reference material related to the
care that is provided in the facility for use by all personnel. 4.6 STAFF IDENTIFICATION. All facility
staff shall wear name and title badges while on duty, except where they may pose a danger to staff
or residents due to the nature of resident conditions.

Part 6 – Medical Care Services.
...6.2 MEDICAL DIRECTOR.
The facility shall retain by written agreement a physician or medical practice group to serve as
medical director to the facility.
6.2.1 The medical director is responsible for overall coordination of medical care in the facility and
for systematic review of the quality of the health care provided by the facility and the medical
services provided by the physicians in the facility. The medical director shall develop policies and
procedures for medical care and for the physicians admitting residents to the facility.
6.2.2 The medical director is responsible to:
(1) be a liaison between the facility and admitting physicians on matters related to attendance on
residents, prompt writing of orders, and responding to requests by facility staff;
(2) advise in developing and reviewing resident care policies;
(3) establish rules governing conduct of physicians admitting residents to the facility;
(4) develop a procedure to provide care in emergencies when a resident's physician is unavailable;
(5) review accidents and hazards; and
(6) participate in pharmacy advisory committee deliberations.

Part 7. NURSING SERVICES
...7.2 DIRECTOR OF NURSING. Except as provided in Section 7.6, a nursing care facility shall
employ a full-time (40 hours/week) Director of Nursing, who is a registered nurse,
...7.8 CARE POLICIES. The facility shall have written resident care policies approved by the
governing body, which staff shall follow.

Part 10. DENTAL SERVICES
...10.4 DENTAL HYGIENE.
10.4.1 Direct care staff from each facility shall have at least annual inservice training course in
preventive dentistry and oral hygiene, conducted by a dentist, dental hygienist, or preventive dental
aide.

Part 11. DIETARY SERVICES
11.4 POLICIES. The facility shall have written policies and procedures approved by the governing
body for dietary practices and shall assure that they are followed by staff members.

Part 12. RESIDENTS’ RIGHTS
12.3 STAFF TRAINING IN RESIDENTS’ RIGHTS. The facility shall provide a copy of the facility’s
statement of residents' rights at new employee orientation. Current employees shall be provided a
copy of the rights no later than the first pay period after receipt of these rules. The facility shall
train all staff in the observation and protection of residents’ rights. Social services staff shall assist
in residents' rights orientation for new employees

Part 13. EMERGENCY SERVICES
13.1 EMERGENCY CARE POLICIES. The facility shall have and follow written policies for the care
of residents in an emergency available for staff use, including: 1) arrangements for necessary
medical care when a resident's physician is unavailable (developed by persons described in Section
6.2); 2) procedures and training programs that cover immediate care of residents; and 3) persons to be notified in an emergency.

13.2 FIRE AND INTERNAL DISASTER PLAN. With the assistance of qualified fire and safety experts, the facility shall develop written policies and procedures for protection of persons within the building in case of fire, explosion, flood, staff shortage, food shortage, termination of vital services, or other emergency in the building. Policies shall include: 1) brief, written instructions, posted at each nurses’ station, that include persons to be notified and other immediate steps to be taken before the fire department or other assistance arrives; 2) a schematic plan of the building or portions thereof posted at each nurses' station, showing evacuation routes, smoke stop and fire doors, exit doors, and the location of fire extinguishers and fire alarm boxes; 3) procedures for evacuating helpless residents; A) assignment of specific tasks and responsibilities to the personnel on each shift; 5) provision for at least annual training and instruction to keep employees informed of their duties; and 6) provisions for conducting simulated fire drills at least three times per year.

13.3 MASS CASUALTY PLAN. Each facility shall develop a written mass casualty plan for managing residents and treating casualties in an external or community disaster. The program shall be developed in cooperation with other health facilities in the area and with official and other community agencies.

Part 14. FACILITY RECORDS
14.1 HEALTH RECORDS. The facility shall maintain on its premises a health record for each resident. The record and the resident for which it is maintained shall be identified by a separate, unique number. The record shall contain sufficient information to identify the resident; provide and support resident diagnoses; include orders for medications, treatments, restorative services, diet, special procedures, and activities. It shall include a care plan and discharge plan and indicate in progress notes the resident’s progress at appropriate intervals. The components of the record may be kept separately as long as they are readily retrievable.

14.1.1 Only physicians, dentists or persons operating under their supervision shall write or dictate medical histories and physical examinations in the medical record, and only dentists shall write dental histories.

14.1.2 Telephone orders shall be taken by licensed nurses or members of other appropriate disciplines as authorized by their professional licensure and as approved in facility policy. They shall be countersigned by the physician or dentist and entered into the record within two weeks.

14.1.3 All orders for diagnostic procedures, treatments, and medications shall be entered into the health record and authenticated and signed by the physician, except that orders for dental procedures shall be authenticated and signed by a dentist. All reports of x-ray, laboratory, EKG, and other diagnostic tests shall be authenticated by the person submitting them and incorporated into the health record within two weeks after receipt by the facility.

14.1.4 All entries in the health record shall be the original ink or typed copy of valid copies, kept current, dated, and signed or authenticated. The responsibility for completing the health record rests with the attending physician and the facility administrator. A physician may authenticate the health record by written signature, identifiable initials, computer key, or, under the following conditions, facsimile stamp:

(1) The physician whose signature the facsimile stamp represents is the only one who has possession of the stamp and is the only one who uses it; and

(2) The physician places in the medical record office a signed statement to the effect that the physician is the only one who has the stamp and the only one who will use it.

14.1.5 A completed health record shall be maintained on every resident from the time of admission through the time of discharge. All health records shall contain:

(1) Identification and summary sheet that includes:
(a) resident’s name, health record number, social security number, marital status, age, race, home address, date of birth, place of birth, religion, occupation, name of informant and other available identifying sociological data (country of citizenship, father’s name, mother’s maiden name, military service, if any, and dates),
(b) name, address, and telephone number of referral source,
(c) name, address, and telephone number of attending physician and dentist,
(d) name of next of kin or other responsible person,
(e) date and time of admission and discharge,
(f) admitting diagnosis, final diagnosis(es), condition on discharge, and disposition, and
(g) attending physician’s signature.
(2) Medical data that includes:
(a) medical history,
(b) medical evaluation reports on admission and thereafter as needed and at least annually,
(c) reports of any special examinations, including laboratory and x-ray reports,
(d) reports of consultations by consulting physicians, if any,
(e) reports from all consulting persons and agencies, if any,
(f) reports of special treatments, such as physical or occupational therapy,
(g) dental reports, if any,
(h) treatment and progress notes written and signed by the attending physician at the time of each visit,
(i) authentication of hospital diagnosis(es) in a hospital summary sheet or transfer form when applicable, and a summary of the course of treatment followed in the hospital if the resident is hospitalized,
(j) physician orders for all medications, treatments, diet, and restorative and special procedures,
(k) autopsy protocol, if any, and authorization for autopsy, and
(3) plans and notes of the social service and activities service, including social history, social services assessment/plan, progress notes, activities assessment/plan and activities progress notes;
(4) nutritional assessments and progress notes of the dietary service; and
(5) reports or accidents or incidents experienced by the resident,
(6) Nursing records, dated and signed by nursing personnel, which include the resident assessment required by Section 5.2, all medications and treatments administered, special procedures performed, notes of observations, and the time and circumstances of death.

14.2 FACILITIES. The facility shall provide a health record room or other health record accommodation and supplies and equipment adequate for health record functions. Health records shall be maintained and stored safely for confidentiality and protection from loss, damage, and unauthorized use.
14.3 PRESERVATION. All health records shall be completed promptly, not later than 30 days following resident discharge, filed, and retained for a period of time consistent with the applicable statute of limitations and the facility's written policies.
14.4 STAFFING. A Registered Record Administrator (RRA), Accredited Record Technician (ART), or other employee who is trained in medical records and who has consultation from a registered record administrator or accredited record technician shall be responsible for the custody, supervision, filing, and indexing of completed health records of all residents and for allied health records services.
14.5 LONG-TERM CARE FACILITY RECORDS. The facility shall maintain current the following records: 1) daily census including current resident problems and room numbers, 2) admission and discharge analysis records, 3) master resident file, 4) resident number index, and 5) disease index and (6) file of all accident and incident reports, including without limitation, those required by Part 3 of Chapter II.
Part 15. OCCUPATIONAL, AND PHYSICAL AND SPEECH THERAPY
15.1 OCCUPATIONAL THERAPY.
15.1.1 The facility shall have written policies approved by the governing body identifying the organization, administration, performance standards, direction, and supervision of resident care.

15.2 PHYSICAL THERAPY.
15.2.1 The facility shall have written policies approved by the governing body identifying the organization, administration, performance standards, direction, and supervision of resident care.

15.3 SPEECH THERAPY.
15.3.1 The facility shall have written policies approved by the governing body identifying the organization, administration, performance standards, direction, and supervision of resident care.

Part 16. PHARMACEUTICAL SERVICES
16.2 ADVISORY COMMITTEE. The facility shall establish a pharmaceutical advisory committee, including a registered nurse, the consulting pharmacist and the medical advisor, to assist in the formulation of broad professional policies and procedures relating to pharmaceutical service in the facility.

16.3 DRUG REQUISITION AND STORAGE POLICIES. The facility shall designate in written policies approved by the governing body the person authorized to requisition, receive, control, and manage drugs.

16.4 CONSULTING PHARMACIST. The facility shall contract in writing with a licensed pharmacist to be responsible for all pharmaceutical matters in the facility. The contract shall set forth the fees to be paid for services and the pharmacist’s responsibilities, including at least the following:

...{(6) Regularly scheduled visits and consultations and at least annual in-service training to staff.

Part 17. DIAGNOSTIC SERVICES
17.1 POLICIES. The facility shall establish and follow policies for obtaining clinical laboratory, x-ray, and other diagnostic services.

17.2 PHYSICIAN ORDERS. Diagnostic services shall be provided only on the order of the attending physician or dentist.

17.3 TRANSPORTATION. The facility shall assist residents to make arrangements for transportation of residents and/or laboratory specimens to and from the source of diagnostic services.

17.4 REPORTS. All diagnostic reports shall be included in the resident’s health record within thirty days of the time the facility receives them.

Part 19. SECURE UNITS
19.1 COMPLIANCE. Any facility that has one or more units that are secured to prohibit free egress of residents shall comply with the standards in this Part in addition to all other applicable requirements of this chapter.

19.6 STAFFING. The facility shall provide a sufficient number of qualified staff to meet fully the needs of residents in the secure unit, which may require a higher staffing ratio than in other units in the facility, particularly on the night shift.

19.6.1 Staff in the special secure unit shall be experienced and trained in the particular needs and care of the types of residents in the unit.

19.6.2 For residents in the secure unit, the facility shall provide additional social work and activities staff to meet the social, emotional, and recreational needs of the residents and the social and emotional needs of their families in coping with the resident’s illness.
For residents with mental illness, the facility shall provide staff who have demonstrated knowledge and skill in caring for residents with mental illness.

Part 20. HOUSEKEEPING SERVICES

20.8 TRAINING AND SUPERVISION. Housekeeping personnel shall receive adequate supervision. Frequent in-service training programs shall be provided for housekeeping personnel.

Part 22. INFECTION CONTROL

22.1 INFECTION CONTROL PROGRAM. The facility shall have an infection control program that provides in-service training on infection control and shall have current infection control policies and procedures available to all staff members.

22.2 POLICIES. The facility shall have and follow the following written policies approved by the governing body 1) a policy prohibiting admission of residents who have a communicable disease with a significant risk of transmission to other persons, as determined by the Department; 2) a policy for preventing transmission of disease in the facility that is applicable to any resident who is discovered to have a communicable disease after admission or to any employee with a communicable disease; and 3) a policy of reporting diseases to the state of local health department, pursuant to regulations promulgated by the Board of Health pertaining to control of communicable diseases.

CONNECTICUT

19-13-D8t. Chronic and convalescent nursing homes and rest homes with nursing supervision (b) Licensure procedure.

(3) Issuance and renewal of license.

(A) Upon determination by the department that a facility is in compliance with the statutes and regulations pertaining to its licensure, the department shall issue a license or renewal of license to operate the facility for a period not to exceed one year.

(i) Each building which is not physically connected to a licensed facility shall be treated as a distinct facility for purposes of licensure;

(ii) A facility which contains more than one level of care within a single building shall be treated as a single facility for purposes of licensure;

(4) Notice to public. The license shall be posted in a conspicuous place in the lobby by reception room of the facility.

(5) Change in status. Change of ownership, level of care, number of beds or location shall require a new license to be issued. The licensee shall notify the department in writing no later than 90 days prior to any such proposed change.

(6) Change in personnel. The licensee shall notify the department immediately, to be confirmed in writing within five days, of both the resignation or removal and the subsequent appointment of the facility's administrator, medical director, or director of nurses.

(e) Governing body.

(1) The facility shall have a governing body, which shall have the general responsibilities to:

(A) set policy;

(B) oversee the management and operation of the facility; and

(C) assure the financial viability of the facility.

(2) Specific responsibilities of the governing body necessary to carry out its general responsibilities
shall include, but not necessarily be limited to, the following:
(A) Adoption and documented annual review of written facility by-laws and budget;
(B) annual review and update of the facility’s institutional plan, including anticipated needs, income and expenses;
(C) review of facility compliance with established policy;
(D) appointment of a qualified administrator;
(E) provision of a safe physical plant equipped and staffed to maintain the facility and services in accordance with any applicable local and state regulations and any federal regulations that may apply to federal programs in which the facility participates;
(F) approval of an organizational chart which establishes clear lines of responsibility and authority in all matters relating to management and maintenance of the facility and patient care;
(G) Annual review of personnel policies;
(H) Adoption of written policies assuring the protection of patients' rights and patient grievance procedures, a description of which shall be posted conspicuously in the facility and distributed personally to each patient;
(I) determination of the frequency of meetings of the governing body and documentation of such meetings through minutes;
(J) Written confirmation of all appointments made or approved by the governing body; and
(K) Adoption of a written policy concerning potential conflict of interest on the part of members of the governing body, the administration, medical and nursing staff and other employees who might influence corporate decisions.

(f) Administrator.
(1) The administrator of any facility shall be licensed in accordance with Connecticut General Statutes, sections 19-593 through 19-599 inclusive.
(2) Application for licensure. The following shall be submitted with the administrator's initial application for licensure:
(A) Three references evaluating his/her suitability to administer a facility, as follows:
(i) One from a nursing home administrator, licensed physician, or registered nurse, attesting to the applicant’s professional qualifications and degree of experience;
(ii) Two character references from persons not related to the applicant;
(B) A certificate of physical and mental health signed by a licensed physician.
(C) Educational background.
(3) The administrator shall be responsible for the overall management of the facility and shall have the following powers and responsibilities:
(A) Enforcement of any applicable local and state regulations, any federal regulations that may apply to federal programs in which the facility participates, and facility by-laws;
(B) Appointment, with the approval of the governing body, of a qualified medical director and director of nurses and, if required, an assistant director of nurses;
(C) Liaison between the governing body, medical and nursing staff, and other professional and supervisory staff;
(D) Protection of patients' personal and property rights;
(E) Appointment, in writing and with the approval of the governing body, of a responsible employee to act in his/her behalf in temporary absences;
(F) With the advice of the medical director and director of nurses, employment of qualified personnel in sufficient numbers to assess and meet patient needs;
(G) Written definition of the duties and responsibilities of all personnel classifications;
(H) Maintenance of a patient roster and annual census of all patients admitted and/or discharged by the facility. Such census shall be submitted to the department no later than October 31 for each year ending September 30;
(I) Submission to the department of the facility's annual license application and required reports, including, but not limited to, submission within 72 hours of reports on all accidents, or incidents, and any unusual or suspicious deaths in connection with subsection (g) of these regulations;

(J) Together with the medical director and director of nurses, development of a coordinated program for orientation to the facility, in-service training, and continuing education for all categories of staff in order to develop skills and increase knowledge so as to improve patient care;

(K) Establishment of procedures for notification of the patient, next of kin or sponsor in the event of a change in a patient’s charges, billing status and other related matters.

(4) In a chronic and convalescent nursing home with 45 or more licensed beds, the administrator shall serve full time on the premises of the facility and shall be on 24 hour call.

(5) In a rest home with nursing supervision with 60 or more licensed beds, the administrator shall serve full time on the premises of the facility, and shall be on 24 hour call.

(6) Except for a facility with 29 beds or less, the administrator may not serve as director of nurses.

... (h) Medical director.

(1) The medical director shall be a physician licensed to practice medicine in Connecticut and shall serve on the facility’s active organized medical staff, shall have at least one year of prior clinical experience in adult medicine and shall be a member of the active medical staff of a general hospital licensed in Connecticut.

(2) The medical director shall have the following powers and responsibilities:

(A) Enforce the facility's by-laws governing medical care;

(B) Assure that quality medical care is provided in the facility;

(C) Serve as a liaison between the medical staff and administration;

(D) Approve or disapprove a patient's admission based on the facility's ability to provide adequate care for that individual in accordance with the facility's by-laws. The medical director shall have the authority to review any patient’s record or examine any patient prior to admission for such purpose;

(E) Assure that each patient in the facility has an assigned personal physician;

(F) Provide or arrange for the provision of necessary medical care to the patient if the individual’s personal physician is unable or unwilling to do so;

(G) Approve or deny applications for membership on the facility's active organized staff in accordance with subsection(i) (2) of these regulations;

(H) In accordance with the facility's by-laws, suspend or terminate the facility privileges of a medical staff member if that member is unable or unwilling to adequately care for a patient in accordance with standards set by any applicable local and state statutes and regulations, any federal regulations that may apply to a federal program in which the facility participates or facility by-laws;

(I) Visit the facility between the hours of 7 a.m. and 9 p.m. to assess the adequacy of medical care provided in the facility.

(ii) A medical director of a chronic and convalescent nursing home shall visit the facility at least once every 7 days for such purpose.

(ii) A medical director of a rest home with nursing supervision shall visit the facility at least once every 30 days for such purpose;

(J) Receive reports from the director of nurses on significant clinical developments;

(K) Recommend to the administrator any purchases of medical equipment and/or services necessary to assure adequate patient care;

(L) Assist in the development of and participate in a staff orientation and training program in cooperation with the administrator and the director of nurses, as required by subsection (f) (3) (I) of these regulations.
A record shall be kept by the facility of the medical director’s visits and statements for review by the department. Such record shall minimally include the date of visit, the names of the patients audited by the medical director, and a summary of problems discussed with the staff.

(i) Medical staff.
(1) Each facility shall have an active organized medical staff. All members of such staff shall possess a full and unrestricted Connecticut license for the practice of medicine.
(C) The active organized medical staff shall adopt written by-laws governing the medical care of the facility’s patients. Such by-laws shall be approved by the medical director and the governing body.
(2) The medical director shall approve or deny applications for membership on the active organized medical staff after consultation with the existing active organized medical staff, if any, and subject to the ratification of the governing body.
(3) All appointments shall be made in writing and shall delineate the physician’s duties and responsibilities. The letter of appointment shall be signed by the medical director and the applicant.

(4) Requirements for active organized medical staff members.
(C) The active organized medical staff shall adopt written by-laws governing the medical care of the facility’s patients. Such by-laws shall be approved by the medical director and the governing body. The by-laws shall include, but not necessarily be limited to:

(i) acceptable standards of practice for the medical staff;
(ii) criteria for evaluating the quality of medical care provided in the facility;
(iii) criteria by which the medical director shall decide the admission or denial of admission of a patient based on the facility’s ability to provide care;
(iv) standards for the medical director to grant or deny privileges and to discipline or suspend the privileges of members of the medical staff, including assurance of a due process of appeal in the event of such actions...
(viii) standards to assure that, in the event of the medical director’s absence, inability to act, or vacancy of the medical director’s office, another physician on the facility’s active organized medical staff is temporarily appointed to serve in that capacity...

(j) Director of nurses.
(1) Qualifications.
(A) For a chronic and convalescent nursing home, the director of nurses, or any person acting in such capacity, shall be a nurse registered in Connecticut...
(2) The director of nurses shall be responsible for the supervision, provision, and quality of nursing care in the facility. The director of nurses’ powers and duties shall include, but not necessarily be limited to, the following:

(A) development and maintenance of written nursing service standards of practice, to be ratified by the governing body...
(I) assistance in the development and participation in a staff orientation and training program, in cooperation with the administrator and medical director, as required by subsection (f) (3) (J) of section 19-13-D8t of the Regulations of Connecticut State Agencies...
...(l) Nurse’s Aide Training and Employment
(1) On and after February 1, 1990, no person shall be employed for more than 120 days as a nurse’s aide in a licensed chronic and convalescent nursing home or rest home with nursing supervision unless such person has successfully completed a training and competency evaluation program approved by the department and has been entered on the nurse’s aide registry maintained by the department. No such facility shall employ such person as a nurse’s aide without making inquiry to the registry pursuant to subdivision (2).
(A) Effective October 1, 2000, the commissioner shall adopt, and revise as necessary, a nurse’s aide training program of not less than 100 hours and competency evaluation program for nurse’s aides. The standard curriculum of the training program shall include, a minimum of seventy-five (75) hours including but not limited to, the following elements: Basic nursing skills, personal care skills,
care of cognitively impaired residents, recognition of mental health and social service needs, basic restorative services and residents' rights presented in both lecture and clinical settings. An additional twenty-five (25) hours of the standard nurse's aide lecture and clinical setting curriculum shall include, but not be limited to specialized training in understanding and responding to physical, psychiatric, psychosocial and cognitive disorders. An individual enrolled in a nurse's aide training program prior to October 1, 2000, may complete such program in accordance with the requirements in effect at the time of enrollment. A trainee's successful completion of training shall be demonstrated by the trainee's performance, satisfactory to the nurse's aide primary training instructor, or the elements required by the curriculum. Each licensed chronic and convalescent nursing home and rest home with nursing supervision that elects to conduct a nurse's aide training program shall submit such information on its nurse's aide training program as the commissioner may require on forms provided by the department. The department may re-evaluate the facility's nurse's aide training program and competency evaluation program for sufficiency at any time.

(B) The commissioner shall adopt, and revise as necessary, a nurse's aide competency evaluation program including, at least, the following elements: basic nursing skills, personal care skills, care of cognitively impaired residents, recognition of mental health and social service needs, basic restorative services and residents' rights and the procedures for determination of competency which may include a standardized test.

(C) Any person employed as a nurse's aide by a chronic and convalescent nursing home or a rest home with nursing supervision as of January 30, 1990 shall be entered on the nurse's aide registry if they meet the requirements set forth in OBRA in accordance with the current Federal Omnibus Budget Reconciliation Act of 1987 (OBRA, 87) as it may be amended from time to time. The facility shall provide such person with the initial preparation necessary to successfully complete a competency evaluation program, as may be required by OBRA '87. This competency evaluation program shall be approved and administered in accordance with this subsection.

(D) Qualifications of nurse's aide instructors

(i) The training of nurse's aides must be performed by or under the general supervision of a registered nurse who possesses a minimum of two years of nursing experience, at least one year of which must be in a chronic and convalescent nursing home or rest home with nursing supervision.

(ii) Instructors must have completed a course in teaching adults or have experience in teaching adults or supervising nurse's aides.

(iii) Qualified personnel from the health field may serve as trainers in the nurse's aide training program under the supervision of the nurse's aide primary training instructor provided they have a minimum of one year of experience in a facility for the elderly or chronically ill of any age within the immediately preceding five years. These health field personnel may include: Registered nurses, sanitarians, fire safety experts, nursing home administrators, gerontologists, psychologists, physical and occupational therapists therapeutic recreation specialists, speech/language/hearing therapists. All trainers should be, where applicable, licensed, registered and/or certified in their field.

(iv) Licensed practical nurses, under the supervision of the nurse's aide primary training instructor, may serve as trainers in the nurse's aide training program provided the licensed practical nurse has two years experience in caring for the elderly or chronically ill of any age.

(v) The training of nurse's aides may be performed under the general supervision of the director of nurses. The director of nurses is prohibited from performing the actual training of nurse's aides.

(E) The State Department of Education and the Board of Trustees of Community-Technical Colleges may offer such training programs and competency evaluation programs in accordance with these regulations.

(F) In accordance with this subsection any person who has not yet satisfactorily completed training as provided for herein, and who is employed by a facility for a period of one-hundred-twenty days or less, as a nurse's aide may be utilized only to perform tasks for which such person has received training and demonstrated competence to the satisfaction of the employer and shall perform such
tasks only under the supervision of licensed nursing personnel. Record of any such training and competence demonstration shall be maintained in the facility for the department’s review for three years from the date of completion thereof. The employer may not use such person to satisfy staffing requirements as set forth in the Public Health Code.

(G) In accordance with this subsection a facility may use any person who has satisfactorily completed training, but has not yet satisfactorily completed the competency evaluation program as provided for herein, and who is employed by a facility for a period of 120 days or less as a nurse’s aide to satisfy staffing requirements as set forth in the Public Health Code. Record of such training shall be maintained by the facility for the department’s review for three years from the date of completion thereof.

(H) On and after February 1, 1990 any chronic and convalescent nursing home or rest home with nursing supervision that utilizes nurse’s aides from a placement agency or from a nursing pool shall develop a mechanism to verify that such nurse’s aide has been entered on the nurse’s aide registry maintained by the department in accordance with subdivision (2).

(2) The department shall establish and maintain a registry of nurse’s aides. Information in the nurse’s aide registry shall include but not be limited to: name, address, date of birth, social security number, training site and date of satisfactory completion. It shall also contain any final determination by the department, after a hearing conducted pursuant to Chapter 54 of the Connecticut General Statutes, relative to a complaint against a nurse’s aide, as well as any brief statement of such person disputing such findings, including resident neglect or abuse or misappropriation of resident property.

(3) If, since an individual’s most recent completion of a training and competency evaluation program, there has been a continuous period of twenty-four (24) consecutive months during none of which the individual performed nursing or nursing-related services for monetary compensation, such individual shall complete a new training and competency evaluation program, or a new competency evaluation program.

(4) Any person who successfully completes or has successfully completed prior to January 1, 1989 the state-sponsored Nurse Assistant Training Program provided through the State Department of Education or through the Connecticut Regional Community College system shall be deemed to have completed a nurse’s aide training and competency evaluation program approved by the commissioner in accordance with this subsection.

(5) Any person who has successfully completed a course or courses comprising not less than one-hundred hours of theoretical and clinical instruction in the fundamental skills of nursing in a practical nursing or registered nursing education program approved by the department with the advice and assistance of the State Board of Examiners for Nursing shall be deemed to have completed a nurse’s aide training program approved by the commissioner in accordance with this subsection, if the curriculum meets the minimum requirements as set forth in this subsection.

(6) The department shall, upon receipt of an application and such supporting documents as the commissioner may require, place on the registry a nurse’s aide who shows to the satisfaction of the department completion of a department approved:

(A) Nurse’s aide training program, and

(B) Competency Evaluation program.

(7) A nurse’s aide registered in another state or territory of the United States may be entered on the registry, provided the department is satisfied that such nurse’s aide has completed a training and competency evaluation program equal to or better than that required for registration in this state as of the date the nurse’s aide was first registered in another state or territory of the United States.

(8) Subject to the provisions of section 20-102ff of the Connecticut General Statutes, a registered nurse or licensed practical nurse licensed in a state other than Connecticut whose license has been verified by the chronic and convalescent nursing home or rest home with nursing supervision as in good standing in the state in which he or she is currently licensed, or a registered nurse trained in
another country who has satisfied the certification requirements of the Commission on Graduates of
Foreign Nursing Schools, may be utilized as a nurse’s aide in Connecticut for not more than a
single one hundred-twenty (120) day period. Said licensed registered nurse or licensed practical
nurse shall be deemed to have completed a nurse's aide training and competency evaluation
program approved by the commissioner in accordance with this section. The department shall,
on receipt of an application and such supporting documents as the commissioner may require,
enter said licensed registered nurse or licensed practical nurse on the nurse’s aide registry.
...(o) Medical records.
(1) Each facility shall maintain a complete medical record for each patient. All parts of the record
pertinent to the daily care and treatment of the patient shall be maintained on the nursing unit in
which the patient is located.
(2) The complete medical record shall include, but not necessarily be limited to:
(A) patient identification data, including name, date of admission, most recent address prior to
admission, date of birth, sex, marital status, religion, referral source, Medicare/Medicaid number(s)
or other insurance numbers, next of kin or guardian and address and telephone number;
(B) name of patient's personal physician;
(C) signed and dated admission history and reports of physical examinations;
(D) signed and dated hospital discharge summary, if applicable;
(E) signed and dated transfer form, if applicable;
(F) complete medical diagnosis;
(G) all initial and subsequent orders by the physician;
(H) a patient assessment that shall include but not necessarily be limited to, health history, physical,
mental and social status evaluation of problems and rehabilitation potential, completed within
fourteen (14) days of admission by all disciplines involved in the care of the patient and promptly
after a change in condition that is expected to have lasting impact upon the patient's physical,
mental or social functioning, conducted no less than once a year, reviewed and revised no less than
once every ninety (90) days in order to assure its continued accuracy;
(I) a patient care plan, based on the patient assessment, developed within seven (7) days of the
completion of the assessment by all disciplines involved in the care of the patient and consistent
with the objectives of the patient’s personal physician, that shall contain the identification of
patient problems and needs, treatments, approaches and measurable goals, and be reviewed at
least once every ninety (90) days thereafter;
(J) a record of visits and progress notes by the physician;
(K) nurses notes to include current condition, changes in patient condition, treatments and
responses to such treatments;
(L) a record of medications administered including the name and strength of drug, date, route and
time of administration, dosage administered, and, with respect to PRN medications, reasons for
administration and patient response/result observed;
(M) documentation of all care and ancillary services rendered;
(N) summaries of conferences and records of consultations;
(O) record of any treatment, medication or service refused by the patient including the visit of a
physician, signed by the patient, whenever possible, including a statement by a licensed person that
such patient was informed of the medical consequences of such refusal; and
(P) discharge plans, as required by Section 19a-535 of the Connecticut General Statutes and
subsection (p) of this section.
(3) All entries in the patient’s medical record shall be typewritten or written in ink and legible. All
entries shall be verified according to accepted professional standards.
(4) Medical records shall be safeguarded against loss, destruction or unauthorized use.
(5) All medical records, originals or copies, shall be preserved for at least ten (10) years following
death or discharge of the patient.
...(s) Social Work.
...(8) All staff of the facility shall receive inservice training by or under the direction of a qualified social worker or social work designee each year concerning patients’ personal and property rights pursuant to Section 19a-550 of the Connecticut General Statutes.
(9) All staff of the facility shall receive inservice training by a qualified social worker or qualified social work consultant each year in an area specific to the needs of the facility’s patient population.
(t) Infection control.
(1) Each facility shall have an infection control committee which meets at least quarterly, and whose membership shall include representatives from the facility's administration, medical staff, nursing staff, pharmacy, dietary department, maintenance, and housekeeping. Minutes of all meetings shall be maintained...
(u) Emergency preparedness plan.
(1) The facility shall have a written emergency preparedness plan which shall include procedures to be followed in case of medical emergencies, or in the event all or part of the building becomes uninhabitable because of a natural or other disaster. The plan shall be submitted to the local fire marshal or, if none, the state fire marshal for comment prior to its adoption.
(2) The plan shall specify the following procedures:
   (A) Identification and notification of appropriate persons;
   (B) Instructions as to locations and use of emergency equipment and alarm systems;
   (C) Tasks and responsibilities assigned to all personnel;
   (D) Evacuation routes;
   (E) Procedures for relocation and/or evacuation of patients;
   (F) Transfer of casualties;
   (G) Transfer of records;
   (H) Care and feeding of patients;
   (I) Handling of drugs and biologicals.
(3) A copy of the plan shall be maintained on each nursing unit and service area. Copies of those sections of the plan relating to subdivisions (2) (B) and (2) (D) above shall be conspicuously posted.
(4) Drills testing the effectiveness of the plan shall be conducted on each shift at least four times per year. A written record of each drill, including the date, hour, description of drill, and signatures of participating staff and the person in charge shall be maintained by the facility.
(5) All personnel shall receive training in emergency preparedness as part of their employment orientation. Staff shall be required to read and acknowledge by signature understanding of the emergency preparedness plan as part of the orientation. The content and participants of the training orientation shall be documented in writing.
[Additional Material pursuant to a 2007 Statute that required distribution of potassium iodide in day care centers, nursing homes, and child care facilities in counties in range of a particular nuclear power plant.]
(6) Emergency Distribution of Potassium Iodide. Notwithstanding any other provisions of the Regulations of Connecticut State Agencies, during a public health emergency declared by the Governor pursuant to section 2 of public act 03-236 and, if authorized by the Commissioner of Public Health via the emergency alert system or other communication system, a chronic and convalescent nursing home and rest home with nursing supervision licensed under chapter 368v of the Connecticut General Statutes that is located within a 10 mile radius of the Millstone Power Station in Waterford, Connecticut, shall be permitted to distribute and administer potassium iodide tablets to facility staff or visitors present at the chronic and convalescent nursing home, or rest home with nursing supervision during such emergency, provided that:
   (1) Prior written consent has been obtained by the chronic and convalescent nursing home, or rest home with nursing supervision for such provision. Written consent forms shall be provided by the chronic and convalescent nursing home, or rest home with nursing supervision to each
resident, or resident’s conservator, guardian, or legal representative currently admitted and to
each employee currently employed promptly upon the effective date of this subdivision.
Thereafter, written consent forms shall be provided by the chronic and convalescent nursing
home, or rest home with nursing supervision to each resident, or resident’s conservator, guardian,
or legal representative upon admission to such facility and to each new employee upon hire.
Such documentation shall be kept at the facility;
(2) Each person providing consent has been advised in writing by the chronic and
convalescent nursing home, or rest home with nursing supervision that the ingestion of
potassium iodide is voluntary;
(3) Each person providing consent has been advised in writing by the chronic and convalescent
nursing home, or rest home with nursing supervision about the contraindications and the
potential side effects of taking potassium iodide, which include:
(A) persons who are allergic to iodine should not take potassium iodide;
(B) persons with chronic hives, lupus, or other conditions with hypocomplementemic vasculitis
should not take potassium iodide;
(C) persons with Graves disease or people taking certain heart medications should talk to their
physician before there is an emergency to decide whether or not to take potassium iodide; and,
(D) side effects including minor upset stomach or rash.
(4) Only those individuals with applicable statutory authority may distribute and administer
potassium iodide to residents for whom written consent has been obtained; and,
(5) Potassium iodide tablets shall be stored in a locked storage area or container.

19-13-D8u. Intravenous therapy programs in chronic and convalescent nursing homes and rest
homes with nursing supervision
...(c) IV Therapy Programs in Chronic and Convalescent Nursing Homes. IV Therapy may be
administered in a chronic and convalescent nursing home in accordance with the following
requirements:
(1) The IV therapy program shall be developed and implemented in a manner which ensures safe
care for all patients receiving IV therapy which shall include at least the following:
...(C) Written policies and procedures concerning:
(i) Establishment of the standards of education, training, ongoing supervision, in-service education
and evaluation of all personnel in the program including the IV therapy nurses, licensed nursing
personnel and supportive nursing personnel...

19-13-D8v. Pharmaceutical services in chronic and convalescent nursing homes and rest homes
with nursing supervision
...(b) Pharmaceutical services.
...(2) The pharmaceutical services obtained by each facility shall be provided under the supervision
of a pharmacist as follows:
...(B) When pharmaceutical services are obtained through a community pharmacy, the facility shall
have a written agreement with a pharmacist to serve as a consultant on pharmaceutical services, as
follows:
(i) The consultant pharmacist shall visit the facility at least monthly, to review the pharmaceutical
services provided, make recommendations for improvements thereto and monitor the service to
assure the ongoing provision of accurate, efficient and appropriate services.
(ii) Signed dated reports of the pharmacist’s monthly reviews, findings and recommendations shall
be forwarded to the facility’s Administrator, Medical Director and Director of Nursing and kept on
file in the facility for a minimum of three (3) years.
General Requirements
3.1 The term "nursing home" or "nursing facility" shall not be used as part of the name of any facility in this State unless it has been so licensed by the Division.
3.2 Each nursing facility shall develop written policies pertaining to the services provided.
3.3 A nursing facility shall not adopt any policy which conflicts with applicable statutes or regulations.

4.0 Licensing Requirements and Procedures
...4.6 A new license shall be required in the event of a change in the nursing home management company, building owner or controlling person as defined in 16 Delaware Code, §1102(1).
4.7 Each license shall specify the number of licensed beds. A facility seeking to change the number of licensed beds shall apply to the Division for a modified license authorizing the revised number of beds.
4.8 Separate licenses are required for facilities maintained in separate locations, even though operated under the same management. A separate license is not required for separate buildings maintained by the same management on the same grounds.

5.0 Personnel/Administrative
5.1 The administrator(s) shall be responsible for complying with all applicable laws and regulations.
5.2 Each nursing facility shall have a full-time administrator. When an administrator will be temporarily absent for a period of two weeks or more, a management employee shall be designated to be in charge. The Division shall be notified in writing upon such designation.
5.3 The nursing facility shall designate a physician to serve as the medical director who shall be responsible for implementation of resident care policies and the coordination of medical care in the facility.
5.4 Nursing facilities shall provide professional nursing, nursing services direct care and other services as follows:
5.4.1 Nursing facilities subject to 16 Delaware Code, §1161 to §1165 shall provide professional nursing, nursing services direct care and other services in accordance with statutory requirements.
5.4.2 Nursing facilities not subject to 16 Delaware Code, §1161 to §1165 shall provide professional nursing, nursing services direct care and other services as follows:
5.4.2.5 Facilities not subject to 16 Delaware Code, §1164 may increase the level of care and services for a current resident whose condition requires such an increase in the level of care and services as an alternative to discharge to another facility. Such increased care and services shall be provided by a qualified caregiver(s) whose scope of practice includes the provision of such care and services, and shall be available during any shift when the resident's needs require such care and services.
5.4.2.6 All other nursing services direct caregivers shall be certified nursing assistants.
5.5 The facility shall have written personnel policies and procedures. Personnel records shall be kept current and available for each employee, and include the following:
5.5.6 Titles and hours of in-service training

6.0 Services to Residents
6.3 Nursing Administration
6.3.1 The facility's director of nursing shall:
6.3.1.4 Coordinate orientation programs for new nursing services direct caregivers (including temporary staff) and in-service education, as appropriate, for such staff. Written records of the content of each in-service program and the attendance records shall be maintained for two years...

6.9 Communicable Diseases
6.9.4 Employee Health
6.9.4.1 All employees shall receive education and training on standard precautions, use of personal protective equipment, the importance of hand hygiene, the facility’s infection control policies and reporting of exposures to blood or other potentially infectious materials.

6.10 Infection Control
6.10.1 Infection Control Committee
6.10.1.1 The nursing facility shall establish an infection control committee (or a subcommittee of an overall quality control program) of professional staff whose responsibility shall be to manage the infection control program in the facility...

8.0 Emergency Preparedness
8.1 Nursing facilities shall comply with the rules and regulations adopted and enforced by the State Fire Prevention Commission or the municipality with jurisdiction.
8.2 Regular fire drills shall be held at least quarterly on each shift. Written records shall be kept of attendance at such drills.
8.3 Each facility shall develop and maintain all-hazard emergency plans for evacuation and sheltering in place.
8.4 The staff on all shifts shall be trained on emergency and evacuation plans. Evacuation routes shall be posted in a conspicuous place at each nursing station.
8.5 In the event of a facility evacuation, the evacuation plan shall, at a minimum, provide for the transfer or availability of resident medications and records.
8.6 Each facility shall submit with their annual license renewal an updated Division of Public Health Residential Health Care Facilities Emergency Planning Checklist, electronically if possible.

9.0 Records and Reports
9.1 There shall be a separate clinical record maintained on each resident as a chronological history of the resident’s stay in the nursing facility. Each resident’s record shall contain current and accurate information including the following:
9.1.1 Admission record which shall include the resident’s name, birth date, home address prior to entering the facility, identification numbers (including Social Security), date of admission, physician’s name, address and telephone number, admitting diagnoses, name, address and telephone number of resident’s representative, the facility’s medical record number, and advance directive(s) if applicable.
9.1.2 History and physical examination prepared by a physician within 14 days of the resident’s admission to the nursing facility. If the resident has been admitted to the facility from a hospital, the resident’s summary and history prepared at the hospital and the resident’s physical examination performed at the hospital, if performed within 14 days prior to admission to the facility, may be substituted. A record of subsequent annual medical evaluations performed by a physician must be contained in each resident’s file.
9.1.3 A record of post-admission diagnoses.
9.1.4 Physician’s orders which include a complete list of medications, dosages, frequency and route of administration, indication for usage, treatments, diets, restrictions on level of permitted activity if any, and use of restraints if applicable.
9.1.5 Physician's progress notes.
9.1.6 Nursing notes, which shall be recorded by each person providing professional nursing services to the resident, indicating date, time, scope of service provided and signature of the provider of the service. Nursing notes shall include care issues, nursing observations, resident change of status and other significant events.
9.1.7 Medication administration record (MAR) including medications, dosages, frequency, route of administration, and initials of the nurse administering each dose. The record shall include the signature of each nurse whose initials appear on the MAR.
9.1.8 Inventory of resident's personal effects upon admission.
9.1.9 Results of laboratory tests, x-ray reports and results of other tests ordered by the physician.
9.1.10 Discharge record which includes date and time, discharge location, and condition of resident.
9.1.11 Special service notes, e.g., social services, activities, specialty consultations, physical therapy, dental, podiatry.
9.1.12 Interagency transfer form, if applicable.
9.1.13 Copies of power(s) of attorney and guardianship, if applicable.
9.1.14 Nutrition progress notes and record of resident weights.
9.1.15 CNA flow sheets.
9.2 Confidentiality of resident records shall be maintained in accordance with the federal Health Insurance Portability and Accountability Act (HIPAA) and 16 Delaware Code, §1121(6).
9.3 Records shall be retained for 6 years after discharge. For a minor, records shall be retained for three years after age of majority.
9.4 Electronic Record keeping
9.4.1 Where facilities maintain residents' records in electronic format by computer or other devices, electronic signatures shall be acceptable.
9.4.2 The facility shall have a written attestation policy.
9.4.3 The computer network and all devices used to maintain resident medical records shall have safeguards to prevent unauthorized access and alteration of records.
9.4.4 All data entry devices shall require user authentication to access the computer network.
9.4.5 The computer program shall control each person's extent of access to residents' records based on that individual's personal identifier.
9.4.6 The computer's internal clock shall record the date and time of each entry.
9.4.7 An entry, once recorded, shall not be deleted. Alterations or corrections shall supplement the original record.
9.4.8 All entries shall have the date and time of the entry and the individual's personal identifier logged in a file which is accessible to designated administrative staff only.
9.4.9 The computer system shall back up all data to ensure record retention.
9.4.10 The facility shall provide independent computer access to electronic records to satisfy the requirements of the survey and certification process.

3220 Training and Qualifications for Nursing Assistants and Certified Nursing Assistants.
2.0 General Training Requirements And Competency Test.
Each Nursing Assistant/Certified Nursing Assistant employed by any nursing facility either as contract/agency or facility staff shall be required to meet the following:
2.1 An individual shall complete a nursing assistant training course approved by the Department on the recommendation of the CNA Training Curriculum Committee. The Committee shall consist of individuals with experience in the knowledge and skills required of CNAs.
2.2 Nursing Assistants are required to pass a competency test provided by the Department or by a contractor approved by the Department.
2.3 Nursing Assistants shall take the competency test within 30 days of completion of an approved program. Nursing assistants who fail to obtain a passing score may repeat the test two additional times. Nursing assistants who fail to obtain a passing score after testing three times must repeat the CNA training program before retaking the test. The certificate of completion of an approved program, a prerequisite to testing, must be dated within 24 months of the available testing date. Nursing assistants who are trained in a facility and are counted for staffing purposes pursuant to 16 Del.C. §1162(f) must pass the test within 90 days of completion of the facility program to continue to be counted in staffing calculations.

2.4 In order to qualify for recertification, a CNA must, during each 24 month certification period: (1) complete 24 hours of approved continuing education, and (2) perform at least 64 hours of nursing related services for pay under the supervision of a licensed nurse or physician. A CNA who does not perform at least 64 hours of nursing related services in a certification period or fails to complete the required continuing education must pass the competency test again. Nursing assistants who fail to obtain a passing score after testing three times must repeat the CNA training program before additional testing will be permitted.

2.5 A Certified Nursing Assistant trained and certified outside the State of Delaware in a program that equals or exceeds the federal nurse aide training program requirements in the Code of Federal Regulations §483.152 cannot work in Delaware without a Delaware certificate. Delaware certification is required prior to being employed as a CNA. The Department will grant reciprocity if the following conditions are met:

2.5.1 The CNA must have a current certificate from the jurisdiction where he or she currently practices, except that candidates from the State of Maryland must hold a current Geriatric Nursing Assistant certificate.

2.5.2 The CNA must have 3 months of full-time experience as a CNA performing nursing related services for pay under the supervision of a licensed nurse or physician, or have completed a training and competency evaluation program with the number of hours at least equal to that required by the State of Delaware.

2.5.3 The CNA must be in good standing in the jurisdiction where he/she is currently certified.

2.5.4 The CNA submits $30 to the Department to cover the costs associated with granting the reciprocity.

2.6 Nursing students who are currently enrolled in a nursing program and have satisfactorily completed a Fundamentals/Basic Nursing course with a 75 hour clinical component in a long term care setting will be deemed to meet the training requirements. These individuals will be approved to take the competency test upon submission of a letter from their school of nursing attesting to current enrollment status and satisfactory course completion as described.

2.7 Nursing students who have graduated from an RN or LPN program within 24 months prior to application for certification are deemed qualified to meet the Department's nurse aide training and competency evaluation program requirements and are eligible for certification upon submission of a sealed copy of their diploma. Individuals who have graduated from an RN or LPN program more than 24 months prior to application for certification are deemed qualified to meet the Department's nurse aide training program requirements and are eligible to take the competency test upon submission of a sealed copy of their diploma.

2.8 For the purpose of calculating minimum staffing levels, any individual who has completed all of the classroom training and half of the clinical training in a facility sponsored training program may be considered as a member of such facility's staff while undergoing the last 37.5 hours of clinical training at such facility.

2.9 A nursing assistant who is employed by, or who has received an offer of employment from, a federally certified nursing facility on the date on which the aide begins a nurse aide training and competency evaluation program may not be charged for any portion of the program including tuition, any tests taken and fees for textbooks or other required course materials.
2.10 If a Certified Nursing Assistant who is not employed, or does not have an offer to be employed as a nurse aide becomes employed by, or receives an offer of employment from, a federally certified nursing facility not later than 12 months after completing a nurse aide training and competency evaluation program, the federally certified nursing facility shall reimburse all documented personally incurred costs in completing the program. Facilities shall accept as documentation canceled checks, paid receipts, written verification from a training program or other written evidence which reasonably establishes the CNA’s personally incurred costs. Such costs include tuition, tests taken and fees for textbooks or other required course materials. Such costs shall be reimbursed in equal quarterly payments with full reimbursement to coincide with the CNA’s completion of one year of employment including the orientation period.

2.11 Any nursing facility which reimburses a Certified Nursing Assistant for documented personally incurred costs of a nurse aide training and competency evaluation program shall notify the Division of Long Term Care Residents Protection of such reimbursement. Notice of such reimbursement shall be entered in the CNA Registry database and information regarding such reimbursement shall be available to facilities upon request.

3.0 CNA Training Program Requirements

3.1 General.
Program approval must be obtained from the Division prior to operating a CNA program. To obtain approval, the curriculum content for the Certified Nursing Assistant training programs shall meet each of the following requirements:

3.1.1 The curriculum shall include material that will provide a basic level of both knowledge and demonstrable skills for each individual completing the program.

3.1.2 The program shall be a minimum of 150 hours in length, consisting of: (1) classroom instruction including laboratory time of 75 hours, and (2) clinical skills training of 75 hours in a long term care setting. Additional hours may be added in either of these areas or both.

3.1.3 Classroom instruction and demonstrated proficiency in each skill shall be completed prior to students’ performing direct resident care. Programs shall maintain documentation of required skills that each student has successfully demonstrated to the RN instructor.

3.1.4 The training of nursing assistant must be done by or under the general supervision of a RN who possesses a minimum of two years of nursing experience, at least 1 year of which must be in the provision of long term care facility services. The required one year of full-time (35-hours per week) long term care experience can be met by work experience in, or supervision or teaching of students in a certified skilled nursing facility or nursing facility defined in 42 CFR § 483.5(a).

3.1.5 All instructors (classroom and clinical) must have completed a course in teaching adults or have experience teaching adults or in the case of high school programs, be a state licensed high school teacher. Instructors do not have to have one year of long term care experience if the school has identified a RN supervisor as described in 3.1.4. The RN supervisor shall be available to all instructors, shall assist in developing lesson plans based on experience in taking care of nursing home residents, shall periodically ensure and document that instructors are operating effectively and that the program is operating in accordance with all state and federal regulations. Classroom ratios of student to instructor shall not exceed 24:1.

3.1.6 LPN instructors must have at least three years of nursing experience and must work under the general supervision of a RN.

3.1.7 Clinical instructors shall provide general supervision of students at all times during clinical instruction. Clinical instructors shall provide direct supervision to students in the clinical setting while the student is learning a competency until proficiency has been both demonstrated and documented. Clinical and laboratory ratios of student to Registered Nurse or Licensed Practical Nurse instructor shall not exceed 8:1.
3.1.8 Other personnel from the health profession may supplement the instructor, including but not limited to, registered nurses, licensed practical/vocational nurses, pharmacists, dieticians, social workers, sanitarians, fire safety experts, nursing home administrators, gerontologists, psychologists, physical and occupational therapists, activity specialist, speech/language/hearing therapists and resident rights experts. Supplemental personnel must have at least 1 year of experience in their respective fields.

3.1.9 Programs must notify the Division in writing (which may be faxed) at least 21 days prior to implementing permanent and/or substantial changes to the program or the program’s personnel. Examples of substantial changes include, but are not limited to, instructor(s), clinical or classroom site, major revision of course structure, change in textbook. The 21 day time period may be waived by the Division for good cause shown.

3.2 Equipment All programs shall have available at a minimum the following equipment:

3.2.1 Audio/Visual (Overhead projector and/or TV with VCR)
3.2.2 Teaching Mannequin, Adult, for catheter and perineal care
3.2.3 Hospital Bed
3.2.4 Bedpan/Urinal
3.2.5 Bedside commode
3.2.6 Wheelchair
3.2.7 Scale
3.2.8 Overbed Table
3.2.9 Sphygmomanometer
3.2.10 Stethoscope
3.2.11 Resident Gowns
3.2.12 Thermometers
3.2.13 Crutches
3.2.14 Canes (Variety)
3.2.15 Walker
3.2.16 Miscellaneous Supplies: i.e., Bandages, Compresses, Heating Pad, Hearing Aid, Dentures, Toothbrushes, Razors.
3.2.17 Foley Catheter Drainage Bag
3.2.18 Hydraulic Lift
3.2.19 Adaptive eating utensils/equipment

3.3 Curriculum Content
The following material identifies the minimum competencies that the curriculum content shall develop. Nursing assistants being prepared to work in skilled, intermediate, or assisted living facilities either as direct or contract staff shall master each competency. All demonstrable competencies for each student must be documented as mastered by the RN instructor in order for a student to qualify as successfully having completed that section of programming.

3.3.1 The Nursing Assistant Role And Function. Introduces the characteristics of an effective nursing assistant: personal attributes, on-the-job conduct, appearance, grooming, health and ethical behavior. Also presented are the responsibilities of the nursing assistant as a member of the resident care team. Legal aspects of resident care and resident rights are presented. Relevant Federal and State statutes are also reviewed. Competencies:

3.3.1.1 Function as a nursing assistant within the standards described below:
3.3.1.1.1 Define the role and functions of the nursing assistant and provide awareness of the legal limitations of being a nursing assistant.
3.3.1.1.2 Recognize the responsibilities of the nursing assistant as a member of the health care team. Understand the relevant State and Federal regulations for long term care and legalities of reporting and documenting incidents and accidents.
3.3.1.1.3 Understand the role of Long Term Care advocates, investigators and surveyors.
3.3.1.1.4 Identify the “chain of command” in the organizational structure of the health care agency.
3.3.1.1.5 Maintain personal hygiene and exhibit dress practices which meet professional standards.
3.3.1.1.6 Recognize the importance of punctuality and commitment to the job.
3.3.1.1.7 Differentiate between ethical and unethical behavior on the job.
3.3.1.1.8 Understand the role, responsibility and functional limitations of the nursing assistant.
3.3.1.2 Demonstrate behavior that maintains resident’s rights.
3.3.1.2.1 Provide privacy and maintenance of confidentiality.
3.3.1.2.2 Promote the resident’s right to make personal choices to accommodate individual needs.
3.3.1.2.3 Give assistance in resolving grievances.
3.3.1.2.4 Provide needed assistance in going to and participating in resident and family groups and other activities.
3.3.1.2.5 Maintain care and security of resident’s personal possessions as per the resident’s desires.
3.3.1.2.6 Provide care which ensures that the residents are free from abuse, mistreatment, neglect or financial exploitation and report any instances of such poor care to the Division of Long Term Care Residents Protection. Discuss the psychological impact of abuse, neglect, mistreatment, misappropriation of property of residents and/or financial exploitation.
3.3.1.2.7 Maintain the resident’s environment and care through appropriate nursing assistant behavior so as to keep the resident free from physical and chemical restraints.
3.3.1.2.8 Discuss the potential negative outcomes of physical restraints, including side rails.
3.3.2 Environmental Needs Of The Resident
Key Concepts: Introduces the nursing assistant to the need to keep residents safe from injury and infection in the long-term care setting. The nursing assistant is taught why and how to use infection control and isolation techniques. Safety through prevention of fires and accidents, and emergency procedures for fire and other disasters are presented. Competencies:
3.3.2.1 Apply the basic principles of infection control.
3.3.2.1.1 Identify how diseases are transmitted and understand concepts of infection prevention.
3.3.2.1.2 Demonstrate proper hand washing technique.
3.3.2.1.3 Demonstrate appropriate aseptic techniques in the performance of normal duties and understand the role of basic cleaning, disinfecting, and sterilization tasks.
3.3.2.1.4 Demonstrate proper isolation and safety techniques in the care of the infectious resident and proper handling and disposal of contaminated materials.
3.3.2.2 Assist with basic emergency procedures.
3.3.2.2.1 Follow safety and emergency procedures.
3.3.2.2.2 Identify safety measures that prevent accidents to residents.
3.3.2.2.3 Recognize signs when a resident is choking or may have an obstructed airway.
3.3.2.2.4 Assist with clearing obstructed airway.
3.3.2.2.5 Call for help when encountering convulsive disorders, loss of consciousness, shock, hemorrhage, and assist the resident until professional help arrives.
3.3.2.2.6 Follow disaster procedures.
3.3.2.2.7 Report emergencies accurately and immediately.
3.3.2.2.8 Identify potential fire hazards.
3.3.2.3 Provide a safe, clean environment.
3.3.2.3.1 Identify the resident’s need for a clean and comfortable environment. Describe types of common accidents in the nursing home and their preventive measures. Be aware of the impact of environmental factors on the resident in all areas including but not limited to light and noise levels.
3.3.2.3.2 Report unsafe conditions to appropriate supervisor. Use the nurse call system effectively.
3.3.2.3.3 Report evidence of pests to appropriate supervisory personnel.
3.3.2.3.4 Report nonfunctioning equipment to appropriate supervisory/charge personnel.
3.3.2.3.5 Prepare soiled linen for laundry.
3.3.2.3.6 Make arrangement of furniture and equipment for the resident’s convenience and to keep environment safe.

3.3.3 Psychosocial Needs Of The Resident

Key Concepts: Focus is placed on the diverse social, emotional, recreational and spiritual needs of residents in a long term care setting. The curriculum shall describe some of the physical, mental, and emotional changes associated with aging and institutionalization, and present ways in which the nursing assistant may effectively communicate with residents and their families. Competencies:

3.3.3.1 Demonstrate basic skills by identifying the psychosocial characteristics of the populations being served in the nursing facility including persons with mental retardation, mental illness and persons with dementia, Alzheimer’s disease, developmental disabilities and other related disorders.

3.3.3.1.1 Indicate the ways to meet the resident’s basic human needs for life and mental well being.

3.3.3.1.2 Modify his/her own behavior in response to resident’s behavior. Respect the resident’s beliefs recognizing cultural differences in holidays, spirituality, clothing, foods and medical treatments.

3.3.3.1.3 Identify methods to ensure that the resident may fulfill his/her maximum potential within the normal aging process.

3.3.3.1.4 Provide training in, and the opportunity for, self-care according to the resident’s capabilities.

3.3.3.1.5 Demonstrate principles of behavior management by reinforcing appropriate behavior and reducing or eliminating inappropriate behavior. For persons with dementia, recognize that cognitive functions are impaired, determine what the resident is trying to communicate and respond appropriately.

3.3.3.1.6 Demonstrate skills which allow the resident to make personal choices and promote the resident’s dignity.

3.3.3.1.7 Utilize resident’s family as a source of emotional support and recognize the family’s need for emotional support.

3.3.3.1.8 Recognize how age, illness and disability affect memory, sexuality, mood and behavior, including wandering.

3.3.3.1.9 Recognize aggressive behavior and learn management techniques. Recognize that certain behaviors, such as wandering, are a form of communication. Learn to apply strategies to promote safe behaviors.

3.3.3.1.10 Discuss how appropriate activities are beneficial to residents with cognitive impairments.

3.3.3.1.11 Recognize and utilize augmentative communication devices and methods of nonverbal communication.

3.3.3.2 Demonstrate appropriate and effective communication skills.

3.3.3.2.1 Demonstrate effective verbal and nonverbal communications in keeping with the nursing assistant’s role with residents, their families and staff.

3.3.3.2.2 Observe by using the senses of sight, hearing, touch and smell to report resident behavior to the licensed nurse.

3.3.3.2.3 Document observations using appropriate terms and participate in the care planning process.

3.3.3.2.4 Recognize the importance of maintaining the resident’s record accurately and completely.

3.3.3.2.5 Communicate with residents according to their state of development. Identify barriers to effective communication. Recognize the importance of listening to residents.

3.3.3.2.6 Participate in sensitivity training in order to understand needs of residents with physical or cognitive impairments.

3.3.4 Physical Needs of the Resident

Key Concepts: Presents the basic skills which nursing assistants use in the physical care of residents. The nursing assistant will learn basic facts about body systems and what is needed to promote good functioning. The nursing assistant will learn to provide physical care to residents.
safely and to keep the resident nourished, hydrated, clean, dry and comfortable. The nursing assistant will also learn to make observations regarding residents and to record and/or report observations. The nursing assistant will be introduced to the basics of range of motion and learn to integrate range of motion into routine personal care activities. Competencies:

3.3.4.1 Apply the principles of basic nutrition in the preparation and serving of meals.
3.3.4.1.1 Incorporate principles of nutrition and hydration in assisting residents at meals.
3.3.4.1.2 Understand basic physiology of nutrition and hydration.
3.3.4.1.3 Understand basic physiology of malnutrition and dehydration.
3.3.4.1.4 Identify risk factors for poor nutritional status in the elderly:
  3.3.4.1.4.1 compromised skin integrity
  3.3.4.1.4.2 underweight or overweight
  3.3.4.1.4.3 therapeutic or mechanically altered diet
  3.3.4.1.4.4 poor dental status
  3.3.4.1.4.5 drug-nutrient interactions
  3.3.4.1.4.6 acute/chronic disease
  3.3.4.1.4.7 depression or confusion
  3.3.4.1.4.8 decreased appetite
3.3.4.1.5 Recognize how the aging process affects digestion.
3.3.4.1.6 Accurately calculate and document meal intake and report inadequate intake or changes in normal intake.
3.3.4.1.7 Accurately calculate and document fluid intake and report inadequate intake or changes in normal intake.
3.3.4.1.8 Recognize and report signs and symptoms of malnutrition and dehydration.
3.3.4.1.9 Understand concepts of therapeutic diets including dysphagia diets and the related risks associated with dysphagia including aspiration and aspiration pneumonia.
3.3.4.1.10 Incorporate food service principles into meal delivery including:
  3.3.4.1.10.1 distributing meals as quickly as possible when they arrive from the kitchen to maintain food temperature.
  3.3.4.1.10.2 assisting residents with meal set-up if needed (i.e., opening packets or cartons, buttering bread if desired).
  3.3.4.1.10.3 serving meals to all residents seated together at the same time.
  3.3.4.1.10.4 offering appropriate substitutions if the residents don't like what they have received.
3.3.4.1.11 Utilize tray card or other mechanism to ensure the resident is served his/her prescribed diet and identify who to notify if a resident receives the wrong diet.
3.3.4.1.12 Demonstrate understanding of how to read menus.
3.3.4.1.13 Assist residents who are unable to feed themselves.
3.3.4.1.14 Demonstrate techniques for feeding someone who:
  3.3.4.1.14.1 bites down on utensils
  3.3.4.1.14.2 can't or won't chew
  3.3.4.1.14.3 holds food in mouth
  3.3.4.1.14.4 pockets food in cheek
  3.3.4.1.14.5 has poor lip closure
  3.3.4.1.14.6 has missing or no teeth
  3.3.4.1.14.7 has ill fitting dentures
  3.3.4.1.14.8 has a protruding tongue or tongue thrust
  3.3.4.1.14.9 will not open mouth
3.3.4.1.15 Demonstrate proper positioning of residents at mealtime.
3.3.4.1.16 Demonstrate skills for feeding residents who:
  3.3.4.1.16.1 are cognitively impaired
  3.3.4.1.16.2 have swallowing difficulty
3.3.4.1.16.3 have sensory problems
3.3.4.1.16.4 have physical deformities
3.3.4.1.17 Demonstrate positioning techniques for residents who:
3.3.4.1.17.1 have poor sitting balance
3.3.4.1.17.2 must take meals in bed
3.3.4.1.17.3 fall forward when seated
3.3.4.1.17.4 lean to one side
3.3.4.1.17.5 have poor neck control
3.3.4.1.17.6 have physical deformities
3.3.4.1.18 Demonstrate use of assistive devices.
3.3.4.1.19 Identify signs and symptoms that require alerting a nurse, including:
3.3.4.1.19.1 difficulty swallowing or chewing
3.3.4.1.19.2 coughing when swallowing liquids
3.3.4.1.19.3 refusal of meal
3.3.4.1.19.4 choking on food or fluids
3.3.4.1.19.5 excessive drooling
3.3.4.1.19.6 vomiting while eating
3.3.4.1.19.7 significant change in vital signs
3.3.4.1.20 Incorporate principles of a pleasant dining environment when assisting residents at mealtime including ensuring adequate lighting and eliminating background noise.
3.3.4.1.21 Demonstrate positive interaction with residents recognizing individual resident needs.
3.3.4.1.22 Ensure residents are dressed appropriately.
3.3.4.1.23 Allow residents to eat at their own pace.
3.3.4.1.24 Encourage independence and assist as needed.
3.3.4.1.25 Recognize and report as appropriate the risk factors and signs and symptoms of malnutrition, dehydration and fluid overload.
3.3.4.1.26 Accurately calculate and document intake and output including meal percentages and fluids.
3.3.4.2 Demonstrate understanding of basic anatomy and physiology in the following areas:
3.3.4.2.1 Respiratory system
3.3.4.2.2 Circulatory system
3.3.4.2.3 Digestive system
3.3.4.2.4 Urinary system
3.3.4.2.5 Musculoskeletal system
3.3.4.2.6 Endocrine system
3.3.4.2.7 Nervous system
3.3.4.2.8 Integumentary system
3.3.4.2.9 Sensory system
3.3.4.2.10 Reproductive system
3.3.4.3 Recognize abnormal signs and symptoms of common illness and conditions. Examples are:
3.3.4.3.1 Respiratory infection – Report coughing, sneezing, elevated temperatures.
3.3.4.3.2 Diabetes – Report excessive thirst, frequent urination, change in urine output, drowsiness, excessive perspiration and headache. Understand the healing process as it relates to diabetes.
3.3.4.3.3 Urinary tract infection – Report frequent urination, burning or pain on urination, elevated temperature, change in amount and color of urine, blood or sediment in urine and strong odors.
3.3.4.3.4 Cardiovascular conditions – Report shortness of breath, chest pain, blue color to lips, indigestion, sweating, change in pulse, edema of the feet or legs.
3.3.4.3.5 Cerebral vascular conditions – Report dizziness, changes in vision such as seeing double, change in blood pressure, numbness in any part of the body, or inability to move arm or leg.
3.3.4.3.6 Skin conditions – Report break in skin, discoloration such as redness, black and blue areas, rash, itching.
3.3.4.3.7 Gastrointestinal conditions – Report nausea, vomiting, pain, inability to swallow, bowel movement changes such as color, diarrhea, and constipation.
3.3.4.3.8 Infectious diseases.
3.3.4.4 Provide personal care and basic nursing skills as directed by the licensed nurse in the appropriate licensed entity.
3.3.4.4.1 Provide for resident's privacy and dignity when providing personal care.
3.3.4.4.2 Assist the resident to dress and undress.
3.3.4.4.3 Assist the resident with bathing and personal grooming.
3.3.4.4.4 Observe and report condition of the skin.
3.3.4.4.5 Assist the resident with oral hygiene, including prosthetic devices.
3.3.4.4.6 Administer oral hygiene for the unconscious resident.
3.3.4.4.7 Demonstrate measures to prevent decubitus ulcers, i.e., positioning, turning and applying heel and elbow protectors.
3.3.4.4.8 Assist the resident in using the bathroom. Understand consequences of not assisting resident to the bathroom.
3.3.4.4.9 Assist the resident in using a bedside commode, urinal and bedpan.
3.3.4.4.10 Demonstrate proper bed making procedures for occupied and unoccupied beds.
3.3.4.4.11 Feed residents oral table foods in an appropriate manner. Demonstrate proper positioning of residents who receive tube feeding.
3.3.4.4.12 Distribute nourishment and water.
3.3.4.4.13 Accurately measure and record with a variety of commonly used devices:
  3.3.4.4.13.1 Blood pressure
  3.3.4.4.13.2 Height and weight
  3.3.4.4.13.3 Temperature, pulse, respiration
  3.3.4.4.14 Assist the resident with shaving.
  3.3.4.4.15 Shampoo and groom hair.
  3.3.4.4.16 Provide basic care of toenails unless medically contraindicated.
  3.3.4.4.17 Provide basic care of fingernails unless medically contraindicated.
  3.3.4.4.18 Demonstrate proper catheter care.
  3.3.4.4.19 Demonstrate proper perineal care.
  3.3.4.4.20 Assist the licensed nurse with a physical examination.
  3.3.4.4.21 Apply a non-sterile dressing properly.
  3.3.4.4.22 Apply non-sterile compresses and soaks properly and safely.
  3.3.4.4.23 Apply cold and/or heat applications properly and safely.
  3.3.4.4.24 Demonstrate how to properly apply elastic stockings.
  3.3.4.4.25 Demonstrate proper application of physical restraints including side rails.
3.3.4.5 Demonstrate skills which incorporate principles of restorative care under the direction of a licensed nurse.
  3.3.4.5.1 Assist the resident in bowel and bladder training.
  3.3.4.5.2 Assist the resident in activities of daily living and encourage self-help activities.
  3.3.4.5.3 Assist the resident with ambulation aids, i.e., cane, quad cane, walker, crutches, wheelchair and transfer aids, i.e., hydraulic lifts.
  3.3.4.5.4 Perform range of motion exercise as instructed by the physical therapist or the licensed nurse.
  3.3.4.5.5 Assist in care and use of prosthetic devices.
  3.3.4.5.6 Assist the resident while using proper body mechanics.
  3.3.4.5.7 Assist the resident with dangling, standing and walking.
  3.3.4.5.8 Demonstrate proper turning and/or positioning both in bed and in a chair.
3.3.4.5.9 Demonstrate proper technique of transferring resident from low and high bed to chair.
3.3.4.6 Demonstrate safety and emergency procedures including proficiency in the Heimlich maneuver and certification in cardiopulmonary resuscitation (CPR).
3.3.4.7 Provide care to resident when death is imminent.
3.3.4.7.1 Discuss own feelings and attitude about death.
3.3.4.7.2 Explain how culture and religion influence a person’s attitude toward death.
3.3.4.7.3 Discuss the role of the CNA, the resident’s family and significant others involved in the dying process.
3.3.4.7.4 Discuss the stages of death and dying and the role of the nurse assistant.
3.3.4.7.5 Provide care, if appropriate, to the resident’s body after death.

4.0 Mandatory Orientation Period

4.1 Skilled And Intermediate Care Facilities
4.1.1 General Requirements
4.1.1.1 All Nursing Assistants hired to work in a skilled or intermediate care facility, after completing 150 hours of training, shall undergo a minimum of 80 hours of orientation at least 40 of which shall be clinical. An exception to this requirement is that any Nursing Assistant who has undergone 150 hours of training, sponsored by the facility where the Nursing Assistant will be employed immediately thereafter, shall only be required to complete additional facility specific orientation of 40 hours in the same facility.
4.1.1.2 All Certified Nursing Assistants hired to work in a skilled or intermediate care facility shall undergo a minimum of 80 hours of orientation; at least 40 of which shall be clinical.
4.1.1.3 While undergoing orientation, Nursing Assistants shall have direct physical contact with residents only while under the visual observation of a Certified Nursing Assistant or licensed nurse employed by the facility.
4.1.1.4 Any Certified Nursing Assistant or Nursing Assistant undergoing orientation may be considered a facility employee for purposes of satisfying the minimum facility staffing requirements.

4.1.2 Orientation Program Requirements
4.1.2.1 The mandatory orientation program shall include but is not limited to a review and written instruction on the following material by a licensed nurse:
4.1.2.1.1 Tour of the facility and assigned residents’ rooms
4.1.2.1.2 Fire and disaster plans
4.1.2.1.3 Emergency equipment and supplies
4.1.2.1.4 Communication (including the facility chain of command) and documentation requirements
4.1.2.1.5 Process for reporting emergencies, change of condition and shift report
4.1.2.1.6 Operation of facility equipment and supplies, including scales, lifts, special beds and tubs
4.1.2.1.7 Review of the plan of care for each assigned resident including:
4.1.2.1.7.1 ADL/personal care needs
4.1.2.1.7.2 Resident rights/abuse reporting
4.1.2.1.7.3 Safety and body mechanics: transfer techniques
4.1.2.1.7.4 Vital signs
4.1.2.1.7.5 Psychosocial needs
4.1.1.2.1 Nursing Assistants shall satisfactorily demonstrate competency in clinical skills including:

4.1.1.2.1.1 Taking and recording vital signs
4.1.1.2.1.2 Measuring and recording height and weight
4.1.1.2.1.3 Handwashing and infection control techniques
4.1.1.2.1.4 Caring for the resident’s environment
4.1.1.2.1.5 Bathing and skin care, including foot and nail care
4.1.1.2.1.6 Grooming and mouth care, including denture care
4.1.1.2.1.7 Dressing
4.1.1.2.1.8 Toileting, perineal and catheter care
4.1.1.2.1.9 Assisting with eating and hydration
4.1.1.2.1.10 Proper feeding techniques
4.1.1.2.1.11 Positioning, turning and transfers
4.1.1.2.1.12 Range of motion
4.1.1.2.1.13 Bowel and bladder training
4.1.1.2.1.14 Care and use of prosthetic and orthotic devices
4.1.1.2.1.15 Assisting with ambulation
4.1.1.2.1.16 Measuring intake and output
4.1.1.2.1.17 Use of elastic stockings, heel and ankle protectors
4.1.1.2.1.18 Bedmaking skills

4.1.2 Assisted Living Facilities
4.2.1 General Requirements

4.2.1.1.1 Nursing Assistants hired to work in an assisted living facility, after completing 150 hours of instruction, shall undergo a minimum 64 hours of orientation, at least 24 of which shall be clinical. An exception to this requirement is that any Nursing Assistant who has undergone 150 hours of training in a training program sponsored by the facility where the Nursing Assistant will be employed immediately thereafter shall only be required to complete an additional 32 hours of facility specific orientation in the same facility.

4.2.1.2 Certified Nursing Assistants hired to work in an assisted living facility shall undergo a minimum of 64 hours of orientation at least 24 of which shall be clinical.

4.2.1.3 While undergoing orientation, Nursing Assistants shall have direct physical contact with residents only while under the visual observation of a Certified Nursing Assistant or licensed nurse employed by the facility.

4.2.1.4 Any Certified Nursing Assistant or Nursing Assistant undergoing orientation may be considered a facility employee for purposes of satisfying the minimum facility staffing requirements as set forth by the Department.

4.2.2 Orientation Program Requirements

4.2.2.1.1 The mandatory orientation program shall include but is not limited to a review and written instruction on the following material by a licensed nurse:

4.2.2.1.1.1 Tour of the facility and assigned residents’ rooms
4.2.2.1.1.2 Fire and disaster plans
4.2.2.1.1.3 Emergency equipment and supplies
4.2.2.1.1.4 Communication and documentation requirements
4.2.2.1.1.5 Process for reporting emergencies, change of condition and shift report
4.2.2.1.1.6 Operation of facility equipment and supplies, including but not limited to scales, lifts, and wheelchairs.

4.2.2.1.1.7 Review of the plan of care for each assigned resident including:

4.2.2.1.1.7.1 ADL/personal care needs
4.2.2.1.1.7.2 Nutrition, hydration and feeding techniques and time schedules
4.2.2.1.1.7.3 Bowel and bladder training programs
4.2.2.1.7.4 Infection control procedures
4.2.2.1.7.5 Safety needs
4.2.2.1.8 Role and function of the CNA/NA
4.2.2.1.9 Resident rights/abuse reporting
4.2.2.1.10 Safety and body mechanics: transfer techniques
4.2.2.1.11 Vital signs
4.2.2.1.12 Psychosocial needs
4.2.2.1.13 Facility policies and procedures
4.2.2.2 Nursing Assistants shall satisfactorily demonstrate competency in clinical skills including:
4.2.2.2.1 Taking and recording vital signs
4.2.2.2.2 Measuring and recording height and weight
4.2.2.2.3 Handwashing and infection control techniques
4.2.2.2.4 Caring for the resident’s environment
4.2.2.2.5 Bathing and skin care
4.2.2.2.6 Grooming and mouth care, including denture care
4.2.2.2.7 Dressing
4.2.2.2.8 Toileting, perineal and catheter care
4.2.2.2.9 Assisting with eating and hydration
4.2.2.2.10 Proper feeding techniques
4.2.2.2.11 Positioning, turning and transfers
4.2.2.2.12 Range of motion
4.2.2.2.13 Bowel and bladder training
4.2.2.2.14 Care and use of prosthetic and orthotic devices
4.2.2.2.15 Assisting with ambulation
4.2.2.2.16 Measuring intake and output
4.2.2.2.17 Use of elastic stockings, heel and ankle protectors
4.2.2.2.18 Bedmaking skill
4.3 Temporary Agencies
4.3.1 General Requirements
4.3.1.1 All Certified Nursing Assistants employed by temporary agencies and placed in a facility in which they have not worked within the previous six (6) months shall undergo a minimum of two (2) hours of orientation prior to beginning their first shift at the facility.
4.3.1.2 Any Certified Nursing Assistant employed by a temporary agency and undergoing orientation shall not be considered a facility employee for purposes of satisfying the minimum facility staffing requirements.
4.3.1.3 Nursing Assistants employed by a temporary agency must be certified prior to placement in any nursing home.
4.3.2 Orientation Program Requirements
4.3.2.1 The mandatory two-hour orientation program shall include but is not limited to a review and written instruction on the following material by a licensed nurse:
4.3.2.1.1 Tour of the facility and assigned residents’ rooms
4.3.2.1.2 Fire and disaster plans
4.3.2.1.3 Emergency equipment and supplies
4.3.2.1.4 Communication and documentation requirements
4.3.2.1.5 Process for reporting emergencies, change of condition and shift report
4.3.2.1.6 Operation of facility equipment and supplies including but not limited to scales, lifts, special beds and tubs
4.3.2.1.7 Review of the plan of care for each assigned resident including:
4.3.2.1.7.1 ADL/personal care needs
4.3.2.1.7.2 Nutrition, hydration and feeding techniques and time schedules
4.3.2.1.7.3 Bowel and bladder training programs
4.3.2.1.7.4 Infection control procedures
4.3.2.1.7.5 Safety needs

5.0 Voluntary Senior Certified Nursing Assistant Certification

5.1 Training Requirements and Competency Test
Any Certified Nursing Assistant may pursue designation as a Senior Certified Nursing Assistant and shall be so designated if such individual meets the following minimum requirements:
5.1.1 Has been a Certified Nursing Assistant for a minimum of three years, in good standing with no adverse findings entered on the Nurse Aide Registry;
5.1.2 Has successfully completed an additional 50 hours of advanced training in a program approved by the Department;
5.1.3 Has passed a competency test provided by the Department or by a contractor approved by the Department.

5.2 Voluntary Senior CNA Curriculum
The Senior CNA program must meet the same requirements as those specified in Section 2 of these regulations in terms of classroom ratios of students to instructors. The Senior CNA curriculum must meet the following minimum course content, which will provide an advanced level of knowledge and demonstrable skills. All demonstrable competencies shall be documented by the RN instructor.

5.2.1 Leadership Training And Mentoring Skills
Key Concepts: Senior Certified Nursing Assistants will learn how to teach new Nursing Assistants standards of care. Senior CNAs will learn how to be a role model and preceptor for new Nursing Assistants and CNAs. Senior CNAs will learn how prepare assignments, conduct team meetings and resolve conflicts. Competencies: Function effectively as a team leader and mentor/preceptor within the facility.
5.2.1.1 Define the role and functions of an effective team leader and mentor.
5.2.1.2 Identify principles of adult learning.
5.2.1.3 Recognize various learning styles and communication barriers.
5.2.1.4 Assess learner knowledge.
5.2.1.5 Reserved
5.2.1.6 Demonstrate effective communication techniques.
5.2.1.7 Recognize the importance of teamwork.
5.2.1.8 Actively participate in resident care plan and team meetings.
5.2.1.9 Identify strategies for conflict management.
5.2.1.10 Learn how to prepare assignments, assist with scheduling and other administrative duties.

5.2.2 Dementia Training
Key Concepts: The senior CNA will gain greater knowledge of Alzheimer's Disease and related dementias. The senior CNA will gain the skills necessary to effectively care for residents exhibiting signs and symptoms of dementia. The senior CNA will act as a role model and resource person for other CNAs. Competencies: Demonstrate appropriate skills and techniques necessary to provide care to residents exhibiting signs and symptoms of dementia.
5.2.2.1 Recognize signs and symptoms of Alzheimer's Disease and related disorders.
5.2.2.2 Identify types of dementias.
5.2.2.3 Discuss methods for managing difficult behavior.
5.2.2.4 Demonstrate effective communication techniques.
5.2.2.5 Recognize specific issues that arise in providing care to persons with Alzheimer's Disease and other memory loss conditions and appropriate interventions for dealing with these problems including, but not limited to, agitation, combativeveness, sundown syndrome, wandering.

5.2.3 Advanced Geriatric Nursing Assistant Training
Key Concepts: The senior CNA will gain greater knowledge of anatomy and physiology with emphasis on the effects of aging. The senior CNA will effectively carry out restorative nursing skills as specified in the resident's plan of care.

Competencies:
5.2.3.1 Verbalize understanding of anatomy, physiology and pathophysiology of common disorders of the elderly.
5.2.3.1.1 Describe the effects of aging on the various organs and systems within the body.
5.2.3.1.2 Describe signs and symptoms of common disorders.
5.2.3.1.3 Describe the pathophysiology of common disorders.
5.2.3.1.4 Identify measures to assist residents with common medical problems (e.g., promoting oxygenation in residents with breathing problems).
5.2.3.1.5 Observe, report and document condition changes using appropriate medical terminology.
5.2.3.2 Maintain or improve resident mobility and the resident's ability to perform activities of daily living. Understand the reasons for rehabilitation (physiologically), reasons for, and benefits of Restorative Nursing and be able to demonstrate the same.
5.2.3.2.1 Assist the resident with exercise routine as specified in his/her care plan.
5.2.3.2.2 Carry out special rehabilitation procedures as ordered including working with the visually impaired, special feeding skills/devices, splints, ambulatory devices and prostheses.
5.2.3.2.3 Identify ways to prevent contractures.
5.2.3.2.4 Effectively communicate with the Rehabilitation Department.

6.0 Train-the-trainer Program Requirements
6.1 Each train-the-trainer program shall meet the following minimum requirements:
6.1.1 Training Course Content
6.1.1.1 Role of Trainer
6.1.1.2 Communication techniques
6.1.1.3 Demonstration skills
6.1.1.4 Teaching a process
6.1.1.5 Teaching techniques
6.1.1.6 Training techniques
6.1.1.7 Developing a formal training plan
6.1.2 Course Management Information
6.2.1.1 Training time shall consist of sixteen minimum hours.
6.2.1.2 The train-the-trainer instructor must have formal educational preparation or experience with skills of adult learning. Or in the case of High School Programs be a state-licensed high school teacher.

3201 ADMINISTRATIVE MANAGEMENT
3201.1 An Administrator shall be present forty (40) hours per week during regular business hours, and shall be responsible for the operation of the facility twenty-four (24) hours per day, seven (7) days per week.
3201.2 The Administrator shall be:
(a) Licensed or otherwise approved as a nursing home administrator in the District of Columbia; and
(b) Certified annually by a licensed physician as having no physical or mental disabilities that would interfere with carrying out the Administrator’s responsibilities.

3201.3 The Administrator shall appoint the Director of Nursing, the Medical Director, the Assistant Administrator, a licensed registered nurse and a department head or another licensed or approved Administrator to act as Administrator in his or her absence. The Acting Administrator shall have the necessary authority to act in any absence of the Administrator so that each facility has an authorized Administrator on duty during regular business hours.

3201.4 If the Administrator is absent for more than six (6) consecutive weeks the facility shall designate an acting administrator who is qualified to be an administrator and shall notify the licensing agency.

3201.5 Each facility shall have written guidelines on the authority and responsibilities of the Administrator and the Acting Administrator.

3202 PERSONNEL POLICIES

3202.1 Personnel policies shall be in writing and maintained in an employee manual that is given to each employee during orientation and shall be made available to the licensing agency.

3202.2 Each facility shall develop and maintain personnel policies which shall include methods used to document the presence or absence of communicable disease.

3202.3 A person whose name appears on the nurse aide abuse registry or who has been convicted of a crime involving one of the following with regard to a resident or an individual within that person’s care shall not provide services in the facility:
(a) Physical or sexual abuse or mistreatment;
(b) Financial exploitation or misappropriation of property; or
(c) Neglect.

3202.4 Each employee or person hired under contract who requires licensure, registration or certification in order to provide resident care shall be licensed, registered or certified under the laws and regulations of the District.

3203 LICENSES AND ADMINISTRATIVE RECORDS

3203.1 No facility shall operate without a license issued pursuant to the Act.

3203.2 A list of all employees, with the appropriate current license or certification numbers, shall be on file at the facility and available to the Director.

3203.3 Each facility license, permit, and documents of certification to operate the facility, if any, shall be posted in a conspicuous location in the room or hallway immediately inside the main or front door.

3203.4 Each facility shall comply with the number of authorized beds as indicated on each license.

3203.5 Each facility shall maintain the following administrative records:
(a) Payroll records;
(b) Reports of fire inspections;
(c) Compliance reports required to be maintained pursuant to the 1996 BOCA National Building Code, construction and permit regulations;
(d) Reports of inspections of the fire alarm system and fire drills;
(e) Reports of elevator inspections;
(f) Disaster plan and procedures;
(g) Certification of flame spread ratings of carpets, curtains and wall coverings;
(h) Each contract for professional and facility services;
(i) Radiation survey reports of x-ray equipment, if applicable;
(j) Summaries and analyses of each incident involving residents, staff, and visitors; and
(k) Policies and procedures governing the operations of the facility.
3203.6 A qualified employee shall be assigned the responsibility for ensuring that records are maintained, completed, and preserved.
3203.7 Each administrative record shall be retained for at least five (5) years from the date of creation.

3206 RESIDENT CARE POLICIES
3206.1 There shall be written policies to govern nursing care and related medical and other services provided.
3206.2 These policies shall be developed with the advice of a committee of professional personnel, including the Medical Director, the Director of Nursing and appropriate department heads as deemed necessary by the facility.
3206.3 Policies shall be reviewed by the committee at least annually with written notations, signatures, and dates of review.
3206.4 The Administrator shall be responsible for the execution of these policies.

3207. PHYSICIAN SERVICES AND MEDICAL SUPERVISION OF RESIDENTS
3207.1 The Medical Director shall assume full responsibility for the overall supervision of the medical care provided in the facility. If the Medical Director is absent, he or she shall delegate the continuity and supervision of resident care to a qualified physician.
3207.2 The Medical Director shall:
(a) Coordinate medical care in the facility;
(b) Implement resident care policies;
(c) Develop written medical bylaws and medical policies;
(d) Serve as liaison with attending physicians to ensure the prompt issuance and implementation of orders;
(e) Review incidents and accidents that occur on the premises to identify hazards to health and safety;
(f) Ensure that medical components of resident care policies are followed;
(g) Assist the Administrator in arranging twenty-four (24) hours of continuous physician services a day for medical emergencies and in developing procedures for emergency medical care; and
(h) Ensure that attending medical professionals who treat residents in the facility have current District of Columbia licenses, U.S. Drug Enforcement Agency and D.C. Controlled Substances registrations on file in the facility, along with initial and annual certifications of their freedom from communicable disease.
3207.9 The Medical Director shall make arrangements for the provision of medical care twenty-four (24) hours a day.

3208. NURSING SERVICES
...3208.3 Each Director of Nursing hired after the effective date of these regulations shall have, at a minimum, a District of Columbia license as a registered nurse...
3208.4 Each Director of Nursing shall participate annually in a minimum of twelve (12) hours of continuing education programs relating to geriatric, administration, or related areas of care.
3208.5 The Director of Nursing shall provide for, at a minimum, the following:
...(4) Orientation;
(5) In-service education...
3209. NURSING SERVICES SUPERVISION
...3209.2 Each Nursing Services Supervisor shall:
(a) Be qualified by education or experience in geriatric, rehabilitation or psychiatric nursing or
other appropriate nursing discipline, with appropriate documentation; and
(b) Be currently licensed as a registered nurse in the District of Columbia.

3211 NURSING PERSONNEL
...3211.9 A facility shall not employ an individual, other than a certified nurse aide, as a nurse aide
unless that person is enrolled and actively participating in a training and competency evaluation
program approved by the District.
3211.10 A facility shall not employ an individual, other than a certified nurse aide, as a nurse aide if
that person has been employed as a nurse aide for six (6) of the immediately preceding twelve (12)
months and he or she has not completed a training and competency evaluation program approved
by the District.
3211.11 The facility shall provide regular performance review and regular in-service education to
ensure that individuals employed as nurse aides are competent to perform services as nurse aides.
3211.12 The facility shall ensure that nurse aides, including certified nurse aides, are competent in
those skills necessary to care for residents’ needs, as identified in the residents’ individualized
assessments and plans of care.

3213. RESTORATIVE NURSING CARE PROGRAM
...3213.3 Each nursing employee who provides restorative nursing services shall attend educational
programs in restorative nursing that includes practical experience.

3214 IN-SERVICE EDUCATION FOR NURSING PERSONNEL
3214.1 A comprehensive on-going in-service education program shall be provided by the facility
and shall include training on the provision of resident care.
3214.2 Each nursing employee shall be trained in emergency procedures, disaster plans and fire
evacuation plans.
3214.3 Each area of in-service training shall be conducted by a registered nurse, qualified and
experienced in the area of instruction.
3214.4 A facility shall designate an In-Service Education Director who shall maintain records of
training and orientation activities, which include the agenda, instructions, and participants. Records
of each in-service education program shall be kept on file and available for inspection.
3214.5 Each nursing employee shall be encouraged to attend education and training programs
conducted in the community that relate to nursing practice.
3214.6 Each facility shall have space for conducting in-service programs.

3215 VENTILATOR CARE SERVICES
...3215.6 In order to operate a ventilator unit, a facility shall develop and the Department of
Health shall approve, a plan of operation which shall include:
...(d) A quality assurance plan which shall include:
(1) Assignment of responsibility for monitoring and evaluation activities;
(2) Identification of indicators and appropriate clinical critical criteria for monitoring the
most important aspects; and
(3) Establishment of thresholds (levels or trends) for the indicators that will trigger evaluation
of care.
3217. INFECTION CONTROL
3217.1 The facility shall have an Infection Control Committee composed of the Administrator or
designee and members of the medical, nursing, dietary, pharmacy, housekeeping, maintenance, and
other services.
3217.7 The Infection Control Committee shall ensure that in-service training on infection control
policies and procedures is provided at least annually to each employee of each service represented
on the Committee.

3219 DIETARY SERVICES
3219.3 A regularly scheduled program of in-service education shall be conducted for all food
service employees hired after the effective date of these regulations. Records should be maintained
on in-service programs and shall be available for review.
3219.4 The curriculum for regularly scheduled in-service education programs for food service
employees may include, but not be limited to, the following:
(a) Disaster and emergency procedures;
(b) Infection control;
(c) Safety and accident prevention;
(d) Therapeutic diets;
(e) Food handling;
(f) Personal hygiene;
(g) Residents’ rights; and
(h) Psychological aspects of aging.

3223 REHABILITATIVE SERVICES
3223.2 There shall be a regularly scheduled program of in-service education programs for the
rehabilitative services staff.

3224. SUPERVISION OF PHARMACEUTICAL SERVICES
3224.3 The supervising pharmacist shall do the following:
...(c) Provide a minimum of two (2) in-service sessions per year to all nursing employees, including
one (1) session that includes indications, contraindications and possible side effects of commonly
used medications.

3228. PODIATRY SERVICES PROGRAM
3228.1 Each facility shall have a written agreement for obtaining regular podiatry services with a
podiatrist licensed in the District of Columbia.
3228.2 Podiatry services shall include direct services to residents, as well as consultation and in-
service training for nursing employees.

3229. SOCIAL SERVICES
3229.2 A nursing facility with more than 120 beds shall employ a full-time social worker who is
licensed in the District of Columbia pursuant to the District of Columbia Health Occupations
3229.4 In conjunction with the resident’s admission, stay, and discharge, the functions of the
social services program shall include the following:
...(g) Annual in-service training to other staff of the facility on subjects including, but not limited to,
resident’s rights, psychosocial aspects of aging and confidentiality.
3230. RESIDENT ACTIVITIES
...3230.5 The responsibilities of the director of the activities program or his or her designee shall include, but not be limited to, the following:
...(e) To assist in the development of and participate in staff orientation and annual education programs for all staff in the facility...

3231. MEDICAL RECORDS
3231.1 The facility Administrator or designee shall be responsible for implementing and maintaining the medical records service.
3231.2 A designated employee of the facility shall be assigned the responsibility for ensuring that each medical record is maintained, completed and preserved.
3231.3 The training for the designated employee shall include the following areas:
(a) Medical terminology;
(b) Disease index coding systems;
(c) Confidentiality;
(d) Filing;
(e) Storage; and
(f) Analysis of records.
3231.4 The facility shall provide in-service training on medical records policies and procedures on reporting, recording, and legal aspects of documentation annually to each employee who writes in the medical records.
3231.5 The medical records shall be completed within thirty (30) days from the date of discharge.
3231.6 Each medical record shall be indexed according to the name of the resident and final diagnosis to facilitate acquisition of statistical medical information and retrieval of records for research or administrative action.
3231.7 Basic information to be indexed by each diagnosis shall include at least the following:
(a) Medical record number;
(b) Age;
(c) Sex;
(d) Physician; and
(e) Length of stay in days.
3231.8 Each facility shall maintain an area for processing medical records with adequate space, equipment, supplies, and lighting for staff.
3231.9 Each medical record shall serve as a basis for planning resident care and shall provide a means of communication between the physician and other employees involved in the resident's care.
3231.10 Each medical record shall document the course of the resident's condition and treatment and serve as a basis for review, and evaluation of the care given to the resident.
3231.11 Each entry into a medical record shall be legible, current, in black ink, dated and signed with full signature and discipline identification.
3231.12 Each medical record shall include the following information:
(a) The resident's name, age, sex, date of birth, race, marital status, home address, telephone number, and religion;
(b) Full names, addresses and telephone numbers of the personal physician, dentist and interested family member or sponsor;
(c) Medicaid, Medicare and health insurance numbers;
(d) Social security and other entitlement numbers;
(e) Date of admission, results of pre-admission screening, admitting diagnoses, and final diagnoses;
(f) Date of discharge, and condition on discharge;
(g) Hospital discharge summaries or a transfer form from the attending physician;
(h) Medical history, allergies, physical examination, diagnosis, prognosis and rehabilitation potential;
(i) Vaccine history, if available, and other pertinent information about immune status in relation to vaccine preventable disease;
(j) Current status of resident’s condition;
(k) Physician progress notes which shall be written at the time of observation to describe significant changes in the resident’s condition, when medication or treatment orders are changed or renewed or when the resident’s condition remains stable to indicate a status quo condition;
(l) The resident’s medical experiences upon discharge, which shall be summarized by the attending physician and shall include final diagnoses, course of treatment in the facility, essential information of illness, medications on discharge and location to which the resident was discharged;
(m) Nurse’s notes which shall be kept in accordance with the residents’ medical assessment and the policies of the nursing service;
(n) A record of the resident’s assessment and ongoing reports of physical therapy, occupational therapy, speech therapy, podiatry, dental, therapeutic recreation, dietary, and social services;
(o) The plan of care;
(p) Consent forms and advance directives; and
(q) A current inventory of the resident’s personal clothing, belongings and valuables.

3231.13 The facility shall permit each resident to inspect his or her medical records on request.

3256. HOUSEKEEPING AND MAINTENANCE SERVICES

3256.14 A regularly scheduled in-service training program shall be provided for housekeeping and maintenance staff.

3258. GENERAL SAFETY AND INSPECTION
3258.1 The facility shall have detailed written plans and procedures to meet all potential emergencies and disasters such as fire, severe weather, and missing residents.
3258.2 First aid supplies shall be readily available on each unit to each employee.

3259. FIRE AND EMERGENCY PREPAREDNESS
3259.1 The facility shall have a manual of action to be taken in the event of a fire, approved by the D.C. Fire Department.
3259.2 The fire instructions manual shall specify the following:
   (a) The plan to be followed in case of fire, explosion, or other emergency;
   (b) The persons to be notified;
   (c) The locations of alarm signals and fire extinguishers;
   (d) The evacuation routes;
   (e) The procedures for evacuating the residents;
   (f) The frequency of fire drills; and
   (g) The assignment of specific tasks and responsibilities to the employees on each shift in the event of fire, explosion or other emergency.
3259.3 A fire plan shall be developed with the assistance of qualified fire and safety experts. Each employee shall be trained to perform specific tasks according to the fire plan.
3259.4 Simulated drills testing the effectiveness of the fire plan shall be conducted for each shift at least four (4) times a year.
3259.5 Fire and emergency evacuation plans shall be posted conspicuously on each floor and throughout the facility.
3259.6 The most recent fire inspection report with the date of the latest inspection of the alarm system shall be available in the Administrator's office.

**FLORIDA**

**59A-4.103 Licensure, Administration and Fiscal Management.**


...(4) Administration.

(a) The licensee of each nursing home shall have full legal authority and responsibility for the operation of the facility.
(b) The licensee of each facility shall designate one person, who is licensed by the Agency for Health Care Administration, Board of Nursing Home Administrators under Chapter 468, Part II, F.S., as Administrator who oversees the day to day administration and operation of the facility.
(c) Each nursing home shall be organized according to a written Table of Organization.
(d) The licensee shall submit a monthly vacant bed report which is incorporated by reference by using AHCA Form 3110-0013, January 2002, “Nursing Home Monthly Bed Vacancy Report”, as authorized by Section 400.141, F.S. This form is available from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive MS 33, Tallahassee, FL 32308.
(e) Submit Nursing Home Staffing Report which is incorporated by reference by using AHCA Form 3110-0012, January 2002, “Nursing Home Staffing Report”, as authorized by Section 400.141, F.S. This form is available from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive MS 33, Tallahassee, FL 32308.

**59A-4.106 Facility Policies.**

...(2) Each nursing home facility shall adopt, implement, and maintain written policies and procedures governing all services provided in the facility.

(3) All policies and procedures shall be reviewed at least annually and revised as needed with input from, at minimum, the facility Administrator, Medical Director, and Director of Nursing.

(4) Each facility shall maintain policies and procedures in the following areas:

(a) Activities;
(b) Advance directives;
(c) Consultant services;
(d) Death of residents in the facility;
(e) Dental services;
(f) Staff education, including hiv/aids Training;
(g) Diagnostic services;
(h) Dietary services;
(i) Disaster preparedness;
(j) Fire prevention and control;
(k) Housekeeping;
(l) Infection control;
(m) Laundry service;
(n) Loss of power, water, air conditioning or heating;
(o) Medical director/consultant services;
(p) Medical records;
(q) Mental health;
(r) Nursing services;
(s) Pastoral services;
(t) Pharmacy services;
(u) Podiatry services;
(v) Resident care planning;
(w) Resident identification;
(x) Resident’s rights;
(y) Safety awareness;
(z) Social services;
(aa) Specialized rehabilitative and restorative services;
(bb) Volunteer services; and
(cc) The reporting of accidents or unusual incidents involving any resident, staff member, volunteer or visitor. This policy shall include reporting within the facility and to the ahca.

(5) Staff Education.
(a) Each nursing home shall develop, implement, and maintain a written staff education plan which ensures a coordinated program for staff education for all facility employees. The staff education plan shall be reviewed at least annually by the quality assurance committee and revised as needed.
(b) The staff education plan shall include both pre-service and in-service programs.
(c) The staff education plan shall ensure that education is conducted annually for all facility employees, at a minimum, in the following areas:
1. Prevention and control of infection;
2. Fire prevention, life safety, and disaster preparedness;
3. Accident prevention and safety awareness program;
4. Resident’s rights’
5. Federal law, 42 CFR 483, Requirements for Long Term Care Facilities, September 26, 1991, which is incorporated by reference, and state rules and regulations, Chapter 400, Part II, F.S., and this rule;
(d) The staff education plan shall ensure that all non-licensed employees of the nursing home complete an initial educational course on HIV/AIDS. If the employee does not have a certificate of completion at the time they are hired, they must have two hours within six months of employment or before the staff provides care for an HIV/AIDS diagnosed resident. All employees shall have a minimum of one hour biennially.
(6) Advance Directives. Each nursing home shall have written policies and procedures, which delineate the nursing home’s position with respect to the state law and rules relative to advance directives.

(1) Each nursing home facility shall retain, pursuant to a written agreement, a physician licensed under Chapter 458 or 459, F.S., to serve as Medical Director. In facilities with a licensed capacity of 60 beds or less, pursuant to written agreement, a physician licensed under Chapter 458 or 459, F.S., may serve as Medical Consultant in lieu of a Medical Director.
...If the physician chooses to designate another health care professional to fulfill the physician's component of resident care, they may do so after the required visit. All responsibilities of a physician, except for the position of medical director, may be carried out by other health care professionals acting within their scope of practice.

59A-4.108 Nursing Services.

(1) The Administrator of each nursing home will designate one full time registered nurse as a Director of Nursing who shall be responsible and accountable for the supervision and administration of the total nursing services program.

59A-4.118 Medical Records.

(1) The facility shall designate a full-time employee as being responsible and accountable for the facility's medical records. If this employee is not a qualified Medical Record Practitioner, then the facility shall have the services of a qualified Medical Record Practitioner on a consultant basis. A qualified Medical Record Practitioner is one who is eligible for a certification as a Registered Record Administrator or an Accredited Record Technician by the American Health Information Management Association or a graduate of a School of Medical Record Science that is accredited jointly by the Council on Medical Education of the American Medical Association and the American Health Information Management Association.

(2) Each medical record shall contain sufficient information to clearly identify the resident, his diagnosis and treatment, and results. Medical records shall be complete, accurate, accessible and systematically organized.

(3) Medical records shall be retained for a period of five years from the date of discharge. In the case of a minor, the record shall be retained for 3 years after a resident reaches legal age under state law.


(1) The facility shall maintain a risk management and quality assurance committee as required in Section 400.147, F.S.

(2) The facility shall use AHCA Form 3110-0009, Revised, January, 2002, October, 2001, “Confidential Nursing Home Initial Adverse Incident Report – 1 Day,” and AHCA Form 3110-0010, 3110-0010A, and 3110-0010B, Revised, January, 2002, “Confidential Nursing Home Complete Adverse Incident Report – 15 Day,” which are incorporated by reference when reporting events as stated in Section 400.147, F.S. These forms may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308.

(3) Each facility shall use AHCA Form 3110-0008, Revised, October 2008, “Nursing Home Monthly Liability Claim Information”, which are incorporated by reference when reporting liability claims filed against it as required by Section 400.147(9), F.S. These forms may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308.

59A-4.126 Disaster Preparedness.

(1) Each nursing home facility shall have a written plan with procedures to be followed in the event of an internal or externally caused disaster. The initiation, development, and maintenance of this plan shall be the responsibility of the facility administrator, and shall be accomplished in consultation with the Department of Community Affairs, County Emergency Management Agency.

(2) The plan shall include, at a minimum, the following:

(a) Criteria, as shown, in Section 400.23(2)(g), F.S.; and

(b) The Emergency Management Planning Criteria for Nursing Home Facilities, AHCA 3110-6006,
March, 1994, which is incorporated herein by reference and available from the Agency for Health Care Administration.

(1) A licensee shall comply with the life safety code requirements and building code standards applicable at the time of departmental approval of the facility’s Third Stage – Construction Documents.
(2) Fire prevention, fire protection, and life safety practices shall be the responsibility of the facility Administrator.
(3) All fires or explosions shall be reported immediately to the local fire department. A written report of each fire or explosion shall be made to the AHCA, with a copy to the director of the local county health unit, within ten days of occurrence. Such report shall contain the following information:
   (a) The name and complete address of the facility;
   (b) The date of the report;
   (c) The date, time, cause, and location of the fire or explosion;
   (d) The extent of flame, smoke, and water damage;
   (e) The extent of other damage;
   (f) The estimated amount of loss;
   (g) The number of residents with injuries and the number of resident deaths;
   (h) The name and job title of the individual who reported the fire or explosion;
   (i) The time that the fire or explosion was reported and identification of to whom it was reported;
   (j) Information as to whether or not the in-house fire alarm was activated;
   (k) Information as to whether or not the fire or explosion was reported to the local fire department, and if not, an explanation as to why it was not;
   (l) A description of the method used to extinguish the fire;
   (m) Information as to whether or not the facility is equipped with an automatic fire sprinkler system;
   (n) The Administrator’s narrative description of the incident and what action, if any, is to be taken to prevent further occurrences; and
   (o) Attachments consisting of:
      A copy of the fire report of the local fire department, if applicable, and Photographs, if damage was extensive.
(4) Within ten days of receipt, the facility shall forward to the appropriate Area Office of the AHCA a copy of all reports of fire safety inspections made by local fire authorities.

59A-4.1075 Medical Director.
(1) Each facility will have only one physician who is designated as Medical Director.
(2)(a) The Medical Director must be a physician licensed under Chapter 458 or 459, F.S., the nursing home administrator may require that the Medical Director be certified or credentialed through a recognized certifying or credentialing organization.
   (b) A Medical Director who does not have hospital privileges shall be certified or credentialed through a recognized certifying or credentialing body, such as the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the American Medical Directors Association, the Healthcare Facilities Accreditation Program of the American Osteopathic Association, the Bureau of Osteopathic Specialists of the American Osteopathic Association, the Florida Medical Directors Association or a Health maintenance organization licensed in Florida.
   (c) A physician must have his/her principal office within 60 miles of all facilities for which he/she serves as Medical Director. Principal office is the office maintained by a physician pursuant to
Section 458.351 or 459.026, F.S., and where the physician delivers the majority of medical services. The physician must specify the address of his/her principal office at the time of becoming Medical Director. The agency may approve a request to waive this requirement for rural facilities that exceed this distance requirement. A rural facility is a facility located in a county with a population density of no greater than 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from any other nursing home facility within the same county.

(d) The facility shall appoint a Medical Director who shall visit the facility at least once a month. The Medical Director shall review all new policies and procedures; review all new incident and new accident reports from the facility to identify clinical risk and safety hazards. The Medical Director shall review the most recent grievance logs for any complaints or concerns related to clinical issues. Each visit must be documented in writing by the Medical Director.

(3) A physician may be Medical Director of a maximum of 10 nursing homes at any one time. The Medical Director, in an emergency where the health of a resident is in jeopardy and the attending physician or covering physician cannot be located, may assume temporary responsibility of the care of the resident and provide the care deemed necessary.

(4) The Medical Director appointed by the facility shall meet at least quarterly with the quality assessment and assurance committee of the facility.

(5) The Medical Director appointed by the facility shall participate in the development of the comprehensive care plan for the resident when he/she is also the attending physician of the resident.

STATUTES:
400.062 License required; fee; disposition.
...(2) Separate licenses shall be required for facilities maintained in separate premises, even though operated under the same management. However, a separate license shall not be required for separate buildings on the same grounds.

400.0625 Minimum standards for clinical laboratory test results and diagnostic X-ray results.
(1) Each nursing home, as a requirement for issuance or renewal of its license, shall require that all clinical laboratory tests performed for the nursing home be performed by a clinical laboratory licensed under the provisions of chapter 483, except for such self-testing procedures as are approved by the agency by rule. Results of clinical laboratory tests performed prior to admission which meet the minimum standards provided in s. 483.181(3) shall be accepted in lieu of routine examinations required upon admission and clinical laboratory tests which may be ordered by a physician for residents of the nursing home.

(2) Each nursing home, as a requirement for issuance or renewal of its license, shall establish minimum standards for acceptance of results of diagnostic X rays performed by or for the nursing home. Such minimum standards shall require licensure or registration of the source of ionizing radiation under the provisions of chapter 404. Diagnostic X-ray results which meet the minimum standards shall be accepted in lieu of routine examinations required upon admission and in lieu of diagnostic X rays which may be ordered by a physician for residents of the nursing home.

400.071 Application for license.
(1) In addition to the requirements of part II of chapter 408, the application for a license shall be under oath and must contain the following:

...(b) A signed affidavit disclosing any financial or ownership interest that a controlling interest as defined in part II of chapter 408 has held in the last 5 years in any entity licensed by this state or any other state to provide health or residential care which has closed voluntarily or involuntarily;
has filed for bankruptcy; has had a receiver appointed; has had a license denied, suspended, or revoked; or has had an injunction issued against it which was initiated by a regulatory agency. The affidavit must disclose the reason any such entity was closed, whether voluntarily or involuntarily.

...(5) As a condition of licensure, each facility must establish and submit with its application a plan for quality assurance and for conducting risk management.

400.111 Disclosure of controlling interest.
In addition to the requirements of part II of chapter 408, the licensee shall submit a signed affidavit disclosing any financial or ownership interest that a controlling interest has held within the last 5 years in any entity licensed by the state or any other state to provide health or residential care which entity has closed voluntarily or involuntarily; has filed for bankruptcy; has had a receiver appointed; has had a license denied, suspended, or revoked; or has had an injunction issued against it which was initiated by a regulatory agency. The affidavit must disclose the reason such entity was closed, whether voluntarily or involuntarily.

400.118 Quality assurance; early warning system; monitoring; rapid response teams.
(1) The agency shall establish an early warning system to detect conditions in nursing facilities that could be detrimental to the health, safety, and welfare of residents. The early warning system shall include, but not be limited to, analysis of financial and quality-of-care indicators that would predict the need for the agency to take action pursuant to the authority set forth in this part.
(2) The agency shall also create teams of experts that can function as rapid response teams to visit nursing facilities identified through the agency's early warning system. Rapid response teams may visit facilities that request the agency's assistance. The rapid response teams shall not be deployed for the purpose of helping a facility prepare for a regular survey.

400.119 Confidentiality of records and meetings of risk management and quality assurance committees.
(1) Incident reports filed with the risk manager and administrator of a long-term care facility licensed under this part or part I of chapter 429, notifications of the occurrence of an adverse incident, and adverse incident reports from the facility are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
(2)(a) The meetings of an internal risk management and quality assurance committee of a long-term care facility licensed under this part or part I of chapter 429 are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.
(b) Records of those meetings are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
(3)(a) If the Agency for Health Care Administration has a reasonable belief that conduct by a staff member or employee of a facility is criminal activity or grounds for disciplinary action by a regulatory board, the agency may disclose records made confidential and exempt pursuant to this section to the appropriate law enforcement agency or regulatory board.
(b) Records disclosed to a law enforcement agency remain confidential and exempt until criminal charges are filed.
(4) Records made confidential and exempt under this section and that are obtained by a regulatory board are not available to the public as part of the record of investigation and prosecution in a disciplinary proceeding made available to the public by the agency or the appropriate regulatory board. However, the agency or the appropriate regulatory board shall make available, upon request by a health care professional against whom probable cause has been found, any such records that form the basis of the determination of probable cause.
400.141 Administration and management of nursing home facilities.

(1) Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(a) Be under the administrative direction and charge of a licensed administrator.

(b) Appoint a medical director licensed pursuant to chapter 458 or chapter 459. The agency may establish by rule more specific criteria for the appointment of a medical director.

(c) Have available the regular, consultative, and emergency services of physicians licensed by the state.

...(j) Keep full records of resident admissions and discharges; medical and general health status, including medical records, personal and social history, and identity and address of next of kin or other persons who may have responsibility for the affairs of the residents; and individual resident care plans including, but not limited to, prescribed services, service frequency and duration, and service goals. The records shall be open to inspection by the agency.

(k) Keep such fiscal records of its operations and conditions as may be necessary to provide information pursuant to this part.

(l) Furnish copies of personnel records for employees affiliated with such facility, to any other facility licensed by this state requesting this information pursuant to this part. Such information contained in the records may include, but is not limited to, disciplinary matters and any reason for termination. Any facility releasing such records pursuant to this part shall be considered to be acting in good faith and may not be held liable for information contained in such records, absent a showing that the facility maliciously falsified such records.

(m) Publicly display a poster provided by the agency containing the names, addresses, and telephone numbers for the state’s abuse hotline, the State Long-Term Care Ombudsman, the Agency for Health Care Administration consumer hotline, the Advocacy Center for Persons with Disabilities, the Florida Statewide Advocacy Council, and the Medicaid Fraud Control Unit, with a clear description of the assistance to be expected from each.

(n) Submit to the agency the information specified in s. 400.071(1)(b) for a management company within 30 days after the effective date of the management agreement.

...(r) Report to the agency any filing for bankruptcy protection by the facility or its parent corporation, divestiture or spin-off of its assets, or corporate reorganization within 30 days after the completion of such activity.

(s) Maintain general and professional liability insurance coverage that is in force at all times. In lieu of general and professional liability insurance coverage, a state-designated teaching nursing home and its affiliated assisted living facilities created under s. 430.80 may demonstrate proof of financial responsibility as provided in s. 430.80(3)(g).

(t) Maintain in the medical record for each resident a daily chart of certified nursing assistant services provided to the resident. The certified nursing assistant who is caring for the resident must complete this record by the end of his or her shift. This record must indicate assistance with activities of daily living, assistance with eating, and assistance with drinking, and must record each offering of nutrition and hydration for those residents whose plan of care or assessment indicates a risk for malnutrition or dehydration.

(2) Facilities that have been awarded a Gold Seal under the program established in s. 400.235 may develop a plan to provide certified nursing assistant training as prescribed by federal regulations and state rules and may apply to the agency for approval of their program.

400.145 Records of care and treatment of resident; copies to be furnished.

(1) Unless expressly prohibited by a legally competent resident, any nursing home licensed pursuant to this part shall furnish to the spouse, guardian, surrogate, proxy, or attorney in fact, as provided in chapters 744 and 765, of a current resident, within 7 working days after receipt of a
written request, or of a former resident, within 10 working days after receipt of a written request, a copy of that resident’s records which are in the possession of the facility. Such records shall include medical and psychiatric records and any records concerning the care and treatment of the resident performed by the facility, except progress notes and consultation report sections of a psychiatric nature. Copies of such records shall not be considered part of a deceased resident’s estate and may be made available prior to the administration of an estate, upon request, to the spouse, guardian, surrogate, proxy, or attorney in fact, as provided in chapters 744 and 765. A facility may charge a reasonable fee for the copying of resident records. Such fee shall not exceed $1 per page for the first 25 pages and 25 cents per page for each page in excess of 25 pages. The facility shall further allow any such spouse, guardian, surrogate, proxy, or attorney in fact, as provided in chapters 744 and 765, to examine the original records in its possession, or microfilms or other suitable reproductions of the records, upon such reasonable terms as shall be imposed, to help assure that the records are not damaged, destroyed, or altered.

(2) No person shall be allowed to obtain copies of residents’ records pursuant to this section more often than once per month, except that physician’s reports in the residents’ records may be obtained as often as necessary to effectively monitor the residents’ condition.

400.147 Internal risk management and quality assurance program.
(1) Every facility shall, as part of its administrative functions, establish an internal risk management and quality assurance program, the purpose of which is to assess resident care practices; review facility quality indicators, facility incident reports, deficiencies cited by the agency, and resident grievances; and develop plans of action to correct and respond quickly to identified quality deficiencies. The program must include:
(a) A designated person to serve as risk manager, who is responsible for implementation and oversight of the facility’s risk management and quality assurance program as required by this section.
(b) A risk management and quality assurance committee consisting of the facility risk manager, the administrator, the director of nursing, the medical director, and at least three other members of the facility staff. The risk management and quality assurance committee shall meet at least monthly.
(c) Policies and procedures to implement the internal risk management and quality assurance program, which must include the investigation and analysis of the frequency and causes of general categories and specific types of adverse incidents to residents.
(d) The development and implementation of an incident reporting system based upon the affirmative duty of all health care providers and all agents and employees of the licensed health care facility to report adverse incidents to the risk manager, or to his or her designee, within 3 business days after their occurrence.
(e) The development of appropriate measures to minimize the risk of adverse incidents to residents, including, but not limited to, education and training in risk management and risk prevention for all nonphysician personnel, as follows:
1. Such education and training of all nonphysician personnel must be part of their initial orientation; and
2. At least 1 hour of such education and training must be provided annually for all nonphysician personnel of the licensed facility working in clinical areas and providing resident care.
(f) The analysis of resident grievances that relate to resident care and the quality of clinical services.
(2) The internal risk management and quality assurance program is the responsibility of the facility administrator.
(3) In addition to the programs mandated by this section, other innovative approaches intended to reduce the frequency and severity of adverse incidents to residents and violations of residents’ rights shall be encouraged and their implementation and operation facilitated.
(4) Each internal risk management and quality assurance program shall include the use of incident reports to be filed with the risk manager and the facility administrator. The risk manager shall have free access to all resident records of the licensed facility. The incident reports are part of the workpapers of the attorney defending the licensed facility in litigation relating to the licensed facility and are subject to discovery, but are not admissible as evidence in court. A person filing an incident report is not subject to civil suit by virtue of such incident report. As a part of each internal risk management and quality assurance program, the incident reports shall be used to develop categories of incidents which identify problem areas. Once identified, procedures shall be adjusted to correct the problem areas.

(5) For purposes of reporting to the agency under this section, the term “adverse incident” means:

(a) An event over which facility personnel could exercise control and which is associated in whole or in part with the facility's intervention, rather than the condition for which such intervention occurred, and which results in one of the following:

1. Death;
2. Brain or spinal damage;
3. Permanent disfigurement;
4. Fracture or dislocation of bones or joints;
5. A limitation of neurological, physical, or sensory function;
6. Any condition that required medical attention to which the resident has not given his or her informed consent, including failure to honor advanced directives;
7. Any condition that required the transfer of the resident, within or outside the facility, to a unit providing a more acute level of care due to the adverse incident, rather than the resident’s condition prior to the adverse incident; or
8. An event that is reported to law enforcement or its personnel for investigation; or

(b) Resident elopement, if the elopement places the resident at risk of harm or injury.

(6) The internal risk manager of each licensed facility shall:

(a) Investigate every allegation of sexual misconduct which is made against a member of the facility's personnel who has direct patient contact when the allegation is that the sexual misconduct occurred at the facility or at the grounds of the facility;

(b) Report every allegation of sexual misconduct to the administrator of the licensed facility; and

(c) Notify the resident representative or guardian of the victim that an allegation of sexual misconduct has been made and that an investigation is being conducted.

(7) The facility shall initiate an investigation and shall notify the agency within 1 business day after the risk manager or his or her designee has received a report pursuant to paragraph (1)(d). The notification must be made in writing and be provided electronically, by facsimile device or overnight mail delivery. The notification must include information regarding the identity of the affected resident, the type of adverse incident, the initiation of an investigation by the facility, and whether the events causing or resulting in the adverse incident represent a potential risk to any other resident. The notification is confidential as provided by law and is not discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board. The agency may investigate, as it deems appropriate, any such incident and prescribe measures that must or may be taken in response to the incident. The agency shall review each incident and determine whether it potentially involved conduct by the health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 shall apply.

(8)(a) Each facility shall complete the investigation and submit an adverse incident report to the agency for each adverse incident within 15 calendar days after its occurrence. If, after a complete investigation, the risk manager determines that the incident was not an adverse incident as defined in subsection (5), the facility shall include this information in the report. The agency shall develop a form for reporting this information.
(b) The information reported to the agency pursuant to paragraph (a) which relates to persons licensed under chapter 458, chapter 459, chapter 461, or chapter 466 shall be reviewed by the agency. The agency shall determine whether any of the incidents potentially involved conduct by a health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 shall apply.

(c) The report submitted to the agency must also contain the name of the risk manager of the facility.

(d) The adverse incident report is confidential as provided by law and is not discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board.

(9) Abuse, neglect, or exploitation must be reported to the agency as required by 42 C.F.R. s. 483.13(c) and to the department as required by chapters 39 and 415.

(10) By the 10th of each month, each facility subject to this section shall report any notice received pursuant to s. 400.0233(2) and each initial complaint that was filed with the clerk of the court and served on the facility during the previous month by a resident or a resident's family member, guardian, conservator, or personal legal representative. The report must include the name of the resident, the resident's date of birth and social security number, the Medicaid identification number for Medicaid-eligible persons, the date or dates of the incident leading to the claim or dates of residency, if applicable, and the type of injury or violation of rights alleged to have occurred. Each facility shall also submit a copy of the notices received pursuant to s. 400.0233(2) and complaints filed with the clerk of the court. This report is confidential as provided by law and is not discoverable or admissible in any civil or administrative action, except in such actions brought by the agency to enforce the provisions of this part.

(11) The agency shall review, as part of its licensure inspection process, the internal risk management and quality assurance program at each facility regulated by this section to determine whether the program meets standards established in statutory laws and rules, is being conducted in a manner designed to reduce adverse incidents, and is appropriately reporting incidents as required by this section.

(12) There is no monetary liability on the part of, and a cause of action for damages may not arise against, any risk manager for the implementation and oversight of the internal risk management and quality assurance program in a facility licensed under this part as required by this section, or for any act or proceeding undertaken or performed within the scope of the functions of such internal risk management and quality assurance program if the risk manager acts without intentional fraud.

(13) If the agency, through its receipt of the adverse incident reports prescribed in subsection (7), or through any investigation, has a reasonable belief that conduct by a staff member or employee of a facility is grounds for disciplinary action by the appropriate regulatory board, the agency shall report this fact to the regulatory board.

(14) The agency may adopt rules to administer this section.

(15) Information gathered by a credentialing organization under a quality assurance program is not discoverable from the credentialing organization. This subsection does not limit discovery of, access to, or use of facility records, including those records from which the credentialing organization gathered its information.

400.148 Medicaid “Up-or-Out” Quality of Care Contract Management Program.

(1) The Legislature finds that the federal Medicare program has implemented successful models of managing the medical and supportive-care needs of long-term nursing home residents. These programs have maintained the highest practicable level of good health and have the potential to reduce the incidence of preventable illnesses among long-stay residents of nursing homes, thereby increasing the quality of care for residents and reducing the number of lawsuits against nursing
homes. Such models are operated at no cost to the state. It is the intent of the Legislature that the Agency for Health Care Administration replicate such oversight for Medicaid recipients in poor-performing nursing homes and in assisted living facilities and nursing homes that are experiencing disproportionate numbers of lawsuits, with the goal of improving the quality of care in such homes or facilitating the revocation of licensure.

(2) The pilot project must ensure:
(a) Oversight and coordination of all aspects of a resident’s medical care and stay in a nursing home;
(b) Facilitation of close communication between the resident, the resident’s guardian or legal representative, the resident’s attending physician, the resident’s family, and staff of the nursing facility;
(c) Frequent onsite visits to the resident;
(d) Early detection of medical or quality problems that have the potential to lead to adverse outcomes and unnecessary hospitalization;
(e) Close communication with regulatory staff;
(f) Immediate investigation of resident quality-of-care complaints and communication and cooperation with the appropriate entity to address those complaints, including the ombudsman, state agencies, agencies responsible for Medicaid program integrity, and local law enforcement agencies;
(g) Assistance to the resident or the resident’s representative to relocate the resident if quality-of-care issues are not otherwise addressed; and
(h) Use of Medicare and other third-party funds to support activities of the program, to the extent possible.

(3) The agency shall model the pilot project activities after such Medicare-approved demonstration projects.

(4) The agency may contract to provide similar oversight services to Medicaid recipients.

(5) The agency shall, jointly with the Statewide Public Guardianship Office, develop a system in the pilot project areas to identify Medicaid recipients who are residents of a participating nursing home or assisted living facility who have diminished ability to make their own decisions and who do not have relatives or family available to act as guardians in nursing homes listed on the Nursing Home Guide Watch List. The agency and the Statewide Public Guardianship Office shall give such residents priority for publicly funded guardianship services.

400.175 Patients with Alzheimer’s disease or other related disorders; certain disclosures. A facility licensed under this part which claims that it provides special care for persons who have Alzheimer’s disease or other related disorders must disclose in its advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for, such persons. The facility must give a copy of all such advertisements or a copy of the document to each person who requests information about programs and services for persons with Alzheimer’s disease or other related disorders offered by the facility and must maintain a copy of all such advertisements and documents in its records. The agency shall examine all such advertisements and documents in the facility’s records as part of the license renewal procedure.

400.1755 Care for persons with Alzheimer’s disease or related disorders. (1) As a condition of licensure, facilities licensed under this part must provide to each of their employees, upon beginning employment, basic written information about interacting with persons with Alzheimer’s disease or a related disorder.

(2) All employees who are expected to, or whose responsibilities require them to, have direct contact with residents with Alzheimer’s disease or a related disorder must, in addition to being provided the information required in subsection (1), also have an initial training of at least 1 hour
completed in the first 3 months after beginning employment. This training must include, but is not limited to, an overview of dementias and must provide basic skills in communicating with persons with dementia.

(3) An individual who provides direct care shall be considered a direct caregiver and must complete the required initial training and an additional 3 hours of training within 9 months after beginning employment. This training shall include, but is not limited to, managing problem behaviors, promoting the resident’s independence in activities of daily living, and skills in working with families and caregivers.

(a) The required 4 hours of training for certified nursing assistants are part of the total hours of training required annually.

(b) For a health care practitioner as defined in s. 456.001, continuing education hours taken as required by that practitioner’s licensing board shall be counted toward this total of 4 hours.

(4) For an employee who is a licensed health care practitioner as defined in s. 456.001, training that is sanctioned by that practitioner’s licensing board shall be considered to be approved by the Department of Elderly Affairs.

(5) The Department of Elderly Affairs or its designee must approve the initial and continuing training provided in the facilities. The department must approve training offered in a variety of formats, including, but not limited to, Internet-based training, videos, teleconferencing, and classroom instruction. The department shall keep a list of current providers who are approved to provide initial and continuing training. The department shall adopt rules to establish standards for the trainers and the training required in this section.

(6) Upon completing any training listed in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility or to an assisted living facility, home health agency, adult day care center, or adult family-care home. The direct caregiver must comply with other applicable continuing education requirements.

400.20 Licensed nursing home administrator required.
No nursing home shall operate except under the supervision of a licensed nursing home administrator, and no person shall be a nursing home administrator unless he or she is the holder of a current license as provided in chapter 468.

400.211 Persons employed as nursing assistants; certification requirement.
(1) To serve as a nursing assistant in any nursing home, a person must be certified as a nursing assistant under part II of chapter 464, unless the person is a registered nurse or practical nurse licensed in accordance with part I of chapter 464 or an applicant for such licensure who is permitted to practice nursing in accordance with rules adopted by the Board of Nursing pursuant to part I of chapter 464.

(2) The following categories of persons who are not certified as nursing assistants under part II of chapter 464 may be employed by a nursing facility for a period of 4 months:

(a) Persons who are enrolled in, or have completed, a state-approved nursing assistant program;
(b) Persons who have been positively verified as actively certified and on the registry in another state with no findings of abuse, neglect, or exploitation in that state; or
(c) Persons who have preliminarily passed the state’s certification exam.

The certification requirement must be met within 4 months after initial employment as a nursing assistant in a licensed nursing facility.

(3) Nursing homes shall require persons seeking employment as a certified nursing assistant to submit an employment history to the facility. The facility shall verify the employment history...
unless, through diligent efforts, such verification is not possible. There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, a former employer who reasonably and in good faith communicates his or her honest opinion about a former employee’s job performance.

(4) When employed by a nursing home facility for a 12-month period or longer, a nursing assistant, to maintain certification, shall submit to a performance review every 12 months and must receive regular inservice education based on the outcome of such reviews. The inservice training must:

(a) Be sufficient to ensure the continuing competence of nursing assistants and must meet the standard specified in s. 464.203(7);
(b) Include, at a minimum:
1. Techniques for assisting with eating and proper feeding;
2. Principles of adequate nutrition and hydration;
3. Techniques for assisting and responding to the cognitively impaired resident or the resident with difficult behaviors;
4. Techniques for caring for the resident at the end-of-life; and
Recognizing changes that place a resident at risk for pressure ulcers and falls; and
(c) Address areas of weakness as determined in nursing assistant performance reviews and may address the special needs of residents as determined by the nursing home facility staff.

Costs associated with this training may not be reimbursed from additional Medicaid funding through interim rate adjustments.

400.23 Rules; evaluation and deficiencies; licensure status.

(3) (c) Licensed practical nurses licensed under chapter 464 who are providing nursing services in nursing home facilities under this part may supervise the activities of other licensed practical nurses, certified nursing assistants, and other unlicensed personnel providing services in such facilities in accordance with rules adopted by the Board of Nursing.

464.201 Definitions.--As used in this part, the term:

(1) "Approved training program" means:
(a) A course of training conducted by a public sector or private sector educational center licensed by the Department of Education to implement the basic curriculum for nursing assistants which is approved by the Department of Education. Beginning October 1, 2000, the board shall assume responsibility for approval of training programs under this paragraph.
(b) A training program operated under s. 400.141.
(2) "Board" means the Board of Nursing.
(3) "Certified nursing assistant" means a person who meets the qualifications specified in this part and who is certified by the board as a certified nursing assistant.
(4) "Department" means the Department of Health.
(5) "Practice of a certified nursing assistant" means providing care and assisting persons with tasks relating to the activities of daily living. Such tasks are those associated with personal care, maintaining mobility, nutrition and hydration, toileting and elimination, assistive devices, safety and cleanliness, data gathering, reporting abnormal signs and symptoms, postmortem care, patient socialization and reality orientation, end-of-life care, cardiopulmonary resuscitation and emergency care, residents’ or patients’ rights, documentation of nursing-assistant services, and other tasks that a certified nurse assistant may perform after training beyond that required for initial certification and upon validation of competence in that skill by a registered nurse. This subsection does not restrict the ability of any person who is otherwise trained and educated from performing such tasks.
(6) "Registry" means the listing of certified nursing assistants maintained by the board.

History.--s. 204, ch. 99-397; s. 79, ch. 2000-318; s. 4, ch. 2005-62.

Note.--Former s. 468.821.

464.202 Duties and powers of the board.--The board shall maintain, or contract with or approve another entity to maintain, a state registry of certified nursing assistants. The registry must consist of the name of each certified nursing assistant in this state; other identifying information defined by board rule; certification status; the effective date of certification; other information required by state or federal law; information regarding any crime or any abuse, neglect, or exploitation as provided under chapter 435; and any disciplinary action taken against the certified nursing assistant. The registry shall be accessible to the public, the certificateholder, employers, and other state agencies. The board shall adopt by rule testing procedures for use in certifying nursing assistants and shall adopt rules regulating the practice of certified nursing assistants and specifying the scope of practice authorized and the level of supervision required for the practice of certified nursing assistants. The board may contract with or approve another entity or organization to provide the examination services, including the development and administration of examinations. The board shall require that the contract provider offer certified nursing assistant applications via the Internet, and may require the contract provider to accept certified nursing assistant applications for processing via the Internet. The board shall require the contract provider to provide the preliminary results of the certified nursing examination on the date the test is administered. The provider shall pay all reasonable costs and expenses incurred by the board in evaluating the provider's application and performance during the delivery of services, including examination services and procedures for maintaining the certified nursing assistant registry.

History.--s. 204, ch. 99-397; s. 79, ch. 2000-318; s. 5, ch. 2005-62.

Note.--Former s. 468.822.

464.203 Certified nursing assistants; certification requirement.--

(1) The board shall issue a certificate to practice as a certified nursing assistant to any person who demonstrates a minimum competency to read and write and successfully passes the required Level I or Level II screening pursuant to s. 400.215 and meets one of the following requirements:

(a) Has successfully completed an approved training program and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion approved by the board and administered at a site and by personnel approved by the department.

(b) Has achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the board and administered at a site and by personnel approved by the department and:

1. Has a high school diploma, or its equivalent; or
2. Is at least 18 years of age.

(c) Is currently certified in another state; is listed on that state's certified nursing assistant registry; and has not been found to have committed abuse, neglect, or exploitation in that state.

(d) Has completed the curriculum developed under the Enterprise Florida Jobs and Education Partnership Grant and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the board and administered at a site and by personnel approved by the department.
(2) If an applicant fails to pass the nursing assistant competency examination in three attempts, the
applicant is not eligible for reexamination unless the applicant completes an approved training
program.
(3) An oral examination shall be administered as a substitute for the written portion of the
examination upon request. The oral examination shall be administered at a site and by personnel
approved by the department.
(4) The board shall adopt rules to provide for the initial certification of certified nursing assistants.
(5) Certification as a nursing assistant, in accordance with this part, may be renewed until such
time as the nursing assistant allows a period of 24 consecutive months to pass during which period
the nursing assistant fails to perform any nursing-related services for monetary compensation.
When a nursing assistant fails to perform any nursing-related services for monetary compensation
for a period of 24 consecutive months, the nursing assistant must complete a new training and
competency evaluation program or a new competency evaluation program.
(6) A certified nursing assistant shall maintain a current address with the board in accordance with
s. 456.035.
(7) A certified nursing assistant shall complete 12 hours of inservice training during each calendar
year. The certified nursing assistant shall be responsible for maintaining documentation
demonstrating compliance with these provisions. The Council on Certified Nursing Assistants, in
accordance with s. 464.2085(2)(b), shall propose rules to implement this subsection.
(8) The department shall renew a certificate upon receipt of the renewal application and
imposition of a fee of not less than $20 and not more than $50 biennially. The department shall
adopt rules establishing a procedure for the biennial renewal of certificates. Any certificate that is
not renewed by July 1, 2006, is void.

**History.** -- s. 204, ch. 99-397; s. 164, ch. 2000-160; s. 79, ch. 2000-318; s. 50, ch. 2001-45; s. 77, ch.
2002-1; s. 6, ch. 2005-62.

**Note.** -- Former s. 468.823.

### 464.204 Denial, suspension, or revocation of certification; disciplinary actions.--

(1) The following acts constitute grounds for which the board may impose disciplinary sanctions as
specified in subsection (2):
(a) Obtaining or attempting to obtain certification or an exemption, or possessing or attempting to
possess certification or a letter of exemption, by bribery, misrepresentation, deceit, or through an
error of the board.
(b) Intentionally violating any provision of this chapter, chapter 456, or the rules adopted by the
board.
(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may
enter an order imposing one or more of the following penalties:
(a) Denial, suspension, or revocation of certification.
(b) Imposition of an administrative fine not to exceed $150 for each count or separate offense.
(c) Imposition of probation or restriction of certification, including conditions such as corrective
actions as retraining or compliance with an approved treatment program for impaired
practitioners.
(3) The board may, upon the request of a certificateholder, exempt the certificateholder from
disqualification of employment in accordance with chapter 435 and issue a letter of exemption. The
board must notify an applicant seeking an exemption from disqualification from certification or
employment of its decision to approve or deny the request within 30 days after the date the board
receives all required documentation.
464.205  Availability of disciplinary records and proceedings.--Pursuant to s. 456.073, any complaint or record maintained by the department pursuant to the discipline of a certified nursing assistant and any proceeding held by the board to discipline a certified nursing assistant shall remain open and available to the public.

History.--s. 204, ch. 99-397; s. 165, ch. 2000-160; s. 79, ch. 2000-318.

Note.--Former s. 468.824.

464.205  Availability of disciplinary records and proceedings.--Pursuant to s. 456.073, any complaint or record maintained by the department pursuant to the discipline of a certified nursing assistant and any proceeding held by the board to discipline a certified nursing assistant shall remain open and available to the public.

History.--s. 204, ch. 99-397; s. 165, ch. 2000-160; s. 79, ch. 2000-318.

Note.--Former s. 468.824.

464.206  Exemption from liability.--If an employer terminates or denies employment to a certified nursing assistant whose certification is inactive as shown on the certified nursing assistant registry or whose name appears on a criminal screening report of the Department of Law Enforcement, the employer is not civilly liable for such termination and a cause of action may not be brought against the employer for damages, regardless of whether the employee has filed for an exemption from the board under s. 464.204(3). There may not be any monetary liability on the part of, and a cause of action for damages may not arise against, any licensed facility, its governing board or members thereof, medical staff, disciplinary board, agents, investigators, witnesses, employees, or any other person for any action taken in good faith without intentional fraud in carrying out this section.

History.--s. 204, ch. 99-397; s. 79, ch. 2000-318; s. 105, ch. 2000-349.

Note.--Former s. 468.825.

464.206  Exemption from liability.--If an employer terminates or denies employment to a certified nursing assistant whose certification is inactive as shown on the certified nursing assistant registry or whose name appears on a criminal screening report of the Department of Law Enforcement, the employer is not civilly liable for such termination and a cause of action may not be brought against the employer for damages, regardless of whether the employee has filed for an exemption from the board under s. 464.204(3). There may not be any monetary liability on the part of, and a cause of action for damages may not arise against, any licensed facility, its governing board or members thereof, medical staff, disciplinary board, agents, investigators, witnesses, employees, or any other person for any action taken in good faith without intentional fraud in carrying out this section.

History.--s. 204, ch. 99-397; s. 79, ch. 2000-318; s. 105, ch. 2000-349.

Note.--Former s. 468.825.

464.207  Penalties.--It is a misdemeanor of the first degree, punishable as provided under s. 775.082 or s. 775.083, for any person, knowingly or intentionally, to fail to disclose, by false statement, misrepresentation, impersonation, or other fraudulent means, in any application for voluntary or paid employment or certification regulated under this part, a material fact used in making a determination as to such person's qualifications to be an employee or certificateholder.

History.--s. 204, ch. 99-397; s. 79, ch. 2000-318.

Note.--Former s. 468.826.

464.207  Penalties.--It is a misdemeanor of the first degree, punishable as provided under s. 775.082 or s. 775.083, for any person, knowingly or intentionally, to fail to disclose, by false statement, misrepresentation, impersonation, or other fraudulent means, in any application for voluntary or paid employment or certification regulated under this part, a material fact used in making a determination as to such person's qualifications to be an employee or certificateholder.

History.--s. 204, ch. 99-397; s. 79, ch. 2000-318.

Note.--Former s. 468.826.

464.208  Background screening information; rulemaking authority.--

(1) The Agency for Health Care Administration shall allow the board to electronically access its background screening database and records.

(2) An employer, or an agent thereof, may not use criminal records or juvenile records relating to vulnerable adults for any purpose other than determining if the person meets the requirements of this part. Such records and information obtained by the board shall remain confidential and exempt from s. 119.07(1).

(3) If the requirements of the Omnibus Budget Reconciliation Act of 1987, as amended, for the certification of nursing assistants are in conflict with this part, the federal requirements shall prevail for those facilities certified to provide care under Title XVIII (Medicare) or Title XIX (Medicaid) of the Social Security Act.

(4) The board shall adopt rules to administer this part.


Note.--Former s. 468.828.
**464.2085 Council on Certified Nursing Assistants.--**The Council on Certified Nursing Assistants is created within the department, under the Board of Nursing.

(1) The council shall consist of five members appointed as follows:
(a) The chairperson of the Board of Nursing shall appoint two members who are registered nurses. One of the members must currently supervise a certified nursing assistant in a licensed nursing home.
(b) The chairperson of the Board of Nursing shall appoint one member who is a licensed practical nurse who is currently working in a licensed nursing home.
(c) The State Surgeon General or his or her designee shall appoint two certified nursing assistants currently certified under this chapter, at least one of whom is currently working in a licensed nursing home.

(2) The council shall:
(a) Recommend to the department policies and procedures for the certification of nursing assistants.
(b) Develop all rules regulating the education, training, and certification process for nursing assistants certified under this chapter. The Board of Nursing shall consider adopting a proposed rule developed by the council at the regularly scheduled meeting immediately following the submission of the proposed rule by the council.
(c) Make recommendations to the board regarding all matters relating to the certification of nursing assistants.
(d) Address concerns and problems of certified nursing assistants in order to improve safety in the practice of certified nursing assistants.

**History.**--s. 80, ch. 2000-318; s. 84, ch. 2008-6.

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**GEORGIA**

**290-5-8-.02 Governing Body.**

(1) There shall be a governing body which assumes full legal responsibility for the overall conduct of the home.

(3) The governing body shall be responsible for compliance with all applicable laws and regulations pertaining to the home.

(4) The governing body shall certify to the Commissioner, the name of the person to whom is delegated the responsibility for the management of the home, including the carrying out of rules and policies adopted by the governing body. This person shall be known as the administrator.

(5) The word hospital, sanitorium or sanitarium shall not be used in the official title of any home permitted under the provisions of these rules and regulations.

**290-5-8-.03 Administration.**

(1) Each nursing home shall be under the supervision of a licensed nursing home administrator. An administrator may serve as the administrator of not more than one facility, except that two facilities having common ownership or management located on the same premises may be served by a single administrator. Distinct part facilities sharing a common roof shall be considered one facility. In exceptional circumstances, a waiver may be granted by the Department for a period of six months. Existing facilities not currently meeting this requirement would be exempt for a period of two years from the effective date of this regulation. If an existing facility should undergo a change of administrators during this two-year period, such facility would be required to comply with the regulations.
(2) Each home shall be operated in accordance with policies approved by the Department. These policies shall include but not be limited to those governing admissions, transfers, discharges, physicians’ services, nursing services, dietary services, restorative services, pharmaceutical services, diagnostic services, social services, environmental sanitation services, recreational services and clinical records.

(3) Each home shall have a written transfer agreement in effect with one or more hospitals. Nursing homes that are a Distinct Part of a hospital will be considered to meet this requirement if acceptable provisions for the transfer of patients are included in the facility’s policies.

(4) There shall be a separate personnel folder maintained for each employee. This folder shall contain all personal information concerning the employee, including the application and qualifications for employment, physical examination and job title assigned. A current job description shall be available for each classification of employee, but may be maintained separately from the personnel folder. In addition to all other documents required by state or federal regulations, the nursing home shall maintain documentation of successful completion of the dining assistant training program for each dining assistant.

(5) The home and its premises shall be used only for the purposes for which the home is operated and permitted.

(6) In response to a reasonable request by a patient or visitor, privacy shall be afforded for conversation and/or consultations.

290-5-8-.04 Nursing Service.

...(9) An active in-service nursing education program shall be in effect for all nursing personnel. This program shall be developed and conducted by a registered nurse who may be employed part-time and under the direction of the director of nursing services.

(10) The in-service nursing educational program shall be in writing and shall show the frequency of training. Attendance and progress records shall be kept for each person receiving instruction.

290-5-8-.06 Dietary Service.

...(6) Sufficient perishable foods for a twenty-four hour period and nonperishable foods for a three-day period shall be on the premises for use in an emergency.

290-5-8-.07 Social Service.

...(3) All nursing personnel and employees having contact with patients shall receive social service orientation and in-service training toward understanding emotional problems and social needs of patients.

290-5-8-.11 Records.

(1) Each home shall maintain a complete medical record on each patient containing sufficient information to validate the diagnosis and to establish the basis upon which treatment is given. All active medical records shall be maintained at the nurses’ station. The completed record shall normally contain the following:
(a) Name, address, birth date, sex, marital status of the patient and religion; the name, address and telephone number of physician; the name, address and telephone number of the responsible party to contact in emergency;
(b) Date and time of admission;
(c) Date and time of discharge or death;
(d) Admitting diagnosis;
(e) Final diagnosis;
(f) Condition on discharge;
(g) History and physical examination;
(h) Treatment and medication orders;
(i) Physicians' progress notes (at least monthly);
(j) Nurses' notes;
(k) Special examination and reports.
(2) Each home shall keep patient statistics, including admissions, discharges, deaths, patient days, and percent of occupancy. Statistical records shall be open for inspection and upon request, data shall be submitted to the Department.

290-5-8-19 Application For Permit.
...(5) Proof of ownership shall accompany the application.
(a) Corporations shall submit a copy of their charter and the name and address of all owners with ten (10) percent or more of the stock and shall identify each corporate officer;
(b) Nonprofit associations and hospital authorities shall submit legal proof of the organization, the name and address of each trustee and the office held, if any;
(c) All others shall submit the name and address of each person owning any part of the facility.

290-5-8-20 Permits.
...(6) A permit shall be required for each home located on different premises where more than one home is operated under the same governing body. When a home operates as distinct parts, then a permit shall be required for each distinct part.

290-5-8-25 Dining Assistants.
...(6) The minimum requirements of the dining assistant training program shall include a minimum of 16 hours of training. The training shall include practical application of feeding and hydration skills and shall include at least the following components:
...(e) Safety and emergency procedures, including the Heimlich Maneuver...
§11-94-5 Adult day health center.
If an SNF/ICF facility chooses to operate an adult day health center in its facility, the following must be observed:
(1) The space and staff requirements for the adult day health center activities shall not affect reduction in the space and staff requirements of the SNF/ICF facility.
(2) The medical records for the patients in the adult day health center shall satisfy the same requirements as the SNF/ICF facility, but must be filed separately from the medical records of the SNF/ICF facility.
(3) Where appropriate, as determined by the director, all or part of sections 11-94-1 through 11-94-32 shall apply to the adult day health center.

§11-94-6 Administrator.
The facility shall be administered on a full time basis by:
(1) A person licensed in the State of Hawaii as a nursing home administrator; or
(2) In the case of a hospital qualifying as a skilled nursing or intermediate care facility, by the hospital administrator; or
(3) In the absence of the administrator by a suitable employee who has been designated, in writing, to act on the administrator’s behalf.

§11-94-9 Dental services.
...(d) Nursing staff shall receive inservice training in oral hygiene and denture care at least annually.

§11-94-10 Disaster planning.
Appropriate policies shall be written to provide for cooperation with civil and military authorities in the event of an external disaster for disaster relief pursuant to chapter 127, HRS.

§11-94-11 Dietetic services.
...(f) Food services, planning and storage.
...(4) Food service.
...(H) If the food service is directed by a person other than a qualified dietitian, there shall be frequent and regularly scheduled consultation by a dietitian or public health nutritionist. This consultation shall be given in the facility at the rate of four hours per every twenty-five patients per month and shall not be less than six hours per month. Consultation, training, and inservice education shall be appropriate to staff and patient needs and shall be documented.

§11-94-14 General policies and practices.
(a) There shall be written policies and procedures available to staff, patients, and the public which govern:
(1) All services provided by the facility.
(2) Admission, transfer, and discharge of patients.
(b) There policies shall insure that:
(1) The facility shall not deny admission to any individual on account of race, religion, color, ancestry, or national origin...

§11-94-15 Governing body and management.
(a) Each facility shall have an organized governing body, or designated persons so functioning, who has overall responsibility for the conduct of all activities. The facility shall maintain methods of administrative management which assure that the requirements of this section are met.
...(c) Personnel policies.
(1) There shall be written job descriptions available for all positions. Each employee shall be informed of their duties and responsibilities at the time of employment.
(2) All professional employees shall have appropriate licenses as required by law and their licenses shall be readily available for examination by the director or the director’s representative.
(3) Ethical standards of professional conduct shall apply in the facility.
(4) The facility's personnel policies and practices shall be in writing and shall be available to all employees.
(5) Written policy shall prohibit mistreatment, neglect, or abuse of patients. Alleged violations shall be reported immediately, and thoroughly investigated and documented. The results of any investigation shall be reported to the administrator or designated representative within twenty-four hours of the report of the incident; and appropriate sanctions shall be invoked when the allegation is substantiated.
(6) There shall be an organization chart showing the major operating programs of the facility, with staff division, administrative personnel in charge of programs and divisions, and their lines of authority, responsibility, and communication.

§11-94-18 Inservice education.
(a) There shall be a staff inservice education program that includes:
(1) Orientation for all new employees to acquaint them with the philosophy, organization, program, policies, and procedures, practices, and goals of the facility.
(2) Inservice training for employees who have not achieved the desired level of competence, and continuing inservice education to update and improve the skills and competencies of all employees.
(3) Inservice training which shall include annually: prevention and control of infections, fire prevention and safety, accident prevention, patient's rights, and problems and needs of the aged, ill, and disabled. Provision shall be made for training appropriate personnel in cardiopulmonary resuscitation and appropriate first aid techniques.
(b) Records shall be maintained for all orientation and staff development programs.

§11-94-20 Life safety.
(a) Facilities licensed under this chapter shall be inspected at least annually by appropriate fire authorities for compliance with state and county fire and life safety rules and ordinances.
(b) Smoking rules shall be adopted. “No Smoking” §11-94-22 signs shall be posted where flammable liquids, combustible gases, or oxygen are used or stored. Smoking by patients shall be permitted only under supervision, and ash trays shall be provided.
(c) Electric heating pads shall be prohibited.
(d) Facilities shall have written procedures in case of fire and disasters.
(e) Evacuation plans shall be posted in prominent locations on each floor.
(f) Fire drills shall include the transmission of a fire alarm signal and be held at least quarterly, for each shift, under varied conditions. At least twelve drills shall be held every year and reports filed in the facility.
(g) All employees shall be instructed and kept informed respecting their duties under the fire and disaster programs.

§11-94-21 Medical director.
Skilled nursing facilities shall have a physician to serve full time or part time as a medical director whose responsibilities are as specified in 42 C.F.R. §405.1122. Intermediate care facilities shall have a physician designated to serve as a medical advisor as needed for infectious disease control.
§11-94-22 Medical record system.  
(a) There shall be available sufficient, appropriately qualified staff and necessary supporting personnel to facilitate the accurate processing, checking, indexing, filing, and prompt retrieval of records and record data.  
(b) If the employee who supervises medical records is not a registered records administrator, or accredited record technician, there shall be regularly scheduled visits by a consultant so qualified who shall provide reports to the administrator.  
(c) The following information shall be obtained and entered in the patient’s record at the time of admission to the facility:  
(1) Identifying information such as: name, date, and time of admission, date and place of birth, citizenship status, marital status, Social Security number or an admission number which can be used to identify the patient without use of name when the latter is desirable.  
(2) Name and address of next of kin or legal guardian.  
(3) Sex, height, weight, race, and identifying marks.  
(4) Reason for admission or referral.  
(5) Language spoken and understood.  
(6) Information relevant to religious affiliation.  
(7) Admission diagnosis, summary of prior medical care, recent physical examination, tuberculosis status, and physician’s orders.  
(d) Records during stay shall also include:  
(1) Appropriate authorizations and consents for medical procedures.  
(2) Records of all periods of restraints with justification and authorization for each.  
(3) Copies of initial and periodic examinations, evaluations, as well as progress notes at appropriate intervals.  
(4) Regular review or an overall plan of care setting forth goals to be accomplished through individually designed activities, therapies and treatments and indicating which professional services or individual is responsible for providing the care or service.  
(5) Entries describing treatments, medications, tests, and all ancillary services rendered  
(e) When a patient is transferred to another facility or discharged, there shall be:  
(1) Written evidence of the reason.  
(2) Except in an emergency, documentation to indicate that the patient understood the reason for transfer, or that the guardian and family were notified.  
(3) A complete summary including current status and care, final diagnosis, and prognosis.  
(f) There shall be a master alphabetical index of all patients admitted to the facility.  
(g) All entries in the patient’s record shall be:  
(1) Legible, typed or written in ink.  
(2) Dated.  
(3) Authenticated by signature and title of the individual making the entry.  
(4) All entries shall be written completely without the use of abbreviations except for those abbreviations approved by a medical consultant or the medical director.  
(h) All information contained in a patient’s record, including any information contained in an automated data bank, shall be considered confidential.  
(i) The record shall be the property of the facility, whose responsibility shall be to secure the information against loss, destruction, defacement, tampering, or use by unauthorized persons.  
(j) There shall be written policies governing access to, duplication of, and dissemination of information from the record.
(k) Written consent of the patient, if competent, or the guardian if patient is not competent, shall be required for the release of information to persons not otherwise authorized to receive it. Consent forms shall include:
(1) Use for which requested information is to be used.
(2) Sections or elements of information to be released and specific period of time during which the information is to be released.
(3) Consent of patient, or legal guardian, for release of any medical record information.
(l) Records shall be readily accessible and available to authorized department personnel for the purpose of determining compliance with this chapter.

§11-94-24 Ownership and financial capability.
(a) The facility shall provide to the department current information in regard to:
(1) The name of each person who has (directly or indirectly) an ownership interest of ten per cent or more in the facility.
(2) The name of each person who is the owner (in whole or in part) of any mortgage, deed or trust, note or other obligation secured (in whole or in part) by the facility.
(3) Officers and directors of the corporation in case a facility is organized as a corporation and any changes in the officers and directors.
(4) The name of each partner in case a facility is organized as a partnership.

§11-94-33 Transfer agreement.
The facility shall establish transfer agreements which makes feasible the transfer of patients and transfer summaries between hospitals, skilled nursing and intermediate care facilities.

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003.LICENSURE.
  03. Issuance of License.
    ...c. The facility license shall be framed and posted so as to be visible to the general public. (1-1-88)

009.CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.
  01. Criminal History and Background Check. A skilled nursing and intermediate care facility must complete a criminal history and background check on employees and contractors hired or contracted with after October 1, 2007, who have direct patient access to residents in the skilled nursing and intermediate care facility. A Department check conducted under IDAPA 16.05.06, “Criminal History and Background Checks,” satisfies this requirement. Other criminal history and background checks may be accepted provided they meet the criteria in Subsection 009.02 of this rule and the entity conducting the check issues written findings. The entity must provide a copy of these written findings to both the facility and the employee. (3-26-08)
  02. Scope of a Criminal History and Background Check. The criminal history and background check must, at a minimum, be a fingerprint-based criminal history and background check that includes a search of the following record sources: (3-26-08)
    a. Federal Bureau of Investigation (FBI); (3-26-08)
    b. Idaho State Police Bureau of Criminal Identification; (3-26-08)
    c. Sexual Offender Registry; (3-26-08)
    d. Office of
03. Availability to Work. Any direct patient access individual hired or contracted with on or after October 1, 2007, must self-disclose all arrests and convictions before having access to residents. The individual is allowed to only work under supervision until the criminal history and background check is completed. If a disqualifying crime as described in IDAPA 16.05.06, “Criminal History and Background Checks,” is disclosed, the individual cannot have access to any resident. (3-26-08)

04. Submission of Fingerprints. The individual's fingerprints must be submitted to the entity conducting the criminal history and background check within twenty-one (21) days of his date of hire. (3-26-08)

05. New Criminal History and Background Check. An individual must have a criminal history and background check when: (3-26-08) a. Accepting employment with a new employer; and (3-26-08) b. His last criminal history and background check was completed more than three (3) years prior to his date of hire. (3-26-08)

06. Use of Criminal History Check Within Three Years of Completion. Any employer may use a previous criminal history and background check obtained under these rules if: (3-26-08) a. The individual has received a criminal history and background check within three (3) years of his date of hire; (3-26-08) b. The employer has documentation of the criminal history and background check findings; (3-26-08) c. The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification, and (3-26-08) d. No disqualifying crimes are found. (3-26-08)

07. Employer Discretion. The new employer, at its discretion, may require an individual to complete a criminal history and background check at any time, even if the individual has received a criminal history and background check within the three (3) years of his date of hire. (3-26-08)

100. ADMINISTRATION.

01. Governing Body. Each facility shall be organized and administered under one (1) authority which may be a proprietorship, partnership, association, corporation or governmental unit. (1-1-88)

a. If other than a single owner or partnership, the facility shall have a governing board which assumes full legal responsibility for the overall conduct of the facility and for full compliance with these rules and minimum standards. (1-1-88)

b. The true name and current address for each person or business entity having a five percent (5%) or more direct, or indirect, ownership interest in the facility shall be supplied to the Department at the time of licensure application or preceding any change in ownership. (1-1-88)

c. The names, addresses, and titles of offices held by all members of the facility’s governing authority shall be submitted to the Department. (1-1-88)

d. There shall be available for review by the Department a copy of the lease (if a building or buildings are leased to a person or persons to operate as a facility) showing clearly in the context which party to the agreement is to be held responsible for the maintenance and upkeep of the property to meet minimum standards. Terms of the financial arrangement may be omitted from the copy of the lease available to the Department. (1-1-88)
02. Administrator. The governing body, owner or partnership shall appoint a licensed nursing home administrator for each facility who shall be responsible and accountable for carrying out the policies determined by the governing body. In combined hospital and nursing home facilities, the administrator may serve both the hospital and nursing home provided he is currently licensed as a nursing home administrator. (1-1-88)

a. In the absence of the administrator, an individual who is responsible and accountable and at least twenty-one (21) years of age shall be authorized, in writing, to act in his behalf to assure administrative direction of the facility. (1-1-88)

b. The administrator shall be responsible for establishing and assuring the implementation of written policies and procedures for each service offered by the facility, or through arrangements with an outside service and of the operation of its physical plant. The policies and procedures shall further clearly set out any instructions or conditions imposed as a result of religious beliefs of the owner or administrator. The administrator shall see that these policies and procedures are adhered to and shall make them available to authorized representatives of the Department. If a service is provided through arrangements with an outside agency or consultant, a written contract or agreement shall be established outlining the expectations of both parties. (1-1-88)

c. The administrator shall be responsible for the completion, keeping, and submission of such reports and records as may be required by the Department. (7-1-93)

d. The administrator, his relatives or employees, shall not act as or become the legal guardian of or have power of attorney for any patients/residents unless specifically adjudicated as such by appropriate legal order. (1-1-88)

e. The administrator shall provide to the public and the patient/resident an accurate description of the facility services and care. Representation of the facility's services to the public shall not be misleading. (7-1-93)

f. The administrator shall be responsible for providing sufficient and qualified staff to carry out all of the basic services offered by the facility, i.e., food services, housekeeping, maintenance, nursing, laundry, etc. (1-1-88)

g. The administrator, owner and employees of a facility shall be governed by the provisions of Section 15-2-616, Idaho Code, concerning the devise or bequest of a patient's/resident's property by a last will and testament. (1-1-88)

06. Transfer Agreement. (7-1-93)

a. Facilities shall have a written agreement with one (1) or more nearby hospitals or other providers of service which agrees to provide the following services to patients/residents of the facility: (1-1-88)

i. Laboratory, x-ray, and other diagnostic services; and (1-1-88) ii. Hospitalization for acutely ill patients/residents; and (1-1-88) iii. The agreement shall provide reasonable assurance that there will be an interchange of information; and (1-1-88) iv. Transfer information including provisional diagnosis, treatment, clinical condition, reason for transfer and destination, and pertinent medical and social information shall accompany the patient/resident if transferred to or from another health care facility and shall become a part of the patient's/resident's medical record. (1-1-88)

b. ICFs shall have written agreements with Skilled Nursing Facilities for the appropriate and orderly transfer of individual patients/residents, including appropriate transfer information as delineated in Subsection 100.05.a.iv. (12-31-91)
07. Census Register. A register shall be kept, listing in chronological order, the names of patients/residents, dates of admission and discharge, and daily census. (1-1-88)

105. PERSONNEL.

01. Personnel Policies. Personnel policies shall be developed and implemented and shall include: (1-1-88)
   a. The recruitment of qualified personnel (including consultants when utilized); (1-1-88)
   b. Orientation of all new employees; (1-1-88)
   c. Continuing in-service training for all employees which is consistent with patients'/residents' needs and services offered. A minimum of twenty-four (24) hours of training per year shall be provided to nursing staff; (1-1-88)
   d. Competent supervision of all staff; (1-1-88)
   e. Uniform rules for each classification of employee concerning hours of work, paydays, overtime and other related personnel matters; and (1-1-88)
   f. Employee grievance procedures. (1-1-88)

02. Daily Work Schedules. Daily work schedules shall be maintained in writing which reflect: (1-1-88)
   a. Personnel on duty at any given time for the previous three (3) months; (1-1-88)
   b. The first and last names of each employee, including professional designation (R.N., L.P.N., etc.) and position; and (1-1-88)
   c. Any adjustments made to the schedule. (1-1-88)

03. Job Description. Job descriptions shall be current, on file and shall: (1-1-88)
   a. Include the authority, responsibilities and duties of each classification of personnel; (1-1-88)
   b. Be given to each employee consistent with his classification. (1-1-88)

04. Organizational Chart. An organizational chart shall be posted or be available to view by all employees, or be in the employee’s possession which clearly reflects lines of authority within the facility’s organizational structure. (1-1-88)

05. Applicable Idaho and Federal Laws. Applicable Idaho and federal laws shall be observed in relation to employment of any individual. (1-1-88)

06. Age Limitations. No employee, other than licensed personnel, who is less than eighteen (18) years of age shall provide direct resident care except when the employee may be a student or a graduate of a recognized vocational health care training program. (1-1-88)

07. Patient/Resident Employment. Whenever work of economic benefit to the facility is performed by a patient/resident, such work will be subject to the provisions prescribed by law for any employee. (1-1-88)

09. Payroll Records. Payroll records shall be maintained by the facility which reflect an employee’s hours of work, paydays, overtime and other related matters. (1-1-88)

10. Personnel Files. Personnel files shall be kept for each employee and each shall contain: (1-1-88)
   a. Name, current address and telephone number of the employee; (1-1-88)
   b. Social security number; (1-1-88)
   c. Qualifications for the position for which the employee is hired, including education and experience; (1-1-88)
   d. If Idaho license is required, verification of current license; (1-1-88)
e. Position in facility; (1-1-88)
f. Date of employment; (1-1-88)
g. Date of termination and reason; (1-1-88)
h. Verification of TB skin test upon employment and any subsequent test results; and (1-1-88)
i. Orientation and training documentation reflecting what the employee received when, and the amount of time for each program. (1-1-88)

11. Orientation and Continuing Education. The facility shall provide a formalized, ongoing educational program for all personnel which shall commence upon employment and shall include: (1-1-88)
a. A structured orientation program written and designed to meet the training needs of new employees in relation to an employee’s responsibilities in the facility. The program shall include, but is not limited to: (1-1-88)
i. All facility policies and procedures relevant to an employee’s responsibilities; (1-1-88)
ii. Basic procedures relative to patient/resident care; (1-1-88)
iii. Patient’s/resident’s rights and responsibilities; (1-1-88)
iv. Confidentiality; (1-1-88)
v. Ethics; (1-1-88)
vi. Use of mechanical/electrical equipment utilized by the employee; (1-1-88)
vii. Fire safety and emergency evacuation; (1-1-88)
viii. Emergency procedures; (1-1-88)
ix. Organizational structure; (1-1-88)
x. Measures to prevent cross infection, including aseptic and isolation techniques; (1-1-88)
xii. Restorative care. (1-1-88)
b. An ongoing, planned continuing educational program which maintains and upgrades the knowledge, skills and abilities of the staff in relation to services provided and employee responsibilities. (1-1-88)
c. Opportunity to attend outside educational programs. (1-1-88)
d. At least twenty-four (24) hours of continuing education annually for all nursing personnel. (1-1-88).

106. FIRE AND LIFE SAFETY.

...04. Emergency Plans for Protection and Evacuation of Patients/Residents. In cooperation with the local fire authority, the administrator shall develop a written plan for employee response for protection of patients/residents in case of an emergency. The plan shall include at least the following: (1-1-88)
a. Specific procedures to follow in all potential emergencies (i.e., fire, flooding, bomb threat, explosion, natural disasters). (1-1-88)
b. A basic diagram of the building showing the location of emergency protection equipment and exits. The diagram shall be conspicuously posted throughout the facility. (1-1-88)
c. Written evidence of an arrangement for temporary housing of patients/residents who must be moved in the event of an emergency. (1-1-88)

05. Orientation, Training and Drills. All employees shall be instructed in basic fire and life safety procedures. (1-1-88)
a. All new employees shall be instructed in basic facility fire and life safety procedures during their orientation period. Documentation that such orientation has been completed shall be maintained on file in the facility. (1-1-88)
b. Fire and/or safety classes shall be made available on a quarterly basis. The facility shall make an effort to encourage all staff to attend the classes. Classes shall not be conducted in lieu of drills. (1-1-88)
c. A minimum of one (1) fire drill per shift per quarter shall be held. The drills shall be unannounced, shall include transmission of a fire alarm signal (may be silent during the late night/early morning) and shall be conducted at irregular intervals during the day and night. At least one (1) drill per year shall include at least a partial evacuation of the building. A basic written record of each drill shall be maintained and include at least the following: (1-1-88)
  i. Date and time of drill; (1-1-88)
  ii. Brief description of the drill, including problems encountered; (1-1-88)
  iii. Recommendations for improvement (if any); and (1-1-88)
  iv. Signature of employees supervising the drill together with the names of all employees participating in the drill. (1-1-88)

107. DIETARY SERVICE.

01. Dietary Supervision... The dietitian shall: (1-1-88)...
  iii. Provide in-service training for all food service employees (1-1-88) ...

150. INFECTION CONTROL.

...02. Infection Control Committee. An Infection Control Committee shall be appointed by the administrator which shall: (1-1-88)
  a. Include the facility medical director, administrator, pharmacist, dietary services supervisor, director of nursing services, housekeeping services representative, and maintenance services representative. (1-1-88)
  b. Be responsible for development and implementation of infection control policies and procedures including the designation of a facility employee to monitor practices within the facility. (1-1-88)
  c. Meet as a group no less often than quarterly with documented minutes of meetings maintained showing members present, business addressed and signed and dated by the chairperson. (1-1-88) d. Review policies and procedures as needed but no less often than annually. (1-1-88)
  e. Review the quarterly report of infections prepared by the designated surveillance officer. (1-1-88)

154. MEDICAL DIRECTION.

01. Medical Director. The administrator of a SNF or ICF shall arrange for a physician to provide medical direction of the care functions of the facility as follows: (1-1-88)
  a. Assist in defining scope, characteristics, and standards for services provided; (1-1-88)
  b. Consult and assist in the monitoring of quality of the services provided; (1-1-88)
  c. Consult and assist in the overall management and delivery of patient care services. (1-1-88)

200. NURSING SERVICES.

01. Director of Nursing Services. A registered nurse currently licensed by the state
of Idaho and qualified by training and experience shall be designated Director of Nursing Services in each SNF and ICF and shall be responsible and accountable for: ...(1-1-88) g. Planning and coordinating orientation programs for new nursing and auxiliary personnel, as well as a formal, coordinated in-service education program for all nursing personnel...

201. PHARMACY SERVICES.

01. Pharmacy Service. Each SNF and ICF shall have a written agreement with a pharmacist licensed by the state of Idaho to direct, supervise and be responsible for pharmacy service in the facility.

203. PATIENT/RESIDENT RECORDS

The facility maintains medical records for all patients/residents in accordance with accepted professional standards and practices. (1-1-88)

01. Responsible Staff. The administrator shall designate a staff member the responsibility for the accurate maintenance of medical records. If this person is not a Registered Records Administrator (RRA) or an Accredited Records Technician (ART), consultation from such a qualified individual shall be provided periodically to the designated staff person. (1-1-88)

02. Individual Medical Record. An individual medical record shall be maintained for each admission with all entries kept current, dated and signed. All records shall be either typewritten or recorded legibly in ink, and shall contain the following: (1-1-88)

a. Patient’s/resident’s name and date of admission; previous address; home telephone; sex; date of birth; place of birth; racial group; marital status; religious preference; usual occupation; Social Security number; branch and dates of military service (if applicable); name, address and telephone number of nearest relative or responsible person or agency; place admitted from; attending physician; date and time of admission; and date and time of discharge. Final diagnosis or cause of death (when applicable), condition on discharge, and disposition, signed by the attending physician, shall be part of the medical record. (1-1-88)

b. Medical history and physical examination, including both diagnosis and rehabilitative potential, signed by the attending physician. (1-1-88)

c. Transfer or referral report, where applicable. (1-1-88)

d. Special reports dated and signed by the person making the report, i.e., laboratory, X-ray, physical therapy, social services, consultation, and other special reports. (1-1-88)

e. Physician’s order record containing the physician’s authorization for required medications, tests, treatments, and diet. Each entry shall be dated and signed, or countersigned, by the physician. (1-1-88)

f. Progress notes by physicians, nurses, physical therapists, social worker, dietitian, and other health care personnel shall be recorded indicating observations to provide a full descriptive, chronological picture of the patient/resident during his stay in the facility. The writer shall date and sign each entry stating his specialty. (1-1-88)

g. Nurses’ entries shall include the following information: (1-1-88)

i. Date, time and mode of admission; documentation of the patient’s/resident’s general physical and skin condition as well as mental attitude upon admission. (1-1-88)
ii. Medication administration record. (1-1-88)
iii. Date and times of all treatments and dressings. (1-1-88)

iv. Any change in the patient's/resident's physical or mental status. (1-1-88)
v. Any incident or accident occurring while the patient/resident is in the facility. (1-1-88)
vi. Date of each physician's visit. (1-1-88)
vii. Observations by licensed nursing personnel on labile, terminal, or acutely-ill patients/residents shall be recorded daily on each shift. (1-1-88)
viii. Observations by qualified nursing personnel on all other patients/residents shall be summarized and recorded at least monthly. (1-1-88)
h. Miscellaneous. Releases, consents, mortician's receipt. (1-1-88)
i. The signature of the charge nurse for each shift indicating the assumption of responsibility for all entries made by nonprofessional nursing personnel. (1-1-88)

03. Discharged Patients'/Residents' Records. (7-1-93)
a. Following the discharge or death of a patient/resident, the records clerk shall place the chart in chronological order and review the entire record for completeness. (1-1-88)
b. If incomplete, the chart shall be returned to the proper person for prompt completion. No chart shall be permanently filed until all portions are complete. (1-1-88)

04. Retention. (7-1-93)
a. There shall be adequate filing equipment and space to store closed charts and facilitate retrieval. (1-1-88)
b. Records shall be preserved in a safe location protected from fire, theft, and water damage for a period of time not less than seven (7) years. If the patient/resident is a minor, the record shall be preserved for a period of not less than seven (7) years following his eighteenth birthday. (1-1-88)

05. Confidentiality. The facility shall safeguard medical record information against loss, destruction, and unauthorized use. (1-1-88)

204. DAY CARE SERVICES.

Day care services may be provided for up to twelve (12) hours per day as determined by facility policy. If provided, it shall not interfere with the regular services to facility patients/residents. (1-1-88)

01. Day Care Coordinator. There shall be a staff member designated to supervise and coordinate day care services. (1-1-88)

...04. Records. A day care participant record shall be maintained for each individual which includes: (1-1-88)
a. Admission identification information, including responsible party and physician; (1-1-88)
b. Physical evaluation summary, including any activities limitations and/or special care, i.e., dietary or treatments that must be arranged for; (1-1-88)
c. Individual plan of services as developed by the day care coordinator; (1-1-88)
d. Participation record of each individual in the day care services provided. (1-1-88)

205. CHILD CARE CENTERS.
01. Policies and Procedures. Any facility that permits a child care center adjacent to or attached to the skilled nursing or intermediate care facility shall establish well-defined written and implemented policies and procedures pertaining to the relationship between the child care center and the SNF or ICF. These shall include, but are not limited to: (1-1-88)
   a. Safety measures. (1-1-88)
   b. Infection control and prevention of disease transmission. (1-1-88)
   c. Access by SNF or ICF patients/residents to the child care center and access by the child care center participants to the SNF or ICF. (1-1-88)
   d. Rights and limitations of both child care center participants and patients/residents of the SNF or ICF. (1-1-88)

02. Day Care Licensure. Any day care home or day care center for children, as defined under Basic Day Care License Act, Sections 39-1101 through 39-1117, Idaho Code, either attached as a distinct part or as a separate facility on the premises of the SNF or ICF facility shall be licensed separately by the appropriate state or local licensing agency. (1-1-88)

03. Day Care Compliance. Every child day care home or center shall comply with the Idaho Department of Health and Welfare Rules, IDAPA 16.02.10, “Idaho Reportable Diseases.” (1-1-88)

06. Sanitation. All individuals moving between the SNF or ICF and the child day care facility shall wash their hands thoroughly, using appropriate soap solution. (1-1-88)

07. Abuse Prohibited. The children and their families shall be assured of freedom from all types of abuse: emotional, physical, verbal, or sexual. (1-1-88)

08. Staff Education. The staff of day care facilities shall give evidence of participating in at least annual education pertinent to child day care management and supervision. (1-1-88)

301. RESPITE CARE SERVICES.

If the SNF or ICF offers respite care to relieve families or other individuals, there shall be policies and procedures written and implemented regarding the program. (1-1-88)

03. Records. Records shall be maintained for all respite care patients/residents which shall include at least the following: (1-1-88)
   a. Medical information sufficient to care for the patient/resident submitted by the attending physician. (1-1-88)
   b. Signed and dated physician’s orders for care, including diet, medications, treatments and any physical activity limitations. (1-1-88)
   c. Nursing and other notes by staff caring for the patient/resident. (1-1-88)
   d. Medication administration record. (1-1-88)
   e. Pertinent patient/resident data information such as name, address, next of kin, who to call in an emergency, name of physician, etc. (1-1-88)

303. OTHER SERVICES.

If a SNF or ICF offers home health, hospice or other services from the facility, the needs and requirements for the delivery of those services shall in no way interfere with the ongoing operation of the SNF or ICF. This includes, but is not limited to, the use of SNF or ICF staff which shall not reduce the required nursing hours per patient/resident per day in the SNF or ICF. (1-1-88)
Section 300.110 General Requirements
...c) An applicant may request that the license issued by the Department of Public Health (the Department) have distinct parts classified according to levels of services. The distinct part must satisfactorily meet the applicable physical plant standards based on a level of service classification sought for that distinct part. If necessary to protect the health, welfare and safety of residents in a distinct part requiring higher standards, the Department shall require compliance with whatever additional physical plant standards are necessary in any distinct part, to achieve this protection as required by the highest level of care being licensed. Administrative, supervisory, and other personnel may be shared by the entire facility, if so doing does not adversely affect meeting the total needs of the residents of the facility.
...e) An intermediate care facility licensed and classified under the Act shall not use in its title or description "Hospital", "Sanitarium", "Sanatorium", "Rehabilitation Center", "Skilled Nursing Facility", or any other word or description in its title or advertisements which indicates that a type of service is provided by the facility which the facility is not licensed to provide or, in fact, does not provide. A skilled nursing facility may use in its title or advertisement the words or description: "Nursing Home", "Intermediate Care", "Skilled Nursing Facility".
...h) Licensure for more than one level of care.
1) A facility may be licensed for more than one level of care. The licensee must designate the level of care that will be provided in each bedroom. Bed rooms of like licensed level of care must be contiguous to each other within each "nursing unit" as defined in Section 300.330. Each nursing unit may have up to two levels of care and must meet the construction standards for the highest licensed level of care in the nursing unit.
2) If a licensee wishes to designate a portion of its licensed beds as either Intermediate Care for the Developmentally Disabled or Long-Term Care for Under Age 22, the licensed beds must be located in a distinct part (as defined in Section 300.330) of the facility.

Section 300.163 Alzheimer's Special Care Disclosure
A facility that offers to provide care for persons with Alzheimer's disease through an Alzheimer's special care unit or center shall disclose to the Department or to a potential or actual client of the facility the following information in writing on request of the Department or client:
a) The form of care or treatment that distinguishes the facility as suitable for persons with Alzheimer's disease;
b) The philosophy of the facility concerning the care or treatment of persons with Alzheimer's disease;
c) The facility's pre-admission, admission, and discharge procedures;
d) The facility's assessment, care planning, and implementation guidelines in the care and treatment of persons with Alzheimer's disease;
e) The facility's minimum and maximum staffing ratios, specifying the general licensed health care provider to client ratio and the trainee health care provider to client ratio;
f) The facility's physical environment;
g) Activities available to clients at the facility;
h) The role of family members in the care of clients at the facility; and
i) The costs of care and treatment under the program or at the center. (Section 15 of the Alzheimer's Special Care Disclosure Act)
Section 300.210 Filing an Annual Attested Financial Statement

a) Each licensee shall submit an annual attested financial statement to the Department. This financial statement shall be filed in a prescribed format on forms supplied by the Department. The forms will be developed in conjunction with the Illinois Department of Public Aid. The time period covered in the financial statement shall be a period determined by the Department for the initial filing, and shall thereafter coincide with the facility's fiscal year or the calendar year. (Section 3-208 of the Act)

b) The Department may require any facility to file an audited financial statement, if the Department determines that such a statement is needed. (Section 3-208 of the Act)

c) The Department may require any or all facilities to submit attested or audited financial statements more frequently than annually, if the Department determines that more frequent financial statements are needed. The frequency and time period of such filings shall be as determined by the Department for each individual facility. (Section 3-208 of the Act)

d) The financial statement shall be filed with the Department within 90 days following the end of the designated reporting period. The financial statement will not be considered as having been filed unless all sections of the prescribed forms have been properly completed. Those sections which do not apply to a particular facility shall be noted "not applicable" on the forms.

e) The information required to be submitted in the financial statement will include at a minimum the following:

   1) Facility information, including: facility name and address, licensure information, type of ownership, licensed bed capacity, date and cost of building construction and additions, date and cost of acquisition of buildings, building sizes, equipment costs and dates of acquisition.

   2) Resident information, including: number and level of care of residents by source of payment, income from residents by level of care.

   3) Cost information by level of care, including:

      A) General service costs; such as dietary, food, housekeeping, laundry, utilities, and plant operation and maintenance.

      B) Health care costs; such as medical director, nursing, medications, oxygen, activities, medical records, other medical services, social services, and utilization reviews.

      C) General Administration; such as administrative salaries, professional services, fees, subscriptions, promotional, insurance, travel, clerical, employee benefits, license fees, and inservice training and education.

      D) Ownership; such as depreciation, interest, taxes, rent, and leasing.

      E) Special Service cost centers; such as habilitative and rehabilitative services, therapies, transportation, education, barber and beauty care, and gift and coffee shop.

   4) Income information, including operating and nonoperating income.

   5) Ownership information, including balance sheet and payment to owners.

   6) Personnel information, including the number and type of people employed and salaries paid.

   7) Related organization information, including related organizations from which services are purchased.

f) The new owner or a new lessee of a previously licensed facility may file a projection of capital costs at the time of closing or signing of the lease.

   1) A facility which is licensed for the first time (a newly constructed facility) must file a projection of capital costs.

   2) Each of the above must file a full cost report within nine months after acquisition (covering the first six months of operation). Each must also file a cost report within 90 days of the close of its first complete fiscal year.
g) No public funds shall be expended for the maintenance of any resident in any facility which has failed to file this financial statement, and no public funds shall be paid to, or on behalf of, a facility which has failed to file the statement. (Section 3-208(b) of the Act)

Section 300.250 Ownership Disclosure
a) As a condition of the issuance or renewal of the license of any facility, the applicant shall file a statement of ownership. The applicant shall notify the Department of any change in the information required in the statement of ownership within ten days of the change. (Section 3-207(a) of the Act)
b) A statement of ownership shall include the following:
1) The name, address, Social Security Number, telephone number, occupation or business activity, business address, business telephone number, and the percent of direct or indirect financial interest of those persons who have a direct or indirect financial interest of five percent or more in the legal entity designated as the operator/licensee of the facility which is the subject of the application or license;
2) The name, address, Social Security Number, telephone number, occupation or business activity, business address, business telephone number, and the percent of direct or indirect financial interest of those persons who have a direct or indirect financial interest of five percent or more in the legal entity that owns the building in which the operator/licensee is operating the facility which is the subject of the application or license; and
3) The name and address of any facility, wherever located, in which the applicant has any ownership interest. (Section 3-207(b) of the Act)

Section 300.510 Administrator
a) There shall be an administrator licensed under the Nursing Home Administrators Licensing and Disciplinary Act (Ill. Rev. Stat. 1987, ch. 111, par. 3651 et seq.) full-time for each licensed facility. The licensee will report any change in administrator to the Department, within five days.
b) The administrator shall delegate in writing adequate authority to a person at least 18 years of age who is capable of acting in an emergency during his or her absence. Such administrative assignment shall not interfere with resident care and supervision. The administrator or the person designated by the administrator to be in charge of the facility in the administrator’s absence shall be deemed by the Department to be the agent of the license for the purpose of Section 3-212 of the Act, which requires Department staff to provide the license with a copy of their report before leaving the facility. (B)
c) The administrator shall arrange for facility supervisory personnel to annually attend appropriate educational programs on supervision, nutrition, and other pertinent subjects.
d) The administrator shall appoint in writing a member of the facility staff to coordinate the establishment of, and render assistance to, the residents' advisory council.
e) The licensee and the administrator shall be familiar with this Part. They shall be responsible for seeing that the applicable regulations are met in the facility and that employees are familiar with those regulations according to the level of their responsibilities. (A, B)
f) If the facility has an assistant administrator, the Department shall be informed of the name and dates of employment and termination of this person. This will provide documentation of service to qualify for a license under the Nursing Home Administrators Licensing and Disciplinary Act (Ill. Rev. Stat. 1987, ch. 111, par. 3605 et seq.).

Section 300.610 Resident Care Policies
a) The facility shall have written policies and procedures, governing all services provided by the facility which shall be formulated by a Resident Care Policy Committee consisting of at least the administrator, the advisory physician or the medical advisory committee and representatives of nursing and other services in the facility. These policies shall be in compliance with the Act and all rules promulgated thereunder. These written policies shall be followed in operating the facility and shall be reviewed at least annually by this committee, as evidenced by written, signed and dated minutes of such a meeting.
b) All the information contained in the policies shall be available to the public, staff, residents and for review by Department personnel.

Section 300.650 Personnel Policies

a) Each facility shall develop and maintain written personnel policies that are followed in the operation of the facility. These policies shall include, at a minimum, each of the requirements of this Section.
b) Employee Records
   1) Employment application forms shall be completed for each employee and kept on file in the facility. Completed forms shall be available to Department personnel for review.
   2) Individual personnel files for each employee shall contain date of birth; home address; educational background; experience, including types and places of employment; date of employment and position employed to fill in this facility; and (if no longer employed in this facility) last date employed and reasons for leaving.
   3) Individual personnel files for each employee shall also contain health records, including the initial health evaluation and the results of the tuberculin skin test required under Section 300.655, and any other pertinent health records.
   4) Individual personnel records for each employee shall also contain records of evaluation of performance.
c) Prior to employing any individual in a position that requires a State license, the facility shall contact the Illinois Department of Professional Regulation to verify that the individual's license is active. A copy of the license shall be placed in the individual's personnel file.
d) The facility shall check the status of all applicants with the Nurse Aide Registry prior to hiring.
e) All personnel shall have either training or experience, or both, in the job assigned to them...
f) Orientation and In-Service Training
   1) All new employees, including student interns, shall complete an orientation program covering, at a minimum, the following: general facility and resident orientation; job orientation, emphasizing allowable duties of the new employee; resident safety, including fire and disaster, emergency care and basic resident safety; and understanding and communicating with the type of residents being cared for in the facility. In addition, all new direct care staff, including student interns, shall complete an orientation program covering the facility's policies and procedures for resident care services before being assigned to provide direct care to residents. This orientation program shall include information on the prevention and treatment of decubitus ulcers and the importance of nutrition in general health care.
   2) All employees, except student interns shall attend in-service training programs pertaining to their assigned duties at least annually. These in-service training programs shall include the facility's policies, skill training and ongoing education to enable all personnel to perform their duties effectively. The in-service training sessions regarding personal care, nursing and restorative services shall include information on the prevention and treatment of decubitus ulcers. In-service training concerning dietary services shall include information on the effects of diet in treatment of various diseases or medical conditions and the importance of laboratory test results in determining
therapeutic diets. Written records of program content for each session and of personnel attending each session shall be kept.
g) Employees shall be assigned duties that are directly related to their functions, as identified in their job descriptions. Exceptions may be made in emergencies.
h) Personnel policies shall include a plan to provide personnel coverage for regular staff when they are absent.
i) Every facility shall have a current, dated weekly employee time schedule posted where employees may refer to it. This schedule shall contain the employee's name, job title, shift assignment, hours of work, and days off. The schedule shall be kept on file in the facility for one year after the week for which the schedule was used.

Section 300.660 Nursing Assistants

a) A facility shall not employ an individual as a nurse aide unless the facility has inquired of the Department as to information in the Registry concerning the individual. (Section 3-206.01 of the Act) The Department shall advise the inquirer if the individual is on the Registry, if the individual has findings of abuse, neglect, or misappropriation of property in accordance with Sections 3-206.01 and 3-206.02 of the Act, and if the individual has a current background check. (See Section 300.661 of this Part.)
b) The facility shall ensure that each nursing assistant complies with one of the following conditions:
   1) Is approved on the Department's Nurse Aide Registry. "Approved" means that the nurse aide has met the training or equivalency requirements of Section 300.663 of this Part and does not have a disqualifying criminal background check without a waiver.
   2) Begins a Department approved Basic Nursing Assistant Training Program (see 77 Ill. Adm. Code 395) no later than 45 days after employment. The nursing assistant shall successfully complete the training program within 120 days after the date of initial employment. A nursing assistant enrolled in a program approved in accordance with 77 Ill. Adm. Code 395.150(a)(2) shall not be employed more than 120 days prior to successfully completing the program.
   3) Within 120 days after initial employment, submits documentation to the Department in accordance with Section 300.663 of this Part to be registered on the Nurse Aide Registry.
c) Each person employed by the facility as a nursing assistant shall meet each of the following requirements:
   1) Be at least sixteen years of age, of temperate habits and good moral character, honest, reliable and trustworthy (Section 3-206 (a)(1) of the Act);
   2) Be able to speak and understand the English language or a language understood by a substantial percentage of the facility's residents (Section 3-206(a)(2) of the Act);
   3) Provide evidence of prior employment or occupation, if any, and residence for two years prior to present employment as a nursing assistant (Section 3-206(a)(3) of the Act);
   4) Have completed at least eight years of grade school or provide proof of equivalent knowledge (Section 3-206(a)(4) of the Act).
d) The facility shall certify that each nursing assistant employed by the facility meets the requirements of this Section. Such certification shall be retained by the facility as part of the employee's personnel record.
e) During inspections of the facility, the Department may require nursing assistants to demonstrate competency in the principles, techniques, and procedures covered by the basic nursing assistant training program curriculum described in 77 Ill. Adm. Code 395, when possible problems in the care provided by aides or other evidences of inadequate training are observed. The State approved manual skills evaluation testing format and forms will be used to determine competency of a nursing assistant when appropriate. Failure to demonstrate competency of the principles,
techniques and procedures shall result in the provision of in-service training to the individual by the facility. The in-service training shall address the basic nursing assistant training principles and techniques relative to the procedures in which the nursing assistants are found to be deficient during inspection (see 77 Ill. Adm. Code 395).

Section 300.661 Health Care Worker Background Check
A facility shall comply with the Health Care Worker Background Check Act [225 ILCS 46] and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955).

Section 300.662 Resident Attendants
...k) All training shall also include a unit in safety and resident rights that is at least five hours in length and that includes ... fire safety, use of a fire extinguisher, evacuation procedures; emergency and disaster preparedness...

Section 300.663 Registry of Certified Nursing Assistants
a) An individual will be placed on the Nurse Aide Registry when he/she has successfully completed a training program approved in accordance with the Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395) and has met background check information required in Section 300.661 of this Part, and when there are no findings of abuse, neglect, or misappropriation of property in accordance with Sections 3-206.01 and 3-206.02 of the Act.

b) An individual will be placed on the Nurse Aide Registry if he/she has met background check information required in Section 300.661 of this Part and submits documentation supporting one of the following equivalencies:
1) Documentation of current registration from another state indicating that the requirements of 42 CFR 483.151 – 483.156 (October 1, 1997, no further amendments or editions included) have been met and that there are no documented findings of abuse, neglect, or misappropriation of property.
2) Documentation of successful completion of a nursing arts course (e.g., Basics in Nursing, Fundamentals of Nursing, Nursing 101) with at least 40 hours of supervised clinical experience in an accredited nurse training program as evidenced by a diploma, certificate or other written verification from the school and, within 120 days after employment, successful completion of the written portion of the Department-established nursing assistant competency test.
3) Documentation of successful completion of a United States military training program that includes the content of the Basic Nursing Assistant Training Program (see 77 Ill. Adm. Code 395) and at least 40 hours of supervised clinical experience, as evidenced by a diploma, certification, DD-214, or other written verification, and, within 120 days after employment, successful completion of the written portion of the Department established nursing assistant competency test.
4) Documentation of completion of a nursing program in a foreign country, including the following, and, within 120 days after employment, successful completion of the written portion of the Department-established nursing assistant competency test:
   A) A copy of the license, diploma, registration or other proof of completion of the program;
   B) A copy of the Social Security card; and
   C) Visa or proof of citizenship.
   c) An individual shall notify the Nurse Aide Registry of any change of address within 30 days and of any name change within 30 days and shall submit proof of any name change to the Department. (Section 3-206.01 of the Act)

Section 300.665 Student Interns
a) No person who meets the definition of student intern in Section 300.330 shall be required to complete a current course of training for nursing assistants.
b) The facility may utilize student interns to perform basic nursing assistant skills for which they have been evaluated and deemed competent by an approved evaluator using the State approved manual skills competency evaluation testing format and forms (see 77 Ill. Adm. Code 395.300), but shall not allow interns to provide rehabilitation nursing (see Section 300.1210(b), in-bed bathing, assistance with skin care, foot care, or to administer enemas, except under the direct, immediate supervision of a licensed nurse.

c) No facility shall have more than fifteen percent of its nursing assistant staff positions held by student interns.

Section 300.670 Disaster Preparedness

a) For the purpose of this Section only, "disaster" means an occurrence, as a result of a natural force or mechanical failure such as water, wind or fire, or a lack of essential resources such as electrical power, that poses a threat to the safety and welfare of residents, personnel, and others present in the facility.

b) Each facility shall have policies covering disaster preparedness, including a written plan for staff, residents and others to follow. The plan shall include, but not be limited to, the following:
1) Proper instruction in the use of fire extinguishers for all personnel employed on the premises;
2) A diagram of the evacuation route, which shall be posted and made familiar to all personnel employed on the premises;
3) A written plan for moving residents to safe locations within the facility in the event of a tornado warning or severe thunderstorm warning; and
4) An established means of facility notification when the National Weather Service issues a tornado or severe thunderstorm warning that covers the area in which the facility is located. The notification mechanism shall be other than commercial radio or television. Approved notification measures include being within range of local tornado warning sirens, an operable National Oceanic and Atmospheric Administration weather radio in the facility, or arrangements with local public safety agencies (police, fire, emergency management agency) to be notified if a warning is issued.

c) Fire drills shall be held at least quarterly for each shift of facility personnel. Disaster drills for other than fire shall be held twice annually for each shift of facility personnel. Drills shall be held under varied conditions to:
1) Ensure that all personnel on all shifts are trained to perform assigned tasks;
2) Ensure that all personnel on all shifts are familiar with the use of the fire-fighting equipment in the facility; and
3) Evaluate the effectiveness of disaster plans and procedures.

d) Fire drills shall include simulation of the evacuation of residents to safe areas during at least one drill each year on each shift.

e) The facility shall provide for the evacuation of physically handicapped persons, including those who are hearing or sight impaired.

f) If the welfare of the residents precludes an actual evacuation of an entire building, the facility shall conduct drills involving the evacuation of successive portions of the building under conditions that assure the capability of evacuating the entire building with the personnel usually available, should the need arise.

g) A written evaluation of each drill shall be submitted to the facility administrator and shall be maintained for one year.

h) A written plan shall be developed for temporarily relocating the residents for any disaster requiring relocation and at any time that the temperature in residents' bedrooms falls below 55°F for 12 hours or more.

i) Reporting of Disasters
1) Upon the occurrence of any disaster requiring hospital service, police, fire department or coroner, the facility administrator or designee shall provide a preliminary report to the Department either by using the nursing home hotline or by directly contacting the appropriate Department Regional Office during business hours. This preliminary report shall include, at a minimum:
   A) The name and location of the facility;
   B) The type of disaster;
   C) The number of injuries or deaths to residents;
   D) The number of beds not usable due to the occurrence;
   E) An estimate of the extent of damages to the facility;
   F) The type of assistance needed, if any; and
   G) A list of other State or local agencies notified about the problem.
2) If the disaster will not require direct Departmental assistance, the facility shall provide a preliminary report within 24 hours after the occurrence. Additionally, the facility shall submit a full written account to the Department within seven days after the occurrence, which includes the information specified in subsection (i)(1) of this Section and a statement of actions taken by the facility after the preliminary report.

j) Each facility shall establish and implement policies and procedures in a written plan to provide for the health, safety, welfare and comfort of all residents when the heat index/apparent temperature (see Section 300.Table D), as established by the National Oceanic and Atmospheric Administration, inside the facility exceeds 80°F.

k) Coordination with Local Authorities
1) Annually, each facility shall forward copies of all disaster policies and plans required under this Section to the local health authority and local emergency management agency having jurisdiction.
2) Annually, each facility shall forward copies of its emergency water supply agreements, required under Section 300.2610(b), to the local health authority and local emergency management agency having jurisdiction.
3) Each facility shall provide a description of its emergency source of electrical power, including the services connected to the source, to the local health authority and local emergency management agency having jurisdiction. The facility shall inform the local health authority and local emergency management agency at any time that the emergency source of power or services connected to the source are changed.
4) When requested by the local health authority and the local emergency management agency, the facility shall participate in emergency planning activities.

Section 300.695 Contacting Local Law Enforcement
a) For the purpose of this Section, the following definitions shall apply:
   1) "911" – an emergency answer and response system in which the caller need only dial 9-1-1 on a telephone to obtain emergency services, including police, fire, medical ambulance and rescue.
   2) Physical abuse – see Section 300.30.
   3) Sexual abuse – sexual penetration, intentional sexual touching or fondling, or sexual exploitation (i.e., use of an individual for another person's sexual gratification, arousal, advantage, or profit).
   b) The facility shall immediately contact local law enforcement authorities (e.g., telephoning 911 where available) in the following situations:
   1) Physical abuse involving physical injury inflicted on a resident by a staff member or visitor;
   2) Physical abuse involving physical injury inflicted on a resident by another resident, except in situations where the behavior is associated with dementia or developmental disability;
   3) Sexual abuse of a resident by a staff member, another resident, or a visitor; 4) When a crime has been committed in a facility by a person other than a resident; or
   5) When a resident death has occurred other than by disease processes.
c) The facility shall develop and implement a policy concerning local law enforcement notification, including:
1) Ensuring the safety of residents in situations requiring local law enforcement notification;
2) Contacting local law enforcement in situations involving physical abuse of a resident by another resident;
3) Contacting police, fire, ambulance and rescue services in accordance with recommended procedure;
4) Seeking advice concerning preservation of a potential crime scene;
5) Facility investigation of the situation.
d) Facility staff shall be trained in implementing the policy developed pursuant to subsection (c).
e) The facility shall also comply with other reporting requirements of this Part.

Section 300.696 Infection Control
b) A group, i.e., an infection control committee, quality assurance committee, or other facility entity, shall periodically review the results of investigations and activities to control infections.

Section 300.820 Categories of Personnel
a) The facility shall provide an administrator as set forth in Subpart B.
b) The facility shall provide a Resident Services Director who is assigned responsibility for the coordination and monitoring of the resident's overall plan of care. The director of nurses or an individual on the professional staff of the facility may fill this assignment to assure that residents' plans of care are individualized, written in terms of short and long-range goals, understandable and utilized; their needs are met through appropriate staff interventions and community resources; and residents are involved, whenever possible, in the preparation of their plan of care.
c) The facility shall provide activity personnel as set forth in Section 300.1410(b).
d) The facility shall provide dietary personnel as set forth in Sections 300.2010 and 300.2020.
e) The facility shall designate a staff member(s) to provide social services to residents.
f) The facility shall provide nursing personnel as set forth in Subpart F.

Section 300.830 Consultation Services
a) The facility shall have all arrangements for each consultant's services in a written agreement setting forth the services to be provided. These agreements shall be updated annually.
b) If the staff member designated to provide social services is not a social worker, the facility shall have an effective arrangement with a social worker to provide social service consultation. Skilled nursing facilities must provide a social worker to meet this requirement.
c) The facility shall have a written agreement for activity program consultation if required under Section 300.1410(c).
d) Specific restorative services (physical therapy, occupational therapy, etc.) provided by the facility shall include consultation as set forth in Section 300.1420(a).
e) The facility shall arrange for an advisory physician or medical advisory committee as set forth in Section 300.1010.
f) The facility shall arrange for an advisory dentist and dental hygienist if desired, as set forth in Section 300.1050.
g) The facility shall arrange for a consultant pharmacist as set forth in Section 300.1610.
h) Skilled Nursing Facilities shall arrange for consultation from a health information management consultant as set forth in Section 300.1860.
i) Facilities shall arrange for a dietary consultant as set forth in Section 300.2010(b).
Section 300.840 Personnel Policies
The personnel policies required in Section 300.650 and other personnel policies established by the facility, shall be followed in the operation of the facility.

Section 300.1010 Medical Care Policies
a) Advisory Physician or Medical Advisory Committee
   1) There shall be an advisory physician, or a medical advisory committee composed of physicians, who shall be responsible for advising the administrator on the overall medical management of the residents and the staff of the facility. If the facility employs a house physician, he may be the advisory physician. (B)
   2) Additional for Skilled Nursing Facilities. There shall be a medical advisory committee composed of two (2) or more physicians who shall be responsible for advising the administrator on the overall medical management of the residents and the staff in the facility. If the facility employs a house physician, the house physician may be one member of this committee.

Section 300.1050 Dental Standards
a) Each long-term care facility shall have a dental program which will provide for in-service education to residents and staff under direction of dental personnel including at a minimum the following:
   1) Information regarding nutrition and diet control measures which are dental health oriented.
   2) Instruction in proper oral hygiene methods.
   3) Instruction concerning the importance of maintenance of proper oral hygiene and where appropriate including family members (as in the case of residents leaving the long-term care facility).
   b) The direct care staff shall receive in-service education annually. This will be provided by a dentist or a dental hygienist.
      1) Direct care staff shall be educated in ultrasonic or manual denture and partial denture cleaning techniques.
      2) Direct care staff shall be educated in proper brushing and oral health care for residents who are unable to care for their own health.
      3) Direct care staff shall be educated in examining the mouth in order to recognize abnormal conditions for necessary referral.
      4) Direct care staff shall be educated regarding nutrition and diet control measures and the effect on dental health.
      5) Supplemental dental training films shall be included with any other health training films seen on a rotating basis.

Section 300.1220 Supervision of Nursing Services
a) Each facility shall have a director of nursing services (DON) who shall be a registered nurse.
b) The DON shall supervise and oversee the nursing services of the facility, including:
   ...8) Supervising and overseeing in-service education, embracing orientation, skill training, and ongoing education for all personnel and covering all aspects of resident care and programming. The educational program shall include training and practice in activities and restorative/rehabilitative nursing techniques through out-of-facility or in-facility training programs. This person may conduct these programs personally or see that they are carried out.

Section 300.1410 Activity Program
...2) Activity personnel working under the direction of the activity director shall have a minimum of 10 hours of in-service training per calendar or employment year, directly related to
recreation/activities. In-service training may be provided by qualified facility staff and/or consultants, or may be obtained from college or university courses, seminars and/or workshops, educational offerings through professional organizations, similar educational offerings or any combination thereof.

...5) The activity director shall have a minimum of ten hours of continuing education per year pertaining to activities programming.

Section 300.1440 Volunteer Program
a) If the facility has a volunteer or auxiliary program, a facility staff person shall direct the program. Community groups such as Boy and Girl Scouts, church groups and civic organizations that may occasionally present programs, activities, or entertainment in the facility shall not be considered volunteers for the purposes of this Section.
b) Volunteers shall complete a standard orientation program, in accordance with their facility responsibilities and with the facility’s policies and procedures governing the volunteer program. The orientation shall include, but not be limited to:
   1) Residents’ rights; 2) Confidentiality; 3) Disaster preparedness (i.e., fire, tornado); 4) Emergency response procedures; 5) Safety procedures/precautions; 6) Infection control; and 7) Body mechanics.
c) Volunteers shall respect all aspects of confidentiality. d) Volunteers shall be informed of and shall implement medical and physical precautions related to the residents with whom they work. e) Volunteers shall not take the place of qualified staff (e.g., activity professionals, nursing assistants, or case workers).

Section 300.1610 Medication Policies and Procedures
...e) The staff pharmacist or consultant pharmacist shall participate in the planned in-service education program of the facility on topics related to pharmaceutical service.
a) Each facility shall have a medical record system that retrieves information regarding individual residents.
b) The facility shall keep an active medical record for each resident. This resident record shall be kept current, complete, legible and available at all times to those personnel authorized by the facility's policies, and to the Department’s representatives.
c) Record entries shall meet the following requirements:
   1) Record entries shall be made by the person providing or supervising the service or observing the occurrence that is being recorded.
   2) All entries into the medical record shall be authenticated by the individual who made or authored the entry. "Authentication", for purposes of this Section, means identification of the author of a medical record entry by that author and confirmation that the contents are what the author intended.
   3) Medical record entries shall include all notes, orders or observations made by direct resident care providers and any other individuals authorized to make such entries in the medical record, and written interpretive reports of diagnostic tests or specific treatments including, but not limited to, radiologic or laboratory reports and other similar reports.
   4) Authentication shall include the initials of the signer’s credentials. If the electronic signature system will not allow for the credential initials, the facility shall have a means of identifying the signer’s credentials.
   5) Electronic Medical Records Policy. The facility shall have a written policy on electronic medical records. The policy shall address persons authorized to make entries, confidentiality, monitoring of record entries, and
preservation of information.
A) Authorized Users. The facility shall develop a policy to assure that only authorized users make entries into medical records and that users identify the date and author of every entry in the medical records. The policy should allow written signatures, written initials supported by a signature log, or electronic signatures with assigned identifiers, as authentication by the author that the entry made is complete, accurate and final.
B) Confidentiality. The facility policy shall include adequate safeguards to ensure confidentiality of patient medical records, including procedures to limit access to authorized users. The authorized user must certify in writing that he or she is the only person with authorized user access to the identifier and that the identifier will not be shared or used by any other person. A surveyor or inspector in the performance of a State-required inspection may have access to electronic medical records, using the identifier and under the supervision of an authorized user from the facility. A surveyor or inspector may have access to the same electronic information normally found in written patient records. Additional summary reports, analyses, or cumulative statistics available through computerized records are the internal operational reports of the facility’s Quality Assurance Committee.
C) Monitoring. The facility shall develop a policy to periodically monitor the use of identifiers and take corrective action as needed. The facility shall maintain a master list of authorized users past and present and maintain a computerized log of all entries. The logs shall include the date and time of access and the user ID under which access occurred.
D) Preservation. The facility shall develop a plan to ensure access to medical records over the entire record retention period for that particular piece of information.
6) A user may terminate authorization for use of electronic or computer-generated signature upon written notice to the individual responsible for medical records or other person designated by the facility’s policy.
7) Each report generated by a user must be separately authenticated.
d) All physician’s orders, plans of treatment, Medicare or Medicaid certification, recertification statements, and similar documents shall have the authentication of the physician. The use of a physician’s rubber stamp signature, with or without initials, is not acceptable.
e) The record shall include medically defined conditions and prior medical history, medical status, physical and mental functional status, sensory and physical impairments, nutritional status and requirements, special treatments and procedures, mental and psychosocial status, discharge potential, rehabilitation potential, cognitive status and drug therapy.
f) An ongoing resident record including progression toward and regression from established resident goals shall be maintained.
1) The progress record shall indicate significant changes in the resident’s condition. Any significant change shall be recorded upon occurrence by the staff person observing the change.
2) Recommendations and findings of direct service consultants, such as providers of social, dental, dietary or rehabilitation services shall be included in the resident’s progress record when the recommendations pertain to an individual resident.
g) A medication administration record shall be maintained, which contains the date and time each medication is given, name of drug, dosage, and by whom administered.
h) Treatment sheets shall be maintained recording all resident care procedures ordered by each resident’s attending physician. Physician ordered procedures that shall be recorded include, but are not limited to, the prevention and treatment of decubitus ulcers, weight monitoring to determine a resident’s weight loss or gain, catheter/ostomy care, blood pressure monitoring, and fluid intake and output.
i) The facility may use universal progress notes in the medical records.
j) Each facility shall have a policy regarding the retirement and destruction of medical records. This policy shall specify the time frame for retiring a resident’s medical record, and the method to be
used for record destruction at the end of the record retention period. The facility’s record retirement policy shall not conflict with the record retention requirements contained in Section 300.1840 of this Part.

k) Discharge information shall be completed within 48 hours after the resident leaves the facility. The resident care staff shall record the date, time, condition of the resident, to whom released, and the resident’s planned destination (home, another facility, undertaker). This information may be entered onto the admission record form.

Section 300.1820 Content of Medical Records

a) No later than the time of admission, the facility shall enter the following information onto the identification sheet or admission form for each resident:

1) Name, sex, date of birth and Social Security Number, 2) Marital Status, and the name of spouse (if there is one), 3) Whether the resident has been previously admitted to the facility, 4) Date of current admission to the facility, 5) State or country of birth, 6) Home address, 7) Religious affiliation (if any), 8) Name, address and telephone number of any referral agency, state hospital, zone center or hospital from which the resident has been transferred (if applicable), 9) Name and telephone number of the resident’s personal physician, 10) Name and telephone number of the resident’s next of kin or responsible relative. 11) Race and origin, 12) Most recent occupation, 13) Whether the resident or the resident’s spouse is a veteran, 14) Father’s name and mother’s maiden name, 15) Name, address and telephone number of the resident’s dentist, and 16) The diagnosis applicable at the time of admission.

b) At the time of admission, the facility shall obtain a history of prescription and non-prescription medications taken by the resident during the 30 days prior to admission to the facility (if available).

c) In addition to the information that is specified above, each resident’s medical record shall contain the following:

1) Medical history and physical examination form that includes conditions for which medications have been prescribed, physician findings, all known diagnoses and restoration potential. This shall describe those known conditions that the medical and resident care staff should be apprised of regarding the resident. Examples of diagnoses and conditions that are to be included are allergies, epilepsy, diabetes and asthma.

2) A physician’s order sheet that includes orders for all medications, treatments, therapy and rehabilitation services, diet, activities and special procedures or orders required for the safety and well-being of the resident.

3) Nurse’s notes that describe the nursing care provided, observations and assessment of symptoms, reactions to treatments and medications, progression toward or regression from each resident’s established goals, and changes in the resident’s physical or emotional condition. (B)

4) An ongoing record of notations describing significant observations or developments regarding each resident’s condition and response to treatments and programs.

A) Physicians and other consultants who provide direct care or treatment to residents shall make notations at the time of each visit with a resident.

B) Significant observations or developments regarding resident responses to activity programs, social services, dietary services and work programs shall be recorded as they are noted. If no significant observations or developments are noted for three months, an entry shall be made in the record of that fact.

C) Significant observations or developments regarding resident responses to nursing and personal care shall be recorded as they are noted. If no significant observations or developments are noted for a month, an entry shall be made in the record of that fact.

5) Any laboratory and x-ray reports ordered by the resident’s physician.
6) Documentation of visits to the resident by a physician and to the physician’s office by the resident. The physician shall record, or dictate and sign, the results of such visits, such as changes in medication, observations and recommendations made by the physician during the visits, in the record.

7) The results of the physical examination conducted pursuant to Section 300.1010(g) of this Part.

8) Upon admission from a hospital or state facility, a hospital summary sheet or transfer form that includes the hospital diagnosis and treatment, and a discharge summary. This transfer information, which may be included in the transfer agreement, shall be signed by the physician who attended the resident while in the hospital.

Section 300.1840 Retention and Transfer of Resident Records
a) Records of discharged residents shall be placed in an inactive file and retained as follows:
1) Records for any resident who is discharged prior to being 18 years old shall be retained at least until the resident reaches the age of 23.
2) Records of residents who are over 18 years old at the time of discharge shall be retained for a minimum of five years.

b) After the death of a resident, the resident’s record shall be retained for a minimum of five years.

b) It is suggested that the administrator check with legal counsel regarding the advisability of retaining resident records for a longer period of time, and the procedures to be followed in the event the facility ceases operation.

c) When a resident is transferred to another facility, the transferring facility shall send with the resident a reason for transfer, summary of treatment and results, laboratory findings, and orders for the immediate care of the resident. This information may be presented in a transfer form or an abstract of the resident’s medical record.

Section 300.1850 Other Resident Record Requirements
This Section contains references to rules located in other Subparts that pertain to the content and maintenance of medical records.

a) The resident’s record shall include facts involved if the resident’s discharge occurs despite medical advice to the contrary, as required by Section 300.620(f) of this Part.

b) The resident’s record shall identify the reasons for any order and use of safety devices or restraints, as required by Sections 300.680(c) and 300.1040(d), respectively, of this Part.

c) The resident’s record shall include information regarding the physician’s notification and response regarding any serious accident or injury, or significant change in condition, as required by Section 300.1010(h) of this Part.

d) The resident’s record shall contain the physician’s permission, with contraindications noted, for participation in the activity program, as required by Section 300.1410(d) of this Part.

e) The records of residents participating in work programs shall document the appropriateness of the program for the resident and the resident’s response to the program, as described in Section 300.1430(e) of this Part.

f) Telephone orders shall be transcribed into the resident’s medical record or a telephone order form and signed by the nurse taking the order, as described in Section 300.1620(a)(2) of this Part.

g) Documentation of the review of medication order shall be entered in the resident’s medical record as described in Section 300.1620(b) of this Part.

h) The resident’s medical record shall include notations indicating any release of medications to the resident or person responsible for the resident’s care, as described in Section 300.1620(e) of this Part.

i) Instances of inability to implement a physician’s medication order shall be noted in the resident’s medical record, as described in Section 300.1630(d) of this part.
j) Medication errors and drug reactions shall be noted in the resident's medical record as described in Section 300.1630(e) of this Part.
k) The resident's record shall include the physician's diet order and observations of the resident's response to the diet, as describe in Section 300.2040 of this Part.
l) The resident's record shall contain any physician determinations that limit the resident's access to the resident's personal property, as described in Section 300.3210(b) of this Part.
m) The facility shall comply with Section 300.3210(g) of this Part, which requires that any medical inadvisability regarding married residents residing in the same room be documented in the resident's record.
n) The facility shall permit each resident, resident's parent, guardian or representative to inspect and copy the resident's medical records as provided by Section 300.3220(g) of this Part.
o) Any resident transfer or discharge mandated by the physical safety of other residents shall be documented in the resident's medical record as required by Sections 300.3300(d) and (g) of this Part.
p) Summaries of discussions and explanations of any planned involuntary transfers or discharges shall be included in the medical record of the resident that is to be involuntarily transferred or discharged, as described in Section 300.3300(j) of this Part.

Section 300.1860 Staff Responsibility for Medical Records
a) Each skilled nursing facility shall have a health information management consultant.
1) Each skilled nursing facility that has a full-time or part-time health information management consultant shall designate that employee as the person responsible for ensuring that the facility's medical records are completed, maintained and preserved in accordance with this Subpart.
2) Each skilled nursing facility that does not have a full-time or part-time health information management consultant shall designate an employee to be responsible for completing, maintaining and preserving the facility's medical records. This individual shall be trained by, and receive regular consultation from, a health information management consultant in order to meet the requirements of this Subpart.
b) Each intermediate care facility that does not have a full-time or part-time health information management consultant shall designate an employee to be responsible for completing, maintaining and preserving the medical records in accordance with the requirements of this Subpart.

Section 300.1870 Retention of Facility Records
The facility shall retain the records referenced in this Section for a minimum of three years. It is suggested that the administrator check with legal counsel regarding the advisability of retaining records for a longer period of time, and the procedures to be followed in the event the facility ceases operation. The records for which this requirement applies are as follows:
a) The annual financial statement described in Section 300.210 of this Part.
b) The minutes of resident advisory council meetings required by Section 300.640(k) of this Part.
c) The records of in-service training required by Section 300.650(b) (3) of this Part.
d) Copies of reports of serious incidents or accidents involving residents required by Section 300.690 of this Part.
e) Records of the emergency medication kit review by the pharmaceutical advisory committee required by Section 300.1610(i)(3) of this Part.
f) The reports of findings and recommendations from consultants required in Section 300.1880(a) of this Part.
g) Copies of the quarterly reports for all employees that are filed for Social Security and Unemployment Compensation as required by Section 300.1880(d) of this Part.
(Source: Amended at 13 Ill. Reg. 4684, effective March 24, 1989)
Section 300.1880 Other Facility Record Requirements
a) The facility shall maintain a file of reports of findings and recommendations from consultants. Each report shall be dated and indicate each specific date and time the consultant was in the facility.
b) The facility shall complete the Illinois Department of Public Health Annual Long Term Care (LTC) Facility Survey.
c) The facility shall maintain a permanent chronological resident registry showing date of admission, name of resident and date of discharge or death.
d) The facility shall make available to the Department upon request copies of the quarterly reports for all employees that are filed for Social Security and Unemployment Compensation.
e) Rules located in other Sections of this Part that pertain to the content and maintenance of facility records are as follows:
1) The facility shall file an annual financial statement as described in Section 300.210 of this Part.
2) Records and daily time schedules shall be kept on each employee as set forth in Section 300.650(a) and (b) of this Part.
3) The facility shall maintain a controlled substances record as described in Section 300.1650(d) of this Part.
4) Menu and food purchase records shall be maintained as set forth in Section 300.2080(d) and (f) of this Part.
5) The facility shall maintain a file of all reports of serious incidents or accidents involving residents as required by Section 300.690 of this Part.

Section 300.3240 Abuse and Neglect
a) An owner, licensee, administrator, employee or agent of a facility shall not abuse or neglect a resident. (A, B) (Section 2-107 of the Act)
b) A facility employee or agent who becomes aware of abuse or neglect of a resident shall immediately report the matter to the facility administrator. (Section 3-610 of the Act)
c) A facility administrator who becomes aware of abuse or neglect of a resident shall immediately report the matter by telephone and in writing to the resident’s representative. (Section 3-610 of the Act)
d) A facility administrator, employee, or agent who becomes aware of abuse or neglect of a resident shall also report the matter to the Department. (Section 3-610 of the Act)
e) Employee as perpetrator of abuse. When an investigation of a report of suspected abuse of a resident indicates, based upon credible evidence, that an employee of a long-term care facility is the perpetrator of the abuse, that employee shall immediately be barred from any further contact with residents of the facility, pending the outcome of any further investigation, prosecution or disciplinary action against the employee. (Section 3-611 of the Act)
f) Resident as perpetrator of abuse. When an investigation of a report of suspected abuse of a resident indicates, based upon credible evidence, that another resident of the long-term care facility is the perpetrator of the abuse, that resident’s condition shall be immediately evaluated to determine the most suitable therapy and placement for the resident, considering the safety of that resident as well as the safety of other residents and employees of the facility. (Section 3-612 of the Act)

Section 300.3320 Confidentiality
a) The Department, the facility and all other public or private agencies shall respect the confidentiality of a resident’s record and shall not divulge or disclose the contents of a record in a
manner which identifies a resident, except upon a resident’s death to a relative or guardian, or under judicial proceedings. This Section shall not be construed to limit the right of a resident or a resident’s representative to inspect or copy the resident’s records. (Section 2-206(a) of the Act)
b) Confidential medical, social, personal, or financial information identifying a resident shall not be available for public inspection in a manner which identifies a resident. (B) (Section 2-206(b) of the Act)

Section 300.3710 Day Care in Long-Term Care Facilities
a) For a licensed long-term care facility to be approved for a day care program, it is necessary that the facility meet all licensing requirements for its level of care.
b) In addition, the following criteria must also be met:
   1) Staff: Sufficient and satisfactory personnel shall be on duty to provide services that meet the total needs of the day care residents, without detracting from the services given to the residents in the facility in accordance with various staffing requirements in this Part.
   2) Space:
      A) Dining – Adequate space and equipment available to accommodate the additional residents in accordance with Subpart J and L and Sections 300.2070 or 300.3070.
      B) Activity Area – Large enough area to accommodate capacity of facility, plus additional "Day Care" residents in accordance with Sections 300.2870 or 300.3070.
      C) Rest Area – A definite area should be designated as an area available for the Day Care resident to nap or rest. This area should be equipped with beds (roll-aways can be used) or cots and portable screens. There should also be adequate space available for personal items storage for the number of Day Care residents being cared for. Suggested areas which can be utilized for the Day Care resident could include:
         i) Facilities having more than one communal area (such as a lounge, sunporch, and other areas) could designate one of these for rest areas;
         ii) Non-occupied rooms (no one assigned to these rooms);
         iii) Toilets – Adequate number to accommodate extra number of residents in accordance with Sections 300.2860 and 300.3060.
   3) Records:
      A) A statement by a physician who has evaluated the resident within the last 30 days stating the resident is free of communicable and infectious disease, and indicating any medication and treatments and diet needed by the resident during the period of time in the facility. Permission should also be granted in this statement for the resident to participate in activities with any contraindications or limitations.
      B) Medication and Treatment record – Required for any medications or treatments given during resident stay in the facility. (Medications must be in original containers and properly labeled.)
      C) "Face" sheet or admission sheet – Containing all pertinent information necessary for the "safe keeping" of the resident such as complete name; address, telephone number, social security number, medicare number, and age of resident; name, business, and home address, and telephone number of person to notify in an emergency; name of family physician; name of physician to call in an emergency.
      D) Incident Report – in case of medication error or accident of any kind.
   4) There must be written policies covering "Day Care" Service in the facility which explain implementation of this section.
   5) Permission for a Day Care Program requires identifying the services of the facility that will be used in the program. Examples: Activity area, dining area, administering of medications by nursing staff, physical therapy, speech, social services.
6) The maximum number of "Day Care" residents served shall be reported with the application under Section 300.160 of this Part.
7) The facility shall consider the following in developing and providing "Day Care Programs":
   A) Use of house or advisory physician for emergencies;
   B) Insurance coverage;
   C) Signed agreement with family or responsible individual;
   D) Permission to be involved in activities outside of the facility (in the community); E) Attendance record; and F) Facility should be aware of method and time of pick-up and delivery of the Day Care residents. (Source: Amended at 16 Ill. Reg. 17089, effective November 3, 1992)

Section 300.7000 Applicability [Alzheimer's Special Care]
a) This Subpart, in addition to the remainder of Part 300, as applicable, shall apply to facilities and distinct parts (units) that are subject to the Alzheimer's Special Care Disclosure Act.
b) The facility shall comply with the Alzheimer's Special Care Disclosure Act, in accordance with Section 300.163 of this Part, for this unit.
c) Facilities substantially in compliance with the requirements of this Subpart will receive written recognition from the Department.
d) A location that, subsequent to the recognition, has an A violation or a repeat B violation that is related to the operation of the unit shall immediately discontinue using the recognition, including, but not limited to, removing documentation of the recognition that may have been posted and removing any mention of the recognition from written documentation provided to families or the community.
e) A location that, subsequent to the recognition, has an A violation or repeat B violation shall notify current residents and their representatives. Within seven days after a location is issued an A or repeat violation, the licensee shall notify entities that have referred individuals to the unit within the previous 90 days, such as hospital discharge planners, Area Agency on Aging, and Alzheimer's Association.

Section 300.7050 Staffing [Alzheimer's Special Care]
a) The unit shall have a full-time unit director.
   1) The director may have other responsibilities, within the unit, in units with fewer than 40 residents.
   2) The unit director may support off-unit activities related to persons with Alzheimer's disease and related dementia, such as providing training to facility staff, assessment of potential residents, counseling to potential residents and their families, and consultation/assessment/care planning for facility residents with Alzheimer’s disease and related dementia who do not reside on the unit.
   3) The unit director shall have documented course work in dementia care and ability-centered care, and shall meet at least one of the following requirements:
      A) Have an associate's or a bachelor's degree and/or be a registered nurse and have at least one year of experience working with persons with Alzheimer's disease and other dementia; or
      B) Have a minimum of 5 years of experience working with persons with Alzheimer's disease and other dementia, at least two years of which are management experience working with persons with Alzheimer's disease and other dementia.
   4) The unit director shall obtain at least 12 hours of continuing education every year, especially related to serving residents with Alzheimer's disease and other dementia.
b) The unit shall have assigned, consistent staff. There shall be enough staff to meet the scheduled and unscheduled needs of each resident, as defined in the care plan, taking into account the purpose of the setting, the severity of dementia, and the resident’s physical abilities, behavior patterns, and social and medical needs.
c) All staff who ever work on the unit (e.g., nurses, CNAs, housekeepers, social services and activities staff, and food service staff) shall receive at least four hours of dementia-specific orientation within the first 7 days of working on the unit. This orientation shall include:
1) Basic information about the nature, progression, and management of Alzheimer’s disease and other dementia;
2) Techniques for creating an environment that minimizes challenging behavior from residents with Alzheimer’s disease and other dementia;
3) Methods of identifying and minimizing safety risks to residents with Alzheimer’s disease and other dementia; and
4) Techniques for successful communication with individuals with Alzheimer’s disease and other dementia.
d) Nurses, CNAs, and social service and activities staff who work on the unit at least 50 percent of the time that they work at the facility shall participate in a minimum of 12 additional hours of orientation within the first 45 days after employment, specifically related to the care of persons with Alzheimer’s disease and other dementia. This orientation shall be defined in facility policies and procedures; shall be in a form of classroom, return demonstration, and mentoring; and shall define to new staff the elements contained in Section 300.7050(e)(1)-(10).
e) Nurses, CNAs, and social service and activities staff who work on the unit at least 50 percent of the time that they work at the facility shall attend at least 12 hours of continuing education every year, specifically related to serving residents with Alzheimer’s disease and other dementia. (Completion of the 12 hours of orientation in accordance with subsection (d) of this Section may be counted as continuing education for the year in which this orientation is completed.) Topics shall include, but not be limited to:
1) Promoting the philosophy of an ability-centered care framework;
2) Promoting resident dignity, independence, individuality, privacy and choice;
3) Resident rights and principles of self-determination;
4) Medical and social needs of residents with Alzheimer’s disease and other dementia;
5) Assessing resident capabilities and developing and implementing services plans;
6) Planning and facilitating activities appropriate for a resident with Alzheimer’s disease and other dementia;
7) Communicating with families and others interested in the resident;
8) Care of elderly persons with physical, cognitive, behavioral, and social disabilities;
9) Common psychotropics and their side effects; and
10) Local community resources.
f) Within 6 months after January 1, 2005, or within 6 months after hire, the facility administrator and director of nursing shall attend the orientation for staff who work on the unit at least 50 percent of the time in accordance with subsection (d).
g) For each training requirement in this Section, staff shall be evaluated to determine if they have met or exceeded stated learning objectives. Results shall be documented.
h) Training requirements of this Section are in addition to requirements for nurse aide training. Orientation requirements of this Section are in addition to regular staff orientation.

Section 300.7070 Quality Assessment and Improvement [Alzheimer’s Special Care]
The unit shall have a written plan that is part of the facility’s overall quality assurance plan to assess residents’ quality of care, quality of life, and overall well-being.
a) The licensee shall develop and implement a quality assessment and improvement program designed to meet at least the following goals:
1. Ongoing monitoring and evaluation of the quality of care and service provided at the facility, including, but not limited to:
   A) Admission of residents who are appropriate to the capabilities of the facility;
   B) Resident assessment;
   C) Development and implementation of appropriate individualized, ability-centered treatment plans;
   D) Resident satisfaction;
   E) Infection control;
   F) Appropriate numbers of staff; and
   G) Staff turnover.
2. Identification and analysis of problems.
3. Identification and implementation of corrective action or changes

b) The program shall operate pursuant to a written plan that shall include, but not be limited to:
   1) A detailed statement of how problems will be identified, including procedures to elicit insights from residents, residents' families, and residents' representatives;
   2) The methodology and criteria that will be used to formulate action plans to address problems, which shall include the insights of residents, residents' families, and residents' representatives;
   3) Procedures for evaluating the effectiveness of action plans and revising action plans to prevent reoccurrence of problems;
   4) Procedures for documenting the activities of the program; and
   5) Identifying the persons responsible for administering the program.

c) A copy of the plan shall be provided to residents, residents' families, or residents' representatives.

PART 395 LONG-TERM CARE ASSISTANTS AND AIDES TRAINING PROGRAMS CODE
Section 395.50 Definitions
Act – the Nursing Home Care Act [210 ILCS 45].

Approved evaluator – a registered nurse who has attended a Department-sponsored evaluator workshop, meets the Instructor Requirements in Section 395.160 of this Part, and has no fiduciary connection with the facility by which the candidate is employed or will be employed within 30 days of the evaluation.

Approved manual skills – the following tasks demonstrated by a candidate: washing hands, performing oral hygiene, hair care or nail care for a client, shaving a client's face, taking a client's oral temperature and pulse, measuring a client's respiration and blood pressure, making an occupied and unoccupied bed, feeding and dressing a client, making a final room check prior to client occupancy, measuring a client's weight and height, placing a client in a side-lying position, performing passive range of motion on a client, calculating a client's intake and output of fluids, transferring a client to a wheelchair using a safety belt, and giving a client a partial bath.

Child Care/Habilitation Aide – any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons Under 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Professional Regulation to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.
Competency test – a comprehensive multiple choice test meeting the requirements of 42 CFR 483, administered by the Department or a school, agency or similar institution under agreement with the Department.

Clinical practice instruction – a teaching method used during the practical application of skill competencies (on-the-job training - OJT) in which the trainee explains and demonstrates skill competencies learned during the theory and OJT sections to an acceptable level in the presence of an OJT instructor.

Curriculum Coordinator – In each Developmental Disabilities Aide Training Program, a qualified mental retardation professional who is responsible for planning, organization, management, coordination with training staff, compliance, documentation, and linkage with the Department and the Department of Mental Health and Developmental Disabilities. The Curriculum Coordinator is not required to be an instructor.

**Department – the Illinois Department of Public Health.**
Developmental Disabilities (DD) Aide – any person who provides nursing, personal or habilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Direct contact – the provision of any services to a client by an individual carrying out tasks usually done by nurse aides.

**Nurse** – A registered nurse or a licensed practical nurse as defined in the Illinois Nursing Act of 1987 [225 ILCS 65]. (Section 1-118 of the Act)

Qualified Mental Retardation Professional – a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

Be a physician as defined in this Section.

Be a registered nurse as defined in this Section.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreation specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Physician – any person licensed to practice medicine in all its branches as provided by the Medical Practice Act of 1987 [225 ILCS 60].

Registered nurse (RN) – a person with a valid license to practice as a registered professional nurse under the Illinois Nursing Act of 1987 [225 ILCS 65].
Supervised laboratory – a teaching method utilized during the theory section of the program requiring the trainee to demonstrate skill competencies that were taught by the instructor as part of the theory section of the program.

Train The Trainer Workshop/Program – a college based program, no less than 30 clock hours, designed to prepare a registered nurse to teach certified nurse aide (CNA) students. The course includes learning principles, teaching methods, curriculum development and instructional techniques; or the Department sponsored program held prior to October 1991.

(Source: Added at 20 Ill. Reg. 10085, effective July 15, 1996)

Section 395.100 Program Sponsor
Training program sponsors may be any one of the following:

a) A community college or other public school operated by the state of Illinois or unit of local government.

b) A private vocational or business school as defined in the Private Business and Vocational Schools Act [105 ILCS 425], which holds a valid certificate of approval or certificate of exemption issued by the State Board of Education under rules entitled "Private Business and Vocational Schools" (23 Ill. Adm. Code 451).

c) A facility licensed by the Department under the Nursing Home Care Act, under the Hospital Licensing Act [210 ILCS 85] or under the Home Health Agency Licensing Act [210 ILCS 55].

(Source: Amended at 20 Ill. Reg. 10085, effective July 15, 1996)

Section 395.110 Application for Program Approval
a) The program sponsor shall submit a letter of application for program approval to each Department at least ninety days in advance of the scheduled beginning of the training program. The program sponsor shall not offer the training program prior to receipt of written approval from the Department. The Department will not grant retroactive approval of training programs.

b) The letter of application shall include at least the following information about the proposed program:
   1) A statement of whether the training program being proposed is a:
      A) Basic Nursing Assistant Training Program,
      B) Developmental Disabilities Aide Training Program,
      C) Basic Child Care/Habilitation Aide Training Program, or
      D) Psychiatric Rehabilitation Services Aide Training Program.
   2) A copy of the sponsor's certificate of approval issued by the State Board of Education or the Board of Higher Education, as appropriate, if the sponsor is a private business, vocational school or college.
   3) A statement of the program rationale, including the philosophy and purpose of the program.
   4) A statement indicating that the Department's model program based on Section 395.300 of this Part is being used or an outline containing the methodology, content, and objectives for the training program.
A) The outline shall indicate the number of hours that will be dedicated to each component of the training program. This outline shall not preclude the instructor from varying the order of presentation of the outlined course components.

B) The outline shall address each of the required curricula content requirements contained in Section 395.300 (Basic Nursing Assistant Training Program), Section 395.310 (Developmental Disabilities Aides Training Program), or Section 395.320 (Basic Child Care/Habilitation Aide Training Program) or Section 395.330 (Psychiatric Rehabilitation Services Aide Training Program).

5) A master schedule for the training program, which includes at least the following:
   A) The location, classroom designation, and scheduled dates of the training program.
   B) The allocation of the daily and total hours of instruction between theory and clinical instruction.
   C) Identification of theory and clinical instructors and approved evaluator, and whether the instruction is theory or clinical.

D) Curriculum Coordinator, for developmental disabilities aide training programs.

6) Resumes describing the education, experience, and qualifications of each program instructor including a copy of any valid Illinois licenses, as applicable.

7) Any clinical site agreements for the use of facilities and equipment that are not owned or operated by the program sponsor. Such agreements shall be signed by the owner or operator of the facilities or equipment and shall include the dates such facilities or equipment will be used, and a description of the classrooms, laboratory, clinical training equipment, and any other facilities or equipment that will be used in the program.

8) A copy or a description of the tools that will be used to evaluate the following aspects of the training program:
   A) Training program objectives and instructors.
   B) Training program content.
   C) Clinical performance, encompassing all skills taught, and for a Basic Nursing Assistant Training Program, the State-approved manual skills evaluation developed from the curriculum outlined in Section 395.300.

9) A copy of the attendance policy.

c) The program sponsor for all programs except Developmental Disabilities Aide Training Programs shall submit the letter of application for approval of a training program to the Department at the following address:
   Illinois Department of Public Health
   Office of Health Care Regulation
   Division of LTC Field Operations
   525 West Jefferson Street
   Springfield, Illinois 62761

d) No changes will be required in the program content of any training program, which was approved under rules in effect at the time of the adoption of amended rules, until a review by the Department indicates that revisions to the program content are needed to keep the program in compliance with the amended rules.

AGENCY NOTE: The Department has a Memorandum of Understanding with the Department of Human Services for that agency to administer the approval of the Developmental Disabilities Aide Training Programs in accordance with the requirements of this Part. Questions and correspondence should be directed to the Illinois Department of Human Services, Office of Developmental Disabilities, Bureau of Human Resource Development, 319 East Madison, Suite 4J, Springfield, Illinois 62701.

(Source: Amended at 26 Ill. Reg. 14837, effective October 15, 2002)
Section 395.120 Review Process and Program Approval

a) The Department will evaluate the application and proposed program for conformance to the program requirements contained in this Part. Based on this review, the Department will take one of the following actions regarding the application:

1) Grant approval of the proposed program.
2) Grant approval of the proposed program contingent on the receipt of additional materials, or revisions, needed to remedy any minor deficiencies in the application or proposed program, which would not prevent the program from being implemented, such as deficiencies in the number of hours assigned to cover different areas of content, which can be corrected by submitting a revised schedule or outline.
3) Deny approval of the proposed program based on major deficiencies in the application or proposed program, which would prevent the program from being implemented, such as deficiencies in the qualifications of instructors or missing areas of content.

b) When the Department finds that a proposed program fails to comply with the program requirements contained in this Part or 42 CFR 483.151(b)(2)(i-v) (October 1, 1994, no further editions or amendments included), the Department will notify the sponsor in writing of the nature of the deficiencies, and will request additional materials, or revisions, needed to remedy deficiencies in the application or proposed program.

c) When the Department finds that a proposed program, along with any additional materials and revisions which have been submitted, complies with the program requirements contained in this Part, the Department will issue a written notice of program approval to the program sponsor.

d) The Department will issue an identification number to each approved training program sponsor. The sponsor shall reference that number in any correspondence to the Department about the program.

(Source: Amended at 20 Ill. Reg. 10085, effective July 15, 1996)

Section 395.130 Review of Approved Training Program

a) The Department will review each approved training program for renewal at least every other year.

b) The program renewal review shall evaluate compliance with this Part and include, if necessary, an on-site monitoring visit.

c) The proportion of an approved training program’s students who successfully complete the training program will be considered by the Department in determining the need for additional on-site visits and other monitoring activities.

(Source: Amended at 20 Ill. Reg. 10085, effective July 15, 1996)

Section 395.140 Inactive Status

a) The Department shall place an approved training program on inactive status upon receipt of a written request from the program sponsor for such action or if there has been no program activity during the last year.

b) To return an approved training program that has been on inactive status for one year or less to active status, the sponsor of the program shall submit a written request to the Department detailing any changes in the approved training program and a master schedule in accordance with Section 395.110(b)(5) of this Part.

c) An approved training program that has been on inactive status for more than one year shall submit a letter of application as required in Section 395.110 of this Part.

d) The request for return to active status must be submitted no fewer than 60 days prior to the scheduled beginning of the program.

(Source: Amended at 20 Ill. Reg. 10085, effective July 15, 1996)
Section 395.150 Minimum Hours of Instruction
a) Time frames for Basic Nursing Assistant Training Programs
1) Each program shall include a minimum of 120 hours of instruction, excluding breaks, lunch, and any orientation to the specific policies of the employing facility.
2) The basic program content shall be presented in a minimum time frame of three weeks, but cannot exceed 120 days, unless the training program is conducted by a community college or other educational institution on a term, semester, or trimester basis.
3) There shall be a ratio of two hours of theory, including supervised laboratory, to each hour of supervised clinical practice instruction (i.e., 80 hours of theory and 40 hours of clinical). This ratio applies only to the required 120 hours of instruction.
4) A minimum of 12 hours of theory instruction related to Alzheimer's disease and related dementias, as described in Section 395.300(r) through (z), shall be included in each program, excluding breaks, lunch, and any orientation to the specific policies of the employing facility.
5) A minimum of 16 hours of training in the following areas must be conducted prior to any direct contact with a resident (42 CFR 483.152(a)(3-6)):
A) Communication and interpersonal skills;
B) Infection control;
C) Safety/emergency procedures, including the Heimlich maneuver;
D) Promoting residents' independence; and
E) Promoting residents' rights.

Section 395.160 Instructor Requirements
a) Requirements for Instructors in a Basic Nursing Assistant Program or a Basic Child Care/Habilitation Aide Training Program
1) Each course instructor shall be a registered nurse with a minimum of two years nursing experience, who has no other duties while engaged in the training program. Instructors shall be required to have one year of experience as a registered nurse in one or both of the following areas:
A) Teaching an accredited nurse's training program.
B) Caring for the elderly or for the chronically ill of any age through employment in a nursing facility, extended care unit, geriatrics department, chronic care unit, hospice, swing bed unit of a hospital, or other long-term care setting.
2) Each theory course instructor shall also possess at least one of the following qualifications:
A) A valid Illinois teaching certificate or a provisional certificate.
B) A certificate indicating completion of a Department approved train the trainer workshop/program.
C) Evidence of at least one semester of formal teaching experience.
D) College course work during the previous six years, which includes at least one course in teaching/learning principles, curriculum development, teaching methods, or instructional techniques.

Section 395.170 Program Operation
a) An educational entity, other than a secondary school, conducting a Nurse Aide Training Program shall initiate a UCIA criminal history records check in accordance with the requirements of the Health Care Worker Background Check Act [225 ILCS 46] prior to entry of an individual into the training program. A secondary school may initiate a UCIA Criminal History Record Check prior to the entry of an individual into a training program. (Section 3-206(a-0.5) of the Act)
b) For the purpose of this Section, "initiate" means the obtaining of the authorization for a record check from a student. The educational entity shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15(3) of
Authorization shall be requested on the first day of class.
c) The results of the criminal history record check shall be attached to the student's competency test application. If the student does not complete a test application or takes the competency test prior to receiving the results of the criminal history record check, the program shall submit the results to the Department. The program shall also provide the student with a copy of the results.
d) The program shall provide counseling to all individuals seeking admission to the program concerning the Health Care Worker Background Check Act. The counseling must include, at a minimum:
1) notification that a UCIA criminal history record check will be initiated in accordance with subsection (a) above;
2) a clear statement that a UCIA Criminal Background Check is required for the individual to work as a nursing assistant, developmental disabilities aide, or basic child care/habilitation aide in Illinois; and
3) a listing of those Sections of the Criminal Code of 1961 [720 ILCS 5], the Cannabis Control Act [720 ILCS 550], and the Illinois Controlled Substances Act [720 ILCS 570] for which a conviction would disqualify the individual from finding employment as a nursing assistant.
e) Ten working days prior to the start of the actual training program, an updated master schedule, in accordance with Section 395.110(b)(5) of this Part, shall be submitted to the Department.
f) Any change in program content, objectives, or instructors shall be submitted to the Department at least thirty days prior to program delivery.
g) In the Basic Nursing Assistant Training Program, the program shall require each student to show competency of Department approved manual skills by hands-on return demonstration. The manual skills evaluation shall be conducted by an approved evaluator. Approved evaluators employed by a facility may not evaluate students trained by the facility program. The facility shall assure that an approved evaluator who is not an approved instructor meets the requirements of Section 395.160 of this Part.
(Source: Amended at 22 Ill. Reg. 4057, effective February 13, 1998)

Section 395.173 Successful Completion of the Basic Nursing Assistant Training Program

A student shall be considered to have successfully completed the training program when all of the following are met: The student has
1) completed at least 80 hours of theory and 40 hours of clinical instruction;
2) demonstrated competence in the Department-approved manual skills.

Section 395.300 Basic Nursing Assistant Training Program

The Basic Nursing Assistant Training Program shall include, at a minimum, the following:
a) Module I – Introduction to Health Care Systems
1) Functions of health care facilities. Objectives: Upon completion of this unit of instruction, the student will be able to:
A) differentiate between the hospital, long term care facility, and home health aide programs as to their basic purposes and what each expects of the nursing assistant;
B) define the functions of the nursing assistant and be aware of the ethical implications and the legal limitations; and
C) develop a beginning understanding and appreciation of the responsibility of the nursing assistant as a member of the health care team.
2) Home Health Agencies and the health care professions.  
   Objectives: Upon completion of this unit of instruction, the student will be able to:
   
   A) discuss the purpose and organization of a home health agency;
   
   B) identify the members of the home health care team and their respective tasks; and
   
   C) apply learned basic nursing procedures to the home setting making appropriate modifications.

3) Philosophy of patient care. Objectives: Upon completion of this unit of instruction, the student will be able to:
   
   A) understand the uniqueness and reward of caring for the geriatric patient;
   
   B) demonstrate an awareness of the ethics involved in the position; and
   
   C) develop an understanding of the patient-family relationship.

4) The role of the multidisciplinary health care team. 
   Objectives: Upon completion of this unit of instruction, the student will be able to:
   
   A) define the role of the nursing assistant in the long-term care facility;
   
   B) identify and discuss roles of the multidisciplinary team and the integration of services for the total care of the patient; and
   
   C) identify the "chain of command" in the organizational structure of a long-term care facility.

5) Personal qualities of the nursing assistant. Objectives: Upon completion of this unit of instruction, the student will meet expectations of facilities by being able to:
   
   A) meet standards of appearance and general behavior;
   
   B) be aware of the importance of punctuality and confidentiality; and
   
   C) demonstrate an awareness of the empathy and compassion, particularly to the elderly.

6) Duties of the nurse assistant. Objectives: Upon completion of this unit of instruction, the student will be able to:
   
   A) develop an understanding of nursing assistant duties;
   
   B) develop an understanding of the why’s of patient care, such as infection control, safety, and residents’ rights; and
   
   C) define the functions of the nursing assistant and be aware of legal implications.

7) Medical terminology. Objectives: Upon completion of this unit of instruction, the student will meet expectations of facilities by being able to:
   
   A) develop an awareness of the very basic abbreviations and symbols utilized in medical terminology; and
   
   B) meet the written standards for charting on the medical record.

8) Recording. Objectives: Upon completion of this unit of instruction, the student will be able to:
   
   A) demonstrate an awareness of the principles of accurate observation and recording; and
   
   B) discuss the various forms utilized in the medical record system.

b) Module II -- Introduction to the patient.

1) Resident Rights. Objectives: Upon completion of this unit of instruction, the student will be able to:
   
   A) provide privacy and maintenance of confidentiality;
   
   B) assist residents to make personal choices to accommodate their individual needs; and
   
   C) maintain reasonable care of the personal possessions of residents.

2) Communication and interpersonal relationships with patients, families and others. Objectives: Upon completion of this unit of instruction, the student will be able to:
   
   A) develop an awareness of appropriate communication between staff/patients, staff/families, families/patient, staff/staff;
   
   B) develop communication techniques; and
   
   C) demonstrate the ability to understand verbal and nonverbal communication.
3) Psychological needs of patient and family. Objectives: Upon completion of this unit of instruction, the student will be able to:
   A) develop an awareness of sensitivity to the patient's need for feelings of self-worth;
   B) demonstrate the ability to listen; and
   C) understand the necessity to develop and maintain harmony between patient and family.
4) Normal growth and development. Objectives: Upon completion of this unit of instruction, the student will be able to:
   A) list and describe various priorities of need of residents;
   B) describe the continuum of life cycle; and
   C) develop an awareness of normalcy and deviations.

Module III – Your working environment.
1) Cleanliness in the health care setting and patient homes. Objectives: Upon completion of this unit of instruction, the student will be able to:
   A) define the principles of medical asepsis;
   B) demonstrate an awareness of the importance of cleanliness in health care institutions; and
   C) demonstrate the ability to modify medical asepsis technique for the home setting.
2) Principles of handwashing. Objectives: Upon completion of this unit of instruction, the student will be able to:
   A) discuss the need for handwashing before and after each task and before and after direct patient contact;
   B) demonstrate that an understanding of a good handwashing technique will prevent the spread of disease; and
   C) demonstrate the ability to wash hands using the learned technique.
3) Principles of disinfection. Objectives: Upon completion of this unit of instruction, the student will be able to:
   A) List the methods of disinfection;
   B) demonstrate an awareness of handling disinfected articles; and
   C) differentiate between "clean" and "dirty."
4) Principles of sterilization. Objectives: Upon completion of this unit of instruction, the student will be able to:
   A) explain the relationship between microorganisms and infection control;
   B) list the conditions necessary for microorganism growth; and
   C) develop an awareness of the process of killing all bacteria.
5) Techniques of disinfection. Objectives: Upon completion of this unit of instruction, the student will be able to:
   A) discuss the various methods of disinfecting;
   B) develop an awareness of relevant time necessary for disinfection; and
   C) list articles that can be safely disinfected.
6) Maintaining equipment and supplies. Objectives: Upon completion of this unit of instruction, the student will be able to:
   A) develop an understanding of the proper usage of equipment used in the personal/nursing care of residents;
   B) demonstrate proper usage, cleaning and storing of equipment; and
   C) develop an awareness of the reporting system relevant to proper maintenance of equipment.

Module IV – Safety.
1) Body mechanics. Objectives: Upon completion of this unit of instruction, the student will be able to:
   A) discuss techniques of proper body mechanics;
   B) demonstrate good body mechanics for the benefit of the patient and nursing assistant; and
   C) relate use of body mechanics to basic musculo-skeletal anatomy.
2) Fire safety. Objectives: Upon completion of this unit of instruction, the student will be able to:
   A) identify potential fire hazards;
   B) identify and apply facility’s procedures for safety, fire and disaster; and
   C) state his/her role in facility’s fire and disaster plan.
3) Disaster. Objectives: Upon completion of this unit of instruction, the student will be able to:
   A) identify designated supervisory personnel in the event of disaster;
   B) develop an understanding of the disaster manual; and
   C) state his/her role in facility’s safety, fire and disaster plan.
4) Heimlich maneuver. Objectives: Upon completion of this unit of instruction, the student will be able to:
   A) list signs of choking; and
   B) demonstrate the Heimlich maneuver.

e) Module V – The patient’s unit. Bedmaking procedures (unoccupied and occupied). Objectives: Upon completion of this unit of instruction, the student will be able to:
   1) identify the patient’s need for a clean and comfortable environment;
   2) identify the purpose of the procedure for making the unoccupied and occupied bed; and
   3) demonstrate proper bedmaking procedure.

f) Module VI -- Lifting, moving and transporting patients.
   1) In bed. Objectives: Upon completion of this unit of instruction, the student will be able to:
      A) describe briefly the musculo-skeletal system;
      B) realize needs for motion in joints and muscle activity; and
      C) maintain correct body alignment.
   2) Ambulatory. Objectives: Upon completion of this unit of instruction, the student will be able to:
      A) safely ambulate patients;
      B) demonstrate proper body mechanics; and
      C) develop an awareness of the physical ability of each patient.
   3) Wheelchair. Objectives: Upon completion of this unit of instruction, the student will be able to:
      A) apply safety principles involved in transporting patient in wheelchair;
      B) demonstrate proper body mechanics; and
      C) provide for privacy when transferring the patient from bed to wheelchair.
   4) Stretcher. Objectives: Upon completion of this unit of instruction, the student will be able to:
      A) identify and apply rules for safety for patient transfer;
      B) demonstrate good body mechanics; and
      C) provide for privacy when transferring the patient from bed to stretcher.

   g) Module VII – Basic Anatomy.
      1) Contents:
         A) Anatomy of the Skeletal System;
         B) Anatomy of the Circulatory System;
         C) Anatomy of the Digestive System;
         D) Anatomy of the Respiratory System;
         E) Anatomy of the Urinary System;
         F) Anatomy of the Muscular System; and
         G) Functioning of the human body as related to the disease process.
      2) Objectives: Upon completion of this unit of instruction, the student will be able to:
         A) develop an understanding of human anatomy and its relationship to normal function;
         B) identify and discuss simple disease processes; and
C) explain how body systems work together.

h) Module VIII – Personal care of the patient.
   1) Contents:
      A) Oral hygiene;
      B) Bathing procedures;
      C) Care of the back feet and skin; and
      D) Observing and reporting.
   2) Objectives: Upon completion of this unit of instruction, the student will be able to:
      A) identify basic human needs (physical, emotional, social and religious) of the patient;
      B) demonstrate the ability to recognize basic human needs in patient behavior;
      C) demonstrate proper medical asepsis technique;
      D) demonstrate methods to detect incipient or manifest decubitis ulcers;
      E) demonstrate measures to prevent decubitis ulcers, such as proper positioning and turning;
      F) identify the patient’s need for a clean environment; and
      G) observe and report care given.

   1) Diets and therapeutic diets. Objectives: Upon completion of this unit of instruction, the student will be able to:
      A) describe briefly the use of basic nutrients and fluids by the body;
      B) list the basic four groups and name daily requirements of each; and
      C) identify modified diets and understand the reasons for modification.
   2) Feeding techniques. Objectives: Upon completion of this unit of instruction, the student will be able to:
      A) describe briefly the anatomy of digestion;
      B) develop an awareness of the patient’s eating limitations; and
      C) serve and assist patient with feeding.
   3) Nourishments. Objectives: Upon completion of this unit of instruction, the student will be able to:
      A) develop an understanding of intermittent nourishments and dietary supplements;
      B) accurately report and record diet and fluid intake.

j) Module X – Fluid balance.
   1) Measuring fluid intake and output. Objectives: Upon completion of this unit of instruction, the student will be able to:
      A) describe briefly the anatomy of elimination;
      B) demonstrate the ability to measure intake and output; and
      C) accurately report and record intake and output.
   2) Forcing and restricting fluids. Objectives: Upon completion of this unit of instruction, the student will be able to:
      A) identify problems associated with bowel and bladder management;
      B) develop an understanding of fluid balance in the body; and
      C) accurately report and record patient's fluid intake.
   3) Specimen collection. Objectives: Upon completion of this unit of instruction, the student will be able to:
      A) describe briefly the anatomy related to body discharge and elimination;
      B) demonstrate how to collect stool, urine, and other specimens; and
      C) accurately report and record urinary, fecal, and other output.

k) Module XI – Observing and recording vital signs.
   1) Contents:
      A) Taking the temperature;
B) Taking pulse;
C) Taking respirations;
D) Taking blood pressure;
E) Recording vital signs; and
F) Measuring height and weight.

2) Objectives: Upon completion of this unit of instruction, the student will be able to:
A) state the meaning and importance of temperature, pulse, respirations, and blood pressure;
B) demonstrate how to properly measure temperature, pulse, respirations, and blood pressure;
C) accurately report and record temperature, pulse, respirations, and blood pressure; and
D) Demonstrate how to accurately measure and record height and weight.

Module XII – Supportive care.

1) Heat applications. Objectives: Upon completion of this unit of instruction, the student will be able to:
A) describe the various methods of heat application;
B) demonstrate the use of safety measures involved in applying hot applications; and
C) report and record treatment given.

2) Cold applications. Objectives: Upon completion of this unit of instruction, the student will be able to:
A) describe the various methods of cold application;
B) demonstrate the use and safety measures involved in applying cold applications; and
C) report and record treatment given.

3) Enemas. Objectives: Upon completion of this unit of instruction, the student will be able to:
A) describe briefly the anatomy of elimination;
B) demonstrate how to administer an enema; and
C) accurately report and record the procedures and results.

4) The vaginal douche - external and internal. Objectives: Upon completion of this unit of instruction, the student will be able to:
A) describe briefly the anatomy of the reproductive system;
B) demonstrate the procedure of administering an external and internal douche; and
C) accurately report and record the procedure.

5) Catheters and tubing. Objectives: Upon completion of this unit of instruction, the student will be able to:
A) develop a basic understanding of the use of catheters and tubing;
B) discuss the use of specific catheters and tubing; and
C) develop an understanding of the maintenance and storage of catheters and tubing.

Module XIII – Fundamentals of Rehabilitation Nursing.

1) Philosophy of rehabilitation nursing. Objectives: Upon completion of this unit of instruction, the student will be able to:
A) discuss the intrinsic worth of affected persons;
B) develop a beginning understanding of the fundamentals of rehabilitation; and
C) identify methods of treating the whole patient for restoration of function.

2) Principles of rehabilitation nursing. Objectives: Upon completion of this unit of instruction, the student will be able to:
A) demonstrate an understanding of the concepts of rehabilitation nursing;
B) identify the four cardinal principles of rehabilitation nursing; and
C) develop an awareness of the treatment process of rehabilitation as well as the legal implications.

3) Concepts of activities of daily living. Objectives: Upon completion of this unit of instruction, the student will be able to:
A) describe and discuss the use of adaptive tools for the disabled person;
Module XIV – Patient care planning.

1) Contents:
A) Patient admission;
B) Patient transfer; and
C) Patient discharge.

2) Objectives: Upon completion of this unit of instruction, the student will be able to:
A) be aware of the emotional implications of admission, transfer, and discharge;
B) demonstrate the procedures for admission, transfer, and discharge; and
C) observe, report, and record accurately.

Module XV – The patient in isolation.

1) Isolation techniques. Objectives: Upon completion of this unit of instruction, the student will be able to:
A) discuss communicable diseases and the nature of isolation techniques;
B) differentiate between "clean" and "dirty"; and
C) discuss the difference between regular and reverse isolation procedures.

2) Physiological aspects of isolation. Objectives: Upon completion of this unit of instruction, the student will be able to:
A) demonstrate isolation precautions and procedures;
B) demonstrate isolation procedures including handwashing, masking, gowning, food and elimination precautions; and
C) accurately report and record isolation procedures.

3) Psychological aspects of isolation. Objectives: Upon completion of this unit of instruction, the student will be able to:
A) be aware and empathetic to the patient’s fear and loneliness;
B) identify untoward behavior of the isolated patient; and
C) accurately observe and record patient’s emotional reaction to the isolation process.

4) Isolation in the home. Objectives: Upon completion of this unit of instruction, the student will be able to:
A) apply learned isolation techniques making necessary modifications for home care;
B) communicate effectively with the patient and family relevant to the isolation process; and
C) accurately observe, report, and record the isolation techniques.

Module XVI – Care of the terminally ill patient.

1) Contents:
A) Psychological needs of the patient; and
B) Psychological needs of the family.

2) Objectives: Upon completion of this unit of instruction, the student will be able to:
A) identify and describe the rights of the dying patient and his/her family;
B) discuss attitudes and feelings about death and dying;
C) describe the physical and psychological changes in the patient as death approaches; and
D) discuss the grieving process of the patient and family.

Module XVII – Care of the body (postmortem care). Objectives: Upon completion of this unit of instruction, the student will be able to:
1) develop an awareness for respect for the body after death occurs;
2) develop an understanding for good body alignment after death; and
3) demonstrate nursing care after death.

Module XVIII – Aging and Dementia. Objectives: Upon completion of this unit of instruction, the student will be able to:
1) Identify the differences between the normal aging process and cognitive dysfunction disease processes;
2) Define dementia and pseudo-dementia:
   A) Reversible; and
   B) Non-reversible;
3) List the common terminology used to describe different types of dementia:
   A) Alzheimer’s disease (AD);
   B) Senile Dementia of the Alzheimer’s Type (SDAT);
   C) Multi Infarct Dementia (MID); and
   D) Organic Brain Syndrome (OBS);
4) Discuss how dementias are currently diagnosed.

Objective: Upon completion of this unit of instruction, the student will be able to:
1) Identify the potential health, social and economic impacts of AD and RD:
   A) Society;
   B) Family; and
   C) Individual.
2) List the primary signs, symptoms and associated features of AD and RD.
3) Discuss memory loss, sensory impairments, perceptual dysfunction, and cognitive and physical changes normally associated with AD and RD.

Module XIX – Alzheimer’s Disease and Related Disorders (RD).

Module XX – Communications. Objectives: Upon completion of this unit of instruction, the student will be able to:
1) Identify the elements of verbal/nonverbal communication between staff/resident;
2) Discuss the expected language and communication changes in AD and RD residents;
3) Identify effective techniques for enhancing communications; and
4) Discuss the importance of touch and companionship to the AD and RD resident.

Module XXI – Care and Treatment Modalities. Objective: Upon completion of this unit of instruction, the student will be able to:
1) Discuss the inter-disciplinary nature of treatment in the care of AD and RD residents;
2) Identify the importance of observation and ways to monitor the behavior and safety of the AD and RD resident;
3) Identify the importance of: consistency in approach; focusing on ability; task breakdown techniques; clueing and distraction techniques;
4) Discuss the difference in approaching activities of daily living (ADL), such as dressing, bathing, grooming, oral hygiene, bowel, bladder, and skin care;
5) List the physical changes and their effects on the AD resident.

Module XXII – Behavior Issues and Management Techniques. Objectives: Upon completion of this unit of instruction, the student will be able to:
1) Discuss the common mood and behavioral disturbances of residents with a progressive dementing disorder:
   A) Agitation;
   B) Anxiety;
   C) Catastrophic Reactions;
   D) Clinging;
   E) Combativeness;
   F) Delusions/hallucinations;
   G) Inappropriate sexual behaviors;
   H) Rummaging/hoarding;
   I) Sleep disturbance;
   J) Sundowning (increasing intensity of symptoms during evening hours);
K) Suspiciousness; and
L) Wandering/pacing.
2) Identify specific techniques or approaches used to support residents ability:
A) Behavior;
B) Cause;
C) Staff intervention/response; and
D) Environment.
w) Module XXIII – Activities. Objectives: Upon completion of this unit of instruction, the student will be able to:
1) Identify appropriate activities based on the individuals mood and behavioral needs:
A) Individual;
B) Small group; and
C) Large group.
2) Discuss the importance, significance and types of familiar tasks to support normalization.
x) Module XXIV – Nutrition and Dietary Factors. Objectives: Upon completion of this unit of instruction, the student will be able to:
1) Identify cognitive and physiological changes of AD and RD residents that affect nutrition and feeding patterns;
2) Discuss potential feeding problems, complications, and eating behaviors; and
3) List approaches for maintaining good nutrition and enhancing mealtime.
y) Module XXV – Family Role and Community Resources. Objectives: Upon completion of this unit of instruction, the student will be able to:
1) Define family, significant other, and the sandwich generation (individuals caring for both their children and their elderly parents);
2) Identify role changes and role reversal;
3) Discuss the extent of family caregiving prior to Nursing Home placement;
4) Discuss the impact of chronic stress on family systems;
5) Discuss the impact of caring for the AD and RD family member or resident on the primary caregiver;
6) Identify interventions appropriate for assisting family caregivers to cope with their stress;
7) Identify the different community resources available and their role in the care and treatment of AD and RD residents both inside and outside the facility setting; and
8) Discuss how local chapter of the Alzheimer’s Disease and Related Disorders Association (ADRDA) can assist the resident, the family caregiver and the facility.
z) Module XXVI – Staff Support. Objectives: Upon completion of this unit of instruction, the student will be able to:
1) Identify stress factors involved in caring for persons with irreversible cognitive decline;
2) Identify coping mechanisms used by the individual resident to compensate for irreversible cognitive decline; and
3) Identify coping mechanisms that are used during the death, dying and bereavement process by the family and facility staff.
aa) Module XXVII – Cardiopulmonary Resuscitation. Objective: Upon completion of this unit of instruction, the student will be able to initiate basic cardiopulmonary resuscitation. After the training, certification in the provision of basic life support by an American Heart Association or American Red Cross certified training program may be offered as an option for this unit, but such certification is not a pre-requisite for the student’s satisfactory completion of this unit of instruction.
(Source: Amended at 17 Ill. Reg. 2984, effective February 22, 1993)
410 IAC 16.2-3.1-2 Licenses
Sec. 2.
...(c) The director may issue a health facility license for a new facility upon receipt, review, and approval of the following requirements:
(1) The applicant shall submit a license application on the prescribed form in accordance with IC 16-28-2-2. The applicant shall identify direct and indirect ownership interests of five percent (5%) or more and of officers, directors, and partners...
...(f) The director may issue a health facility license for a facility that has changed ownership upon receipt, review, and approval of the following requirements:
(1) The applicant shall submit a license application on the prescribed form in accordance with IC 16-28-2-2. The applicant shall identify direct and indirect ownership interests of five percent (5%) or more and of officers, directors, and partners...
...(h) For the renewal of a license, the director may issue a full license for any period up to one (1) year, issue a probationary license, or deny a license application upon receipt and review of the following requirements:
(1) The facility shall submit a renewal application to the director at least forty-five (45) days prior to the expiration of the license. The renewal application shall be on a form provided and approved by the division. The applicant shall identify direct or indirect ownership interests of five percent (5%) or more and of officers, directors, and partners..
...(j) Any change in direct or indirect corporate ownership of five percent (5%) or more that occurs during the licensure period shall be reported to the director, in writing, at the time of the change. The facility must also provide written notice at the time the change occurs in the officers, directors, agents, or managing employees, or the corporation, association, or other company responsible for the management of the facility.

410 IAC 16.2-3.1-4 Notice of rights and services
Sec 4.
...(f) The facility must do the following:
...(7) Ensure compliance with the requirements of state law regarding advance directives.
(8) Provide for education for staff on issues concerning advance directives.
(9) Provide for community education regarding advance directives either directly or in concert with other facilities or health care providers or other organizations.

10 IAC 16.2-3.1-13 Administration and management
Sec. 13.
(a) The licensee is responsible for compliance with all applicable laws and rules. The licensee has full authority and responsibility for the organization, management, operation, and control of the licensed facility. The delegation of any authority by the licensee does not diminish the responsibilities of the licensee.
(b) The licensee shall provide the number of staff as required to carry out all the functions of the facility, including:
(1) initial orientation of all employees;
(2) a continuing inservice education and training program for all employees; and
(3) provision of supervision for all employees.
(c) If a facility offers services in addition to those provided to its long term care residents, the administrator is responsible for assuring that such additional services do not adversely affect the care provided to its residents.
(d) The licensee shall notify the department within three (3) working days of a vacancy in the
administrator’s position. The licensee shall also notify the director of the name and license number
of the replacement administrator.
(e) An administrator shall be employed to work in each licensed health facility. For purposes of this
subsection, an individual can only be employed as an administrator in one (1) health facility or one
hospital-based long term care unit at a time.
(f) In the administrator’s absence, an individual shall be authorized, in writing, to act on the
administrator’s behalf.
(g) The administrator is responsible for the overall management of the facility but shall not function
as a departmental supervisor, for example, director of nursing or food service supervisor, during
the same hours. The responsibilities of the administrator shall include, but are not limited to, the
following:
(1) Immediately informing the division by telephone, followed by written notice within twenty-four
(24) hours, of unusual occurrences that directly threaten the welfare, safety, or health of the
resident or residents, including, but not limited to, any:
(A) epidemic outbreaks;
(B) poisonings;
(C) fires; or
(D) major accidents. If the department cannot be reached, such as on holidays or weekends, a call
shall be made to the emergency telephone number ((317) 383-6144) of the division.
(2) Promptly arranging for medical, dental, podiatry, or nursing care or other health care services
as prescribed by the attending physician.
(3) Obtaining director approval prior to the admission of an individual under eighteen
(18) years of age to an adult facility.
(4) Ensuring that the facility maintains, on the premises, time schedules and an accurate record of
actual time worked that indicates the employees’ full names and the dates and hours worked
during the past twelve (12) months. This information shall be furnished to the division staff upon
request.
(5) Maintaining a copy of this article and making it available to all personnel and the residents.
(6) Maintaining reports of surveys conducted by the division in each facility for a period of two (2)
years and making the reports available for inspection to any member of the public upon request.
(h) Each facility, except: (1) a facility that cares for children; or (2) an intermediate care facility for
the mentally retarded; shall encourage all employees serving residents or the public to wear name
and title identification.
(i) Each facility shall establish and implement a written policy manual to ensure that resident care
and facility objectives are attained, to include the following:
(1) The range of services offered.
(2) Residents’ rights.
(3) Personnel administration.
(4) Facility operations.
(j) The licensee shall approve the policy manual, and subsequent revisions, in writing. The policy
manual shall be reviewed and dated at least annually. The resident care policies shall be:
(1) developed by a group of professional personnel; and
(2) approved by the medical director.
(k) The policies shall be maintained in a manual or manuals accessible to employees and made
available upon request to the following:
(1) Residents.
(2) The department.
(3) The sponsor or surrogate of a resident.
(4) The public. Management/ownership confidential directives are not required to be included in the policy manual; however, the policy manual must include all of the facility’s operational policies.

(I) To assure continuity of care of residents in cases of emergency, the facility must have detailed written plans and procedures to meet all potential emergencies and disasters, such as fire, severe weather, and missing residents and including situations that may require emergency relocation of residents. Facilities caring for children shall have a written plan outlining the staff procedures, including isolation and evacuation, in case of an outbreak of childhood diseases.

(m) If the facility does not employ a qualified professional person to furnish a specific service to be provided by the facility, the facility must have that service furnished to residents by a person or agency outside the facility under a written agreement. Such agreements pertaining to services furnished by outside resources must specify, in writing, that the facility assumes responsibility for the following:

(1) Obtaining services that meet professional standards and principles that apply to professionals providing services in such a facility.

(2) The timeliness of the services.

(3) Orientation to pertinent facility policies and residents to whom they are responsible.

(n) Each facility shall conspicuously post the license or a true copy thereof within the facility in a location accessible to public view.

(o) Each facility shall submit an annual statistical report to the department.

(p) The facility must have in effect a written transfer agreement with one (1) or more hospitals that reasonably assures the following:

(1) Residents will be transferred from the facility to the hospital and ensured of timely admission to the hospital when transfer is medically appropriate as determined by the attending physician.

(2) Medical and other information needed for care and treatment of residents and, when the transferring facility deems it appropriate, for determining whether the residents can be adequately cared for in a less expensive setting than either the facility or the hospital will be exchanged between the institutions.

(3) Specification of the responsibilities assumed by both the discharging and receiving institutions for prompt notification of the impending transfer of the resident for the following:

(A) Agreement by the receiving institution to admit the resident.

(B) Arranging appropriate transportation and care of the resident during transfer.

(C) The transfer of personal effects, particularly money and valuables, and of information related to the items.

(4) Specification of the restrictions with respect to the types of services available or the types of residents or health conditions that will not be accepted by the hospital or the facility, or both, including any other criteria relating to the transfer of residents. The facility is considered to have a transfer agreement in effect if the facility has attempted in good faith to enter into an agreement with a hospital sufficiently close to the facility to make transfer feasible.

(q) A facility must 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.

(r) The facility must operate and provide services in compliance with all applicable federal, state, and local laws, regulations, and codes and with accepted professional standards and principles that apply to professionals providing services in such a facility.

(s) The facility must have a governing body, or designated persons functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operation of the facility.

(t) The governing body shall appoint the administrator who is:

(1) licensed under IC 25-19-1; and

(2) responsible for the management of the facility.
(u) The facility must designate a physician to serve as medical director.
(v) The medical director shall be responsible for the following:
(1) Acting as a liaison between the administrator and the attending physicians to encourage physicians to write orders promptly and to make resident visits in a timely manner.
(2) Reviewing, evaluating, and implementing resident care policies and procedures and to guide the director of nursing services in matters related to resident care policies and services.
(3) Reviewing incidents and accidents that occur on the premises to identify hazards to health and safety.
(4) Reviewing employees’ pre-employment physicals and health reports and monitoring employees’ health status.
(5) The coordination of medical care in the facility.
(w) In facilities that are required under IC 12-10-5.5 to submit an Alzheimer’s and dementia special care unit disclosure form, the facility must designate a director for the Alzheimer’s and dementia special care unit. The director shall have an earned degree from an educational institution in a health care, mental health, or social service profession or be a licensed health facility administrator. The director shall have a minimum of one (1) year work experience with dementia or Alzheimer's residents, or both, within the past five (5) years. Persons serving as a director for an existing Alzheimer’s and dementia special care unit at the time of adoption of this rule are exempt from the degree and experience requirements. The director shall have a minimum of twelve (12) hours of dementia-specific training within three (3) months of initial employment as the director of the Alzheimer's and dementia special care unit and six (6) hours annually thereafter to:
(1) meet the needs or preferences, or both, of cognitively impaired residents; and
(2) gain understanding of the current standards of care for residents with dementia.
(x) The director of the Alzheimer’s and dementia special care unit shall do the following:
(1) Oversee the operation of the unit.
(2) Ensure that personnel assigned to the unit receive required in-service training.
(3) Ensure that care provided to Alzheimer's and dementia care unit residents is consistent with in-service training, current Alzheimer’s and dementia care practices, and regulatory standards.

410 IAC 16.2-3.1-14 Personnel
Sec. 14
(a) Each facility shall have specific procedures written and implemented for the screening of prospective employees. Specific inquiries shall be made for prospective employees. The facility shall have a personnel policy that considers references and any convictions in accordance with IC 16-28-13-3.
(b) A facility must not use any individual working in the facility as a nurse aide for more than four (4) months on a full-time, part-time, temporary, per diem, or other basis unless that individual:
(1) is competent to provide nursing and nursing-related services; and
(2) has completed a:
(A) training and competency evaluation program; or
(B) competency evaluation program approved by the division.
(c) Each nurse aide who is hired to work in a facility shall have successfully completed a nurse aide training program approved by the division or shall enroll in the first available approved training program scheduled to commence within sixty (60) days of the date of the nurse aide’s employment. The program may be established by the facility, an organization, or an institution. The training program shall consist of at least the following:
(1) Thirty (30) hours of classroom instruction within one hundred twenty (120) days of employment. At least sixteen (16) of those hours shall be in the following areas prior to any direct contact with a resident:
   (A) Communication and interpersonal skills.
   (B) Infection control.
   (C) Safety/emergency procedures, including the Heimlich maneuver.
   (D) Promoting residents’ independence.
   (E) Respecting residents’ rights.
(2) The remainder of the thirty (30) hours of instruction shall include the following:
   (A) Basic nursing skills as follows:
      (i) Taking and recording vital signs.
      (ii) Measuring and recording height and weight.
      (iii) Caring for residents’ environment.
      (iv) Recognizing abnormal changes in body functioning and the importance of reporting such changes to a supervisor.
      (v) Caring for residents when death is imminent.
   (B) Personal care skills, including, but not limited to, the following:
      (i) Bathing.
      (ii) Grooming, including mouth care.
      (iii) Dressing.
      (iv) Toileting.
      (v) Assisting with eating and hydration.
      (vi) Proper feeding techniques.
      (vii) Skin care.
      (viii) Transfers, positioning, and turning.
   (C) Mental health and social service needs as follows:
      (i) Modifying aides’ behavior in response to residents’ behavior.
      (ii) Awareness of developmental tasks associated with the aging process.
      (iii) How to respond to residents’ behavior.
      (iv) Allowing the resident to make personal choices, providing and reinforcing other behavior consistent with the resident’s dignity.
      (v) Using the resident’s family as a source of emotional support.
   (D) Care of cognitively impaired residents as follows:
      (i) Techniques for addressing the unique needs and behaviors of individuals with dementia (Alzheimer’s and others).
      (ii) Communicating with cognitively impaired residents.
      (iii) Understanding the behavior of cognitively impaired residents.
      (iv) Appropriate responses to the behavior of cognitively impaired residents.
      (v) Methods of reducing the effects of cognitive impairments.
   (E) Basic restorative services as follows:
      (i) Training the resident in self-care according to the resident’s abilities.
      (ii) Use of assistive devices in transferring, ambulation, eating, and dressing.
      (iii) Maintenance of range of motion.
      (iv) Proper turning and positioning in bed and chair.
      (v) Bowel and bladder training.
      (vi) Care and use of prosthetic and orthotic devices.
   (F) Residents’ rights as follows:
      (i) Providing privacy and maintenance of confidentiality.
      (ii) Promoting residents’ right to make personal choices to accommodate their needs.
      (iii) Giving assistance in resolving grievances and disputes.
(iv) Providing needed assistance in getting to and participating in resident and family groups and other activities.
(v) Maintaining care and security of residents’ personal possessions.
(vi) Promoting residents’ right to be free from abuse, mistreatment, and neglect, and the need to report any instances of such treatment to appropriate facility staff.
(vii) Avoiding the need for restraints in accordance with current professional standards.
(3) Seventy-five (75) hours of supervised clinical experience, at least sixteen (16) hours of which must be in directly supervised practical training. As used in this subdivision, “directly supervised practical training” means training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual under direct supervision of a registered nurse or a licensed practical nurse. These hours shall consist of normal employment as a nurse aide under the supervision of a licensed nurse.
(4) Training that ensures the following:
(A) Students do not perform any services for which they have not trained and been found proficient by the instructor.
(B) Students who are providing services to residents are under the general supervision of a licensed nurse.
(d) A facility must arrange for individuals used as nurse aides, as of the effective date of this rule, to participate in a competency evaluation program approved by the division and preparation necessary for the individual to complete the program.
(e) Before allowing an individual to serve as a nurse aide, a facility must receive registry verification that the individual has met competency evaluation requirements unless the individual:
(1) is a full-time employee in a training and competency evaluation program approved by the division; or
(2) can prove that he or she has recently successfully completed a training and competency evaluation program approved by the division and has not yet been included in the registry. Facilities must follow up to ensure that such individual actually becomes registered.
(f) A facility must check with all state nurse aide registries it has reason to believe contain information on an individual before using that individual as a nurse aide.
(g) If, since an individual’s most recent completion of a training and competency evaluation program, there has been a continuous period of twenty-four (24) consecutive months during none of which the individual provided nursing or nursing-related services for monetary compensation, the individual must complete a new:
(1) training and competency evaluation program; or
(2) competency evaluation program.
(h) The facility must complete a performance review of every nurse aide at least once every twelve (12) months and must provide regular in-service education based on the outcome of these reviews. The in-service training must be as follows:
(1) Sufficient to ensure the continuing competence of nurse aides but must be no less than twelve (12) hours per year.
(2) Address areas of weakness as determined in nurse aides’ performance reviews and may address the special needs of residents as determined by the facility staff.
(3) For nurse aides providing services to individuals with cognitive impairments, also address the care of the cognitively impaired.
(i) The facility must ensure that nurse aides and qualified medication aides are able to demonstrate competency in skills and techniques necessary to care for residents’ needs as identified through resident assessments and described in the care plan.
(jj) Medication shall be administered by licensed nursing personnel or qualified medication aides. If medication aides handle or administer drugs or perform treatments requiring medications, the
facility shall ensure that the persons have been properly qualified in medication administration by a state-approved course. Injectable medications shall be given only by licensed personnel.

(k) There shall be an organized ongoing in-service education and training program planned in advance for all personnel. This training shall include, but not be limited to, the following:

1. Residents' rights.
2. Prevention and control of infection.
3. Fire prevention.
4. Safety and accident prevention.
5. Needs of specialized populations served.
6. Care of cognitively impaired residents.

(l) The frequency and content of in-service education and training programs shall be in accordance with the skills and knowledge of the facility personnel as follows. For nursing personnel, this shall include at least twelve (12) hours of in-service per calendar year and six (6) hours of in-service per calendar year for nonnursing personnel.

(m) In-service programs for items required under subsection (k) shall contain a means to assess learning by participants.

(n) The administrator may approve attendance at outside workshops and continuing education programs related to that individual's responsibilities in the facility. Documented attendance at these workshops and programs meets the requirements for in-service training.

(o) In-service records shall be maintained and shall indicate the following:

1. The time, date, and location.
2. The name of the instructor.
3. The title of the instructor.
4. The names of the participants.
5. The program content of in-service. The employee will acknowledge attendance by written signature.

(p) Initial orientation of all staff must be conducted and documented and shall include the following:

1. Instructions on the needs of the specialized population or populations served in the facility, for example:
   A. aged;
   B. developmentally disabled;
   C. mentally ill;
   D. children; or
   E. care of cognitively impaired residents.
2. A review of residents' rights and other pertinent portions of the facility's policy manual.
3. Instruction in first aid, emergency procedures, and fire and disaster preparedness, including evacuation procedures and universal precautions.
4. A detailed review of the appropriate job description, including a demonstration of equipment and procedures required of the specific position to which the employee will be assigned.
5. Review of ethical considerations and confidentiality in resident care and records.
6. For direct care staff, instruction in the particular needs of each resident to whom the employee will be providing care.

(q) Each facility shall maintain current and accurate personnel records for all employees. The personnel records for all employees shall include the following:

1. The name and address of the employee.
2. Social Security number.
3. Date of beginning employment.
4. Past employment, experience, and education if applicable.
(5) Professional licensure, certification, or registration number or dining assistant certificate or letter of completion if applicable.
(6) Position in the facility and job description.
(7) Documentation of orientation to the facility and to the specific job skills.
(8) Signed acknowledgement of orientation to residents’ rights.
(9) Performance evaluations in accordance with the facility’s policy.
(10) Date and reason for separation.
(r) The employee's personnel record shall be retained for at least three (3) years following termination or separation of the employee from employment.
(s) Professional staff must be licensed, certified, or registered in accordance with applicable state laws or rules.
...(u) In addition to the required in-service hours in subsection (l), staff who have regular contact with residents shall have a minimum of six (6) hours of dementia-specific training within six (6) months of initial employment, or within thirty (30) days for personnel assigned to the Alzheimer's and dementia special care unit, and three (3) hours annually thereafter to meet the needs or preferences, or both, of cognitively impaired residents and to gain understanding of the current standards of care for residents with dementia.

410 IAC 16.2-3.1-17 Nursing services
...(b) The facility must provide services by sufficient number of each of the following types of personnel on a twenty-four (24) hour basis to provide nursing care to all residents in accordance with resident care plans:
...(4) Except as waived in subsection (f), the facility must designate a registered nurse who has completed a nursing management course with a clinical component or who has at least one (1) year of nursing supervision in the past five (5) years to serve as the director of nursing on a full-time basis.
...(f) A facility may request a waiver from either the requirement that a nursing facility provide a registered nurse for at least eight (8) consecutive hours a day, seven (7) days a week, or provide a registered nurse as the director of nursing, as specified in subsection (b), if the following conditions are met:
(1) The facility demonstrates to the satisfaction of the state that the facility has been unable, despite diligent efforts (including offering wages at the community prevailing rate for nursing facilities), to recruit appropriate personnel.
(2) The state determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility.
(3) The state finds that, for any periods in which registered nursing services are not available, a registered nurse or physician is obligated to respond immediately to telephone calls from the facility.
(4) A waiver granted under the conditions listed in this subsection is subject to annual state review.
(5) Effective October 1, 1990, in granting or renewing a waiver, a facility may be required by the state to use other qualified, licensed personnel.
(6) The state agency granting a waiver of such requirements provides notice of the waiver to the state long term care ombudsman and the protection and advocacy system in the state for the mentally ill and mentally retarded.
(7) The nursing facility that is granted such a waiver by the state notifies residents of the facility.

410 IAC 16.2-3.1-18 Infection control program
Sec. 18
...(b) The facility must establish an infection control program under which it does the following:
...(4) Provides orientation and in-service education on infection prevention and control, including universal precautions.

410 IAC 16.2-3.1-20 Dietary services
...(d) A qualified dietitian is one who is certified under IC 25-14.5. However, a person employed by a health facility as of July 1, 1984, must:
...(3) participate annually in continuing dietetic education.

410 IAC 16.2-3.1-26 Resident behavior and facility practices
...(p) Restraints or seclusion shall be applied in a manner that permits rapid removal in case of fire or other emergency.

410 IAC 16.2-3.1-28 Staff treatment of residents
Sec. 28.
(a) The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property.
(b) The facility must:
(1) not employ individuals who have:
   (A) been found guilty of abusing, neglecting, or mistreating residents or misappropriating residents' property by a court of law; or
   (B) had a finding entered into the state nurse aide registry concerning abuse, neglect, mistreatment of residents, or misappropriation of their property; and
(2) report any knowledge the facility has of actions by a court of law against an employee, which would indicate unfitness for service as a nurse aide or other facility staff to the state nurse aide registry or licensing authority.
(c) The facility must ensure that all alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, and misappropriation of resident property, are reported immediately to the administrator of the facility and other officials in accordance with state law through established procedures, including to the state survey and certification agency.
(d) The facility must have evidence that all alleged violations are thoroughly investigated and must prevent further potential abuse while the investigation is in progress.
(e) The results of all investigations must be reported to the administrator or the administrator's designated representative and to other officials in accordance with state law (including to the department) within five (5) working days of the incident, and if the alleged violation is verified, appropriate corrective action must be taken.

410 IAC 16.2-3.1-49 Laboratory, radiology, and other diagnostic services
Sec. 49.
(a) The facility must provide or obtain laboratory services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.
(b) If the facility provides its own laboratory services, the services must meet the applicable requirements for coverage of the services furnished by independent laboratories specified in 42 CFR 493.
(c) If the facility provides blood bank and transfusion services, it must meet the requirements for laboratories specified in 42 CFR 493.
(d) If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory must be approved or licensed to test specimens in the appropriate specialties and/or subspecialties of service in accordance with the requirements of 42 CFR 493.
(e) If the facility does not provide laboratory services on-site, it must have an agreement to obtain these services only from a laboratory that meets the requirements of 42 CFR 493.

(f) The facility must:

(1) provide or obtain laboratory services only when ordered by the attending physician;
(2) assure that the attending physician is promptly notified of the findings;
(3) assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance; and
(4) file in the resident's clinical record laboratory reports that are dated and contain the name and address of the testing laboratory.

(g) The nursing facility must provide or obtain radiology and other diagnostic services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.

(h) If the facility provides its own diagnostic services, the services must meet the applicable rules for licensure of these services.

(i) If the facility does not provide its own diagnostic services, it must have a written agreement to obtain these services from a provider or supplier that is licensed under applicable state rules.

(j) The facility must do the following:

(1) Provide or obtain radiology and other diagnostic services only when ordered by the attending physician.
(2) Promptly notify the attending physician of the findings.
(3) Assist the resident in making transportation arrangements to and from the source of the service if the resident needs assistance.
(4) File in the resident’s clinical record signed and dated report of x-ray and other diagnostic services.

410 IAC 16.2-3.1-50 Clinical records

Sec. 50.

(a) The facility must maintain clinical records on each resident. These records must be maintained under the supervision of an employee of the facility designated with that responsibility. Any consultation must be provided by a medical records practitioner in accordance with accepted professional standards and practices. The records must be as follows:

(1) Complete.
(2) Accurately documented.
(3) Readily accessible.
(4) Systematically organized.

(b) Clinical records must be retained after discharge for:

(1) a minimum period of one (1) year in the facility and five (5) years total; or
(2) for a minor, until twenty-one (21) years of age.

(c) If a facility ceases operation, the director shall be informed within three (3) business days by the licensee of the arrangements made for the preservation of the residents’ clinical records.

(d) The facility must safeguard clinical record information against loss, destruction, or unauthorized use.

(e) The facility must keep confidential all information contained in the resident’s records, regardless of the form or storage method of the records, except when release is required by one (1) or more of the following:

(1) Transfer to another health care institution.
(2) Law.
(3) Third party payment contract.
(4) The resident or legal representative.

(f) The clinical record must contain the following:
(1) Sufficient information to identify the resident.
(2) A record of the resident’s assessments.
(3) The care plan and services provided.
(4) The results of any preadmission screening conducted by the state.
(5) Progress notes.
(g) Each facility shall have a well-defined policy that ensures the staff has sufficient progress
information to meet the residents’ needs.
(h) A transfer form shall include:
(1) Identification data.
(2) Name of the transferring institution.
(3) Name of the receiving institution and date of transfer.
(4) Resident’s personal property.
(5) Nurses’ notes relating to the resident’s:
(A) functional abilities and physical limitations;
(B) nursing care;
(C) medications;
(D) treatment;
(E) current diet; and
(F) condition on transfer.
(6) Diagnosis.
(7) Presence or absence of decubitus ulcer.
(8) Date of chest x-ray and skin test for tuberculosis.
(i) Current clinical records shall be completed promptly and those of discharged residents shall be
completed within seventy
(70) days of the discharge date.
(j) If a death occurs, information concerning the resident’s death shall include the following:
(1) Notification of the physician, family, responsible person, and legal representative.
(2) The disposition of the body, personal possessions, and medications.
(3) A complete and accurate notation of the resident’s condition and most recent vital signs and
symptoms preceding death.

410 IAC 16.2-3.1-51 Disaster and emergency preparedness
Sec. 51.
(a) The facility must have detailed written plans and procedures to meet all potential emergencies
and disasters.
(b) The facility must train all employees in emergency procedures when they begin to work in the
facility, periodically review the procedures with existing staff, and carry out unannounced staff
drills using those procedures.
(c) Fire exit drills in facilities shall include the transmission of a fire alarm signal and simulation of
emergency fire conditions except that the movement of infirm or bedridden residents to safe areas
or to the exterior of the building is not required. Drills shall be conducted at least four (4) times a
year at regular intervals throughout the year, on each shift to familiarize all facility personnel with
signals and emergency action required under varied conditions. At least twelve (12) drills shall be
held every year. When drills are conducted between 9 p.m. and 6 a.m., a coded announcement may
be used instead of audible alarms.
(d) At least annually, a facility shall attempt to hold a fire and disaster drill in conjunction with the
local fire department. A record of all training and drills shall be documented with the names and
signatures of the personnel present.
410 IAC 16.2-3.1-52 Quality assessment and assurance
Sec. 52.
(a) A facility must maintain a quality assessment and assurance committee consisting of
(1) The director of nursing services.
(2) A physician designated by the facility.
(3) At least three (3) other members of the facility's staff.
(b) The quality assessment and assurance committee shall do the following:
(1) Meet at least quarterly to identify issues with respect to which quality assessment and assurance
(2) Develop and implement appropriate plans of action to correct identified issues.

481—58.4(135C) General requirements.
58.4(1) The license shall be displayed in a conspicuous place in the facility which is viewed by the public. (III)
58.4(2) The license shall be valid only in the possession of the licensee to whom it is issued. 58.4(3)
The posted license shall accurately reflect the current status of the nursing facility. (III)
58.4(4) Licenses expire one year after the date of issuance or as indicated on the license.
58.4(5) No nursing facility shall be licensed for more beds than have been approved by the health facilities construction review committee.
58.4(6) Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (III)

481—58.5(135C) Notifications required by the department.
The department shall be notified: 58.5(1) Within 48 hours, by letter, of any reduction or loss of nursing or dietary staff lasting more than seven days which places the staffing ratio below that required for licensing. No additional residents shall be admitted until the minimum staffing requirements are achieved; (III) 58.5(2) Of any proposed change in the nursing facility's functional operation or addition or deletion of required services; (III)
58.5(3) Thirty days before addition, alteration, or new construction is begun in the nursing facility or on the premises; (III)
58.5(4) Thirty days in advance of closure of the nursing facility; (III)
58.5(5) Within two weeks of any change in administrator; (III)
58.5(6) When any change in the category of license is sought; (III)
58.5(7) Prior to the purchase, transfer, assignment, or lease of a nursing facility, the licensee shall:
a. Inform the department of the pending sale, transfer, assignment, or lease of the facility; (III)
b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee at least 30 days before the sale, transfer, assignment, or lease is completed; (III)
c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's nursing facility to the named prospective purchaser, transferee, assignee, or lessee. (III)
58.5(8) Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of a nursing facility, the department shall upon request send or give copies of all recent licensure surveys and of any other pertinent information relating to
the facility’s licensure status to the prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.

481—58.7(135C) Licenses for distinct parts.
58.7(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, containing contiguous rooms in a separate wing or building or on a separate floor of the facility and which provide care and services of separate categories.
58.7(2) The following requirements shall be met for a separate licensing of a distinct part:
a. The distinct part shall serve only residents who require the category of care and services immediately available to them within that part; (III)
b. The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought;
c. A distinct part must be operationally and financially feasible;
d. A separate staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management; (III)
e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry, and dietary in common with each other.

481—58.8(135C) Administrator.
58.8(1) Each nursing facility shall have one person in charge, duly licensed as a nursing home administrator or acting in a provisional capacity. (III)
58.8(2) A licensed administrator may act as an administrator for not more than two nursing facilities.
a. The distance between the two facilities shall be no greater than 50 miles. (II)
b. The administrator shall spend the equivalent of three full eight-hour days per week in each facility. (II)
c. The administrator may be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II)
58.8(3) The licensee may be the licensed nursing home administrator providing the licensee meets the requirements as set forth in these regulations and devotes the required time to administrative duties. Residency in the facility does not in itself meet the requirement. (III)
58.8(4) A provisional administrator may be appointed on a temporary basis by the nursing facility licensee to assume the administrative duties when the facility, through no fault of its own, has lost its administrator and has been unable to replace the administrator provided that no facility licensed under Iowa Code chapter 135C shall be permitted to have a provisional administrator for more than 6 months in any 12-month period and further provided that:
a. The department has been notified prior to the date of the administrator’s appointment; (III)
b. The board of examiners for nursing home administrators has approved the administrator’s appointment and has confirmed such appointment in writing to the department. (III)
58.8(5) In the absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. (III) The person designated shall:
a. Be knowledgeable of the operation of the facility; (III)
b. Have access to records concerned with the operation of the facility; (III)
c. Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)
d. Be at least 18 years of age; (III)
e. Be empowered to act on behalf of the licensee during the administrator’s absence concerning the health, safety, and welfare of the residents; (III)
f. Have had training to carry out assignments and take care of emergencies and sudden illness of
residents. (III)
58.8 (6) A licensed administrator in charge of two facilities shall employ an individual designated as a full-time assistant administrator for each facility. (III)
58.8 (7) An administrator of only one facility shall be considered as a full-time employee. Full-time employment is defined as 40 hours per week. (III)

481—58.9(135C) Administration.
58.9 (1) The licensee shall:
  a. Assume the responsibility for the overall operation of the nursing facility; (III)
  b. Be responsible for compliance with all applicable laws and with the rules of the department; (III)
  c. Establish written policies, which shall be available for review, for the operation of the nursing facility. (III)
58.9(2) The administrator shall:
  a. Be responsible for the selection and direction of competent personnel to provide services for the resident care program; (III)
  b. Be responsible for the arrangement for all department heads to annually attend a minimum of ten contact hours of educational programs to increase skills and knowledge needed for the position; (III)
  c. Be responsible for a monthly in-service educational program for all employees and to maintain records of programs and participants; (III)
  d. Make available the nursing facility payroll records for departmental review as needed; (III)
  e. Be required to maintain a staffing pattern of all departments. These records must be maintained for six months and are to be made available for departmental review. (III)

481—58.10(135C) General policies.
58.10(1) There shall be written personnel policies in facilities of more than 15 beds to include hours of work, and attendance at educational programs. (III)
58.10(2) There shall be a written job description developed for each category of worker. The job description shall include title of job, job summary, qualifications (formal education and experience), skills needed, physical requirements, and responsibilities. (III)
58.10(3) There shall be written personnel policies for each facility.
...58.10(6) There shall be written policies for emergency medical care for employees and residents in case of sudden illness or accident which includes the individual to be contacted in case of emergency.

481—58.11(135C) Personnel. 58.11(1) General qualifications.
...i. Those persons employed as nurse’s aides, orderlies, or attendants in a nursing facility who have not completed the state-approved 75-hour nurse’s aide program shall be required to participate in a structured on-the-job training program of 20 hours’ duration to be conducted prior to any resident contact, except that contact required by the training program. This educational program shall be in addition to facility orientation. Each individual shall demonstrate competencies covered by the curriculum. This shall be observed and documented by an R.N. and maintained in the personnel file. No aide shall work independently until this is accomplished, nor shall the aide’s hours count toward meeting the minimum hours of nursing care required by the department. The curriculum shall be approved by the department. An aide who has completed the state-approved 75-hour course may model skills to be learned. Further, such personnel shall be enrolled in a state-approved 75-hour nurse’s aide program to be completed no later than six months from the date of employment. If the state-approved 75-hour program has been completed prior to employment, the on-the-job training program requirement is waived. The 20-hour course is in addition to the 75-
hour course and is not a substitute in whole or in part. The 75-hour program, approved by the department, may be provided by the facility or academic institution. Newly hired aides who have completed the state-approved 75-hour course shall demonstrate competencies taught in the 20-hour course upon hire. This shall be observed and documented by an R.N. and maintained in the personnel file. All personnel administering medications must have completed the state-approved training program in medication administration. (II)

...k. Nurse aides, orderlies or attendants in a nursing facility who have received training other than the Iowa state-approved program, must pass a challenge examination approved by the department of inspections and appeals. Evidence of prior formal training in a nursing aide, orderly, attendant, or other comparable program must be presented to the facility or institution conducting the challenge examination before the examination is given. The approved facility or institution, following department of inspections and appeals guidelines, shall make the determination of who is qualified to take the examination. Documentation of the challenge examinations administered shall be maintained.

481—58.15(135C) Records.

...58.15(2) Resident clinical record. There shall be a separate clinical record for each resident admitted to a nursing facility with all entries current, dated, and signed. (III) The resident clinical record shall include:

a. Admission record; (III)
b. Admission diagnosis; (III)
c. Physical examination: The record of the admission physical examination and medical history shall portray the current medical status of the resident and shall include the resident’s name, sex, age, medical history, tuberculosis status, physical examination, diagnosis, statement of chief complaints, estimation of restoration potential and results of any diagnostic procedures. The report of the physical examination shall be signed by the physician. (III)
d. Physician’s certification that the resident requires no greater degree of nursing care than the facility is licensed to provide; (III)
e. Physician’s orders for medication, treatment, and diet in writing and signed by the physician quarterly; (III)
f. Progress notes.

(1) Physician shall enter a progress note at the time of each visit; (III)
(2) Other professionals, i.e., dentists, social workers, physical therapists, pharmacists, and others shall enter a progress note at the time of each visit; (III)
g. All laboratory, X-ray, and other diagnostic reports; (III)
h. Nurse’s record including:

(1) Admitting notes including time and mode of transportation; room assignment; disposition of valuables; symptoms and complaints; general condition; vital signs; and weight; (II, III)
(2) Routine notes including physician’s visits; telephone calls to and from the physician; unusual incidents and accidents; change of condition; social interaction; and P.R.N. medications administered including time and reason administered, and resident’s reaction; (II, III)
(3) Discharge or transfer notes including time and mode of transportation; resident’s general condition; instructions given to resident or legal representative; list of medications and disposition; and completion of transfer form for continuity of care; (II, III)
(4) Death notes including notification of physician and family to include time, disposition of body, resident’s personal possessions and medications; and complete and accurate notes of resident’s vital signs and symptoms preceding death; (III)
i. Medication record.

(1) An accurate record of all medications administered shall be maintained for each resident. (II, III)
(2) Schedule II drug records shall be kept in accordance with state and federal laws; (II, III)

j. Death record. In the event of a resident’s death, notations in the resident’s record shall include the date and time of the resident’s death, the circumstances of the resident’s death, the disposition of the resident’s body, and the date and time that the resident’s family and physician were notified of the resident’s death; (III)

k. Transfer form.

(1) The transfer form shall include identification data from the admission record, name of transferring institution, name of receiving institution, and date of transfer; (III)

(2) The nurse’s report shall include resident attitudes, behavior, interests, functional abilities (activities of daily living), unusual treatments, nursing care, problems, likes and dislikes, nutrition, current medications (when last given), and condition on transfer; (III)

(3) The physician’s report shall include reason for transfer, medications, treatment, diet, activities, significant laboratory and X-ray findings, and diagnosis and prognosis; (III)

l. Consultation reports shall indicate services rendered by allied health professionals in the facility or in health-centered agencies such as dentists, physical therapists, podiatrists, oculists, and others. (III)

58.15(3) Resident personal record. Personal records may be kept as a separate file by the facility.

a. Personal records may include factual information regarding personal statistics, family and responsible relative resources, financial status, and other confidential information.

b. Personal records shall be accessible to professional staff involved in planning for services to meet the needs of the resident. (III)

c. When the resident’s records are closed, the information shall become a part of the final record. (III)

d. Personal records shall include a duplicate copy of the contract(s). (III)

58.15(5) Retention of records.

a. Records shall be retained in the facility for five years following termination of services. (III)

b. Records shall be retained within the facility upon change of ownership. (III)

c. Rescinded, effective 7/14/82.

d. When the facility ceases to operate, the resident’s record shall be released to the facility to which the resident is transferred. If no transfer occurs, the record shall be released to the individual’s physician. (III)

58.15(6) Reports to the department. The licensee shall furnish statistical information concerning the operation of the facility to the department on request. (III)

58.15(7) Personnel record.

a. An employment record shall be kept for each employee, consisting of the following information: name and address of employee, social security number of employee, date of birth of employee, date of employment, experience and education, references, position in the home, criminal history and dependent adult abuse background checks, and date and reason for discharge or resignation. (III)

b. The personnel records shall be made available for review upon request by the department. (III)

481—58.20(135C) Duties of health service supervisor.

Every nursing facility shall have a health service supervisor who shall:

...58.20(7) Plan and conduct nursing staff orientation and in-service programs and provide for training of nurse’s aides; (III)

481—58.22(135C) Rehabilitative services.

...c. The licensed physical therapist shall:

...(4) Present programs in the facility’s in-service education programs. (III)
481—58.23(135C) Dental, diagnostic, and other services.

58.23(1) Dental services.

...f. Dentists shall be asked to participate in the in-service program of the facility. (III)

58.23(2) Diagnostic services.

a. The nursing facility shall make provisions for promptly securing required clinical laboratory, X-ray, and other diagnostic services. (III)
b. All diagnostic services shall be provided only on the written, signed order of a physician. (III)
c. Agreements shall be made with the local hospital laboratory or independent laboratory to perform specific diagnostic tests when they are required. (III)
d. Transportation arrangements for residents shall be made, when necessary, to and from the source of service. (III)
e. Copies of all diagnostic reports shall be requested by the facility and included in the resident’s clinical record. (III)
f. The physician ordering the specific diagnostic service shall be promptly notified of the results. (III)
g. Simple tests such as customarily done by nursing personnel for diabetic residents may be performed in the facility. (III)

58.23(3) Other services.

a. The nursing facility shall assist residents to obtain such supportive services as requested by the physician. (III)
b. Transportation arrangements shall be made when necessary. (III)
c. Services could include the need for prosthetic devices, glasses, hearing aids, and other necessary items. (III)

481—58.24 (135C) Dietary.

...58.24(2) Dietary staffing.

...b. The supervisor shall have overall supervisory responsibility for dietetic services and shall be employed for a sufficient number of hours to complete management responsibilities that include:

...(4) Participating in selection, orientation, and in-service training of dietary personnel; (II, III)

...f. Consultants’ visits shall be scheduled to be of sufficient duration and at a time convenient to:

...(6) Present planned in-service training and staff development for food service employees and others. Documentation of consultation shall be available for review in the facility by the department.

...58.24(9) Paid nutritional assistants. a. Training program requirements.

(1) A state-approved training program for paid nutritional assistants must include, at a minimum, eight hours of training in the following areas:

...5. Safety and emergency procedures, including the Heimlich maneuver.

481—58.26 (135C) Resident activities program.

...58.26(2) Coordination of activities program.

...d. The activity coordinator shall attend workshops or educational programs which relate to activity programming. These shall total a minimum of ten contact hours per year. These programs shall be approved by the department. (III)

58.26(3) Duties of activity coordinator. The activity coordinator shall:

...e. Participate in the in-service training program in the facility. This shall include attending as well as presenting sessions. (III)
481—58.28(135C) Safety.
58.28(1) Fire safety.
a. All nursing facilities shall meet the fire safety rules and regulations as promulgated by the state fire marshal. (I, II)
58.28(2) Safety duties of administrator. The administrator shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency. (III)
a. The plan shall be posted. (III)
b. In-service shall be provided to ensure that all employees are knowledgeable of the emergency plan. (III)

481—58.29(135C) Resident care.
...8.29(6) Electric heating pads, blankets, or sheets shall be used only on the written order of a physician, when allowed by the Life Safety Code or applicable state or local fire regulations. (II, III)

481—58.35(135C) Buildings, furnishings, and equipment.
...58.35(5) Heating... Portable units or space heaters are prohibited from being used in the facility except in an emergency. (III)

481—58.39 (135C) Residents' rights in general.
...58.39(2) Policies and procedures shall address the admission and retention of persons with histories of dangerous or disturbing behavior...policies and procedures shall provide for:
...c. Ongoing and documented staff training on individualized health care planning for persons with mental illness

481—58.43(135C) Resident abuse prohibited.
...58.43(7) Each facility shall implement written policies and procedures governing the use of restraints which clearly delineate at least the following:
...l. Methods of restraint shall permit rapid removal of the resident in the event of fire or other emergency. (I, II)
m. The facility shall provide orientation and ongoing education programs in the proper use of restraints.

481—58.53(135C) County care facilities. In addition to Chapter 58 licensing rules, county care facilities licensed as nursing facilities must also comply with department of human services rules, 441—Chapter 37. Violation of any standard established by the department of human services is a Class II violation pursuant to 481—56.2(135C).

481—58.54 (73GA,ch 1016) Special unit or facility dedicated to the care of persons with chronic confusion or a dementing illness (CCDI unit or facility).
58.54(1) A nursing facility which chooses to care for residents in a distinct part shall obtain a license for a CCDI unit or facility. In the case of a distinct part, this license will be in addition to its ICF license. The license shall state the number of beds in the unit or facility. (III)
a. Application for this category of care shall be submitted on a form provided by the department. (III)
b. Plans to modify the physical environment shall be submitted to the department. The plans shall be reviewed based on the requirements of 481—Chapter 61. (III)
58.54(2) A statement of philosophy shall be developed for each unit or facility which states the
beliefs upon which decisions will be made regarding the CCDI unit or facility. Objectives shall be
developed for each CCDI unit or facility as a whole. The objectives shall be stated in terms of
expected results. (II, III)
58.54(3) A résumé of the program of care shall be submitted to the department for approval at least
60 days before a separate CCDI unit or facility is opened. A new résumé of the program of care shall
be submitted when services are substantially changed. (II, III)
The résumé of the program of care shall:
a. Describe the population to be served; (II, III)
b. State philosophy and objectives; (II, III)
c. List admission and discharge criteria; (II, III)
d. Include a copy of the floor plan; (II, III)
e. List the titles of policies and procedures developed for the unit or facility; (II, III)
f. Propose a staffing pattern; (II, III)
g. Set out a plan for specialized staff training; (II, III)
h. State visitor, volunteer, and safety policies; (II, III)
i. Describe programs for activities, social services and families; (II, III) and
j. Describe the interdisciplinary care planning team. (II, III)
58.54(4) Separate written policies and procedures shall be implemented in each CCDI unit or
facility. There shall be:
a. Admission and discharge policies and procedures which state the criteria to be used to admit
residents and the evaluation process which will be used. These policies shall require a statement
from the attending physician agreeing to the placement before a resident can be moved into a CCDI
unit or facility. (II, III)
b. Safety policies and procedures which state the actions to be taken by staff in the event of a fire,
natural disaster, emergency medical or catastrophic event. Safety procedures shall also explain
steps to be taken when a resident is discovered to be missing from the unit or facility and when
hazardous cleaning materials or potentially dangerous mechanical equipment is being used in the
unit or facility. The facility shall identify its method for security of the unit or facility and the
manner in which the effectiveness of the security system will be monitored. (II, III)
c. Program and service policies and procedures which explain programs and services offered in
the unit or facility including the rationale. (III)
d. Policies and procedures concerning staff which state minimum numbers, types and
qualifications of staff in the unit or facility. (II, III)
e. Policies about visiting which suggest times and ensure the residents’ rights to free access to
visitors. (II, III)
f. Quality assurance policies and procedures which list the process and criteria which will be
used to monitor and to respond to risks specific to the residents. This shall include, but not be
limited to, drug use, restraint use, infections, incidents and acute behavioral events. (II, III)

58.54(6) All staff working in a CCDI unit or facility shall have training appropriate to the needs of
the residents. (II, III)
a. Upon assignment to the unit or facility, everyone working in the unit or facility shall be oriented
to the needs of people with chronic confusion or dementing illnesses. They shall have special
training appropriate to their job description within 30 days of assignment to the unit or facility. (II,
III) The orientation shall be at least six hours. The following topics shall be covered:
(1) Explanation of the disease or disorder; (II, III)
(2) Symptoms and behaviors of memory-impaired people; (II, III)
(3) Progression of the disease; (II, III)
(4) Communication with CCDI residents; (II, III)
(5) Adjustment to care facility residency by the CCDI unit or facility residents and their families; (II, III)
(6) Inappropriate and problem behavior of CCDI unit or facility residents and how to deal with it; (II, III)
(7) Activities of daily living for CCDI residents; (II, III)
(8) Handling combative behavior; (II, III) and
(9) Stress reduction for staff and residents. (II, III)

b. Licensed nurses, certified aides, certified medication aides, social services personnel, 
housekeeping and activity personnel shall have a minimum of six hours of in-service training 
anually. This training shall be related to the needs of CCDI residents. The six-hour training shall 
count toward the required annual in-service training. (II, III)

...58.54(8) The CCDI unit or facility license may be revoked, suspended or denied pursuant to Iowa 
Code chapter 135C and Iowa Administrative Code 481—Chapter 50.
This rule is intended to implement 1990 Iowa Acts, chapter 1016.

481—58.55(135C) Another business or activity in a facility.
facility is allowed to have another business or activity in a health care facility or in the physical 
structure of the facility, if the other business or activity meets the requirements of applicable state 
and federal laws, administrative rules, and federal regulations. To obtain the approval of the 
department and the state fire marshal, the facility must submit to the department a written request 
for approval which identifies the service(s) to be offered by the business and addresses the factors 
outlined in paragraphs “a” through “f” of subrule 58.55(1). (I, II, III)
58.55(1) The following factors will be considered by the department in determining whether 
a business or activity will interfere with the use of the facility by residents, interfere with services 
provided to residents, or be disturbing to residents:
a. Health and safety risks for residents;
b. Noise created by the proposed business or activity;
c. Odors created by the proposed business or activity;
d. Use of the facility’s corridors or rooms as thoroughfares to the business or activity in regard to 
safety and disturbance of residents and interference with delivery of services;
e. Proposed staffing for the business or activity; and
f. Sharing of services and staff between the proposed business or activity and the facility.
58.55(2) Approval of the state fire marshal shall be obtained before approval of the department will 
be considered.
58.55(3) A business or activity conducted in a health care facility or in the same physical structure 
as a health care facility shall not reduce space, services or staff available to residents below 
minimums required in these rules and 481—Chapter 61. (I, II, III)

481—58.56 (135C) Respite care services.
Respite care services means an organized program of temporary supportive care provided for 24 
hours or more to a person in order to relieve the usual caregiver of the person from providing 
continual care to the person. A nursing facility which chooses to provide respite care services must 
meet the following requirements related to respite services and must be licensed as a nursing 
facility.
58.56(1) A nursing facility certified as a Medicaid nursing facility or Medicare skilled nursing 
facility must meet all Medicaid and Medicare requirements including CFR 483.12, admission, 
transfer and discharge rights.
58.56(2) A nursing facility which chooses to provide respite care services is not required to obtain a 
separate license or pay a license fee.
58.56(3) Rule 481—58.40(135C) regarding involuntary discharge or transfer rights, does not apply to residents who are being cared for under a respite care contract.

58.56(4) Pursuant to rule 481—58.13(135C), the facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements under 481—58.13(135C), except the requirements under subrule 58.13(7).

58.56(5) Respite care services shall not be provided by a health care facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

KANSAS
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Definitions:
"Adult care home" means any nursing facility, nursing facility for mental health, intermediate care facility for the mentally retarded, assisted living facility, residential health care facility, home plus, boarding care home and adult day care facility, all of which classifications of adult care homes are required to be licensed by the secretary of aging.

"Nursing facility" means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care to compensate for activities of daily living limitations.

39-926a. Limitation on number of persons licensed to operate adult care home; application of section; section supplemental to adult care home licensure act.

(a) Except as otherwise provided in this section, no more than three different persons shall be licensed to operate any one adult care home under the adult care home licensure act, and no license to operate any one adult care home shall be issued under that act to more than three different persons. The provisions of this section shall not apply to any license to operate an adult care home which is in effect on the effective date of this act and which is issued to more than three different persons, or the renewal of any such license, unless subsequent to the effective date of this act three or fewer persons operate the adult care home or the license to operate the adult care home is denied or revoked.

(b) This section shall be part of and supplemental to the adult care home licensure act.

39-932a. Adult care homes in less than an entire building.
The licensing agency shall provide by rules and regulations for the licensing of adult care homes in any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, in addition to licensing of adult care homes in entire buildings. In the case of adult care homes in less than an entire building, the licensing agency shall prescribe acceptable use and occupancy of the balance of such building, and shall prohibit those uses and occupancies which are deemed to be contrary to the public interest.

...(c) Change of ownership or licensee.
(1) The current licensee shall notify the department, in writing, of any anticipated change in the information that is recorded on the current license at least 60 days before the proposed effective date of change.

...(g) Change in use of a required room or area. If an administrator or operator changes resident bedrooms, individual living units, and apartments used for an alternative purpose back to resident bedrooms, individual living units, and apartments, the administrator or operator shall obtain the secretary’s approval before the change is made.

(h) Change of resident capacity. Each licensee shall submit a written request for any proposed change in resident capacity to the department. The effective date of a change in resident capacity shall be the first day of the month following department approval.

(i) Change of administrator, director of nursing, or operator. Each licensee of an adult care home shall notify the department within two working days if there is a change in administrator, director of nursing, or operator. When a new administrator or director of nursing is employed, the licensee shall notify the department of the name, address, and Kansas license number of the new administrator or director of nursing. When a new operator is employed, the licensee shall notify the department of the name and address of the new operator and provide evidence that the individual has completed the operator course as specified by the secretary of the Kansas department of health and environment pursuant to K.S.A. 39-923 and amendments thereto.

(j) Administrator or operator supervision of multiple homes. An administrator or operator may supervise more than one separately licensed adult care home if the following requirements are met:

(1) Each licensee shall request prior authorization from the department for a licensed administrator or an operator to supervise more than one separately licensed adult care home. The request shall be submitted on the appropriate form and include assurance that the lack of full-time, on-site supervision of the adult care homes will not adversely affect the health and welfare of residents.

(2) All of the adult care homes shall be located within a geographic area that allows for daily on-site supervision of all of the adult care homes by the administrator or operator.

(3) The combined resident capacities of separately licensed nursing facilities, assisted living facilities, residential health care facilities, homes plus, and adult day care facilities shall not exceed 120 for a licensed administrator.

(4) The combined resident capacities of separately licensed assisted living facilities, residential health care facilities, homes plus, and adult day care facilities shall not exceed 60 for an operator.

(5) The combined number of homes plus shall not exceed four homes for a licensed administrator or an operator.

(k) Reports. Each licensee shall file reports with the department on forms and at times prescribed by the department.


...(d) Staff treatment of residents. Each facility shall develop and implement written policies and procedures that prohibit abuse, neglect, and exploitation of residents. The facility shall:

(1) Not use verbal, mental, sexual, or physical abuse, including corporal punishment, or involuntary seclusion;

(2) not employ any individual who has been identified on the state nurse aide registry as having abused, neglected, or exploited residents in an adult care home in the past;

(3) ensure that all allegations of abuse, neglect, or exploitation are investigated and reported immediately to the administrator of the facility and to the Kansas department of health and environment;

(4) have evidence that all alleged violations are thoroughly investigated, and shall take measures to prevent further potential abuse, neglect and exploitation while the investigation is in progress;
(5) report the results of all facility investigations to the administrator or the designated representative;
(6) maintain a written record of all investigations of reported abuse, neglect, and exploitation; and
(7) take appropriate corrective action if the alleged violation is verified.

28-39-160. Other resident services.
(a) Special care section. A nursing facility may develop a special care section within the nursing facility to serve the needs of a specific group of residents.
(1) The facility shall designate a specific portion of the facility for the special care section.
(2) The facility shall develop admission and discharge criteria that identify the diagnosis, behavior, or specific clinical needs of the residents to be served. The medical diagnosis, physician's progress notes, or both shall justify admission to the section.
(3) A written physician's order shall be required for placement.
(4) Direct care staff shall be present in the section at all times.
(5) Before admission to a special care section, the facility shall inform the resident or resident's legal representative in writing of the services and programs available in the special care section that are different from those services and programs provided in the other sections of the facility.
(6) The facility shall provide a training program for each staff member before the member's assignment to the section. Evidence of completion of the training shall be on file in the employee's personnel records.
(7) The facility shall provide in-service training specific to the needs of the residents in the special care section to staff at regular intervals.
(8) The facility shall develop and make available to the clinical care staff policies and procedures for operation of the special care section.
(9) The facility shall provide a substation for use by the direct care staff in the special care section. The design of the substation shall be in accordance with the needs of the special care section and shall allow for visibility of the corridors from that location.
(10) Staff in the section shall be able to observe and hear resident and emergency call signals from the corridor and nurse substation.
(11) The facility shall provide living, dining, activity, and recreational areas in the special care section at the rate of 27 square feet per resident, except when residents are able to access living, dining, activity, and recreational areas in another section of the facility.
(12) The comprehensive resident assessment shall indicate that the resident would benefit from the program offered by the special care section.
(13) The resident comprehensive care plan shall include interventions that effectively assist the resident in correcting or compensating for the identified problems or need.
(14) Control of exits shall be the least restrictive possible for the residents in the section.
(b) Adult day care. A nursing facility may provide adult day care services to any individual whose physical, mental, and psychosocial needs can be met by intermittent nursing, psychosocial, and rehabilitative or restorative services.
(1) The nursing facility shall develop written policies and procedures for provision of adult day care services.
(2) The nursing facility shall develop criteria for admission to and discharge from the adult day care service.
(3) The nursing facility shall maintain a clinical record of services provided to clients in the adult day care program.
(4) The provision of adult day care services shall not adversely affect the care and services offered to residents of the facility.
(c) Respite care. A nursing facility may provide respite care to individuals on a short-term basis of not more than 30 consecutive days.
(1) The facility shall develop policies and procedures for the provision of respite care.
(2) All requirements for admission of a resident to a nursing facility shall be met for an individual admitted for respite care.
(3) The facility may obtain an order from the resident’s physician indicating that the resident may return to the facility at a later date for respite care.
(A) The facility may identify the resident’s clinical record as inactive until the resident returns.
(B) Each time the resident returns to the facility for subsequent respite services, the resident’s physician shall review the physician plan of care and shall indicate any significant change that has occurred in the resident’s medical condition since the previous stay.
(C) The facility shall review and revise the comprehensive assessment and care plan, if needed.
(D) The facility shall conduct a comprehensive assessment after any significant change in the resident’s physical, mental, or psychosocial functioning and not less often than once a year.
(E) Any facility with a ban on admissions shall not admit or readmit residents for respite care.

(a) Each facility shall establish an infection control program under which the facility meets the following requirements:
...(6) includes in the orientation of new employees and periodic employees in-service information on exposure control and infection control in a health care setting...
(c) Linens and resident clothing.
...(5) The facility may choose to wash linens and soiled resident clothing in water at less than 160° F if the following conditions are met:
...(E) The facility ensures that laundry staff receives in-service training by the chemical supplier on a routine basis, regarding chemical usage and monitoring of wash operations.
(7) maintains a record of incidents and corrective actions related to infection that is reviewed and acted upon by the quality assessment and assurance committee.

29-39-163. Administration
Each nursing facility 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
(a) Governing body.
(1) Each facility shall have a governing body or shall designate a group of people to function as a governing body. The governing body shall be legally responsible for establishing and implementing policies regarding the management and operation of the facility.
(2) the governing body shall appoint an administrator who meets the following criteria:
(A) Is licensed by the state; and
(B) has full authority and responsibility for the operation of the facility and compliance with licensing requirements.
(3) The licensee shall adopt a written position description for the administrator that includes responsibility for the following:
(A) Planning, organizing, and directing the operation of the facility;
(B) implementing operational policies and procedures for the facility; and
(C) authorizing, in writing, a responsible employee 18 years old or older to act on the administrator’s behalf in the administrator’s absence.
(4) Each facility may request approval from the department for an administrator to supervise more than one nursing facility. Each request shall be submitted, in writing, by the governing bodies of the
facilities on a form approved by the department. Each facility shall meet all of the following conditions:
(A) The facilities are in a proximate location that would facilitate on-site supervision daily, if needed.
(B) The combined resident capacity does not exceed 120 residents.
(C) The administrator appointed to operate the facilities has had at least two years of experience as an administrator of a nursing facility and has demonstrated the ability to assure the health and safety of residents.
(D) When a change in administrator occurs, the facilities submit the credentials of the proposed new administrator for approval by the department.
(b) Policies and procedures.
(1) Each licensee shall adopt and enforce written policies and procedures to ensure all of the following:
(A) Each resident attains or maintains the highest practicable physical, mental, and psychosocial well-being.
(B) Each resident is protected from abuse, neglect, and exploitation.
(C) The rights of residents are proactively assured.
(2) The facility shall revise all policies and procedures as necessary and shall review all policies and procedures at least annually.
(3) Policies and procedures shall be available to staff at all times. Policies and procedures shall be available, on request, to any person during normal business hours. The facility shall post a notice of availability in a readily accessible place for residents.
(c) Power of attorney and guardianship. Anyone employed by or having a financial interest in the facility, unless the person is related by marriage or blood within the second degree to the resident, shall not accept a power of attorney, a durable power of attorney for health care decisions, guardianship or conservatorship.
(d) Reports. Each administrator shall submit to the licensing agency, not later than 10 days following the period covered, a semiannual report of residents and employees. The administrator shall submit the report on forms provided by the licensing agency. The administrator shall submit any other reports as required by the licensing agency.
(e) Telephone. The facility shall maintain at least one non-coin-operated telephone accessible to residents and employees on each nursing unit for use in emergencies. The facility shall post adjacent to this telephone the names and telephone numbers of persons or places commonly required in emergencies.
(f) Smoking. If smoking is permitted, there shall be designated smoking areas.
(1) The designated areas shall not infringe on the rights of nonsmokers to reside in a smoke-free environment.
(2) The facility shall provide areas designated as smoking areas both inside and outside the building.
(g) Staff development and personnel policies. The facility shall provide regular performance review and in-service education of all employees to ensure that the services and procedures assist residents to attain and maintain their highest practicable level of physical, mental, and psychosocial functioning.
(1) The facility shall regularly conduct and document an orientation program for all new employees.
(2) Orientation of direct care staff shall include review of the facility’s policies and procedures and evaluation of the competency of the direct care staff to perform assigned procedures safely and competently.
(3) The facility shall provide regular, planned in-service education for all staff.
(A) The in-service program shall provide all employees with training in fire prevention and safety, disaster procedures, accident prevention, resident rights, psychosocial needs of residents, and infection control.
(B) The facility shall provide direct care staff with in-service education in techniques that assist resident to function at their highest practicable physical, mental, and psychosocial level.
(C) Direct care staff shall participate in at least 12 hours of in-service education each year. All other staff shall participate in at least eight hours of in-services education each year.
(D) The facility shall maintain documentation of in-services education offerings. Documentation shall include a content outline, resume of the presenter, and record of staff in attendance.
(E) The facility shall record attendance at in-service education in the employee record of each staff member.
(h) Professional staff qualifications.
(1) The facility shall employ on a full-time, part-time, or consultant basis any professionals necessary to carry out the requirements of these regulations.
(2) The facility shall document evidence of licensure, certification, or registration of full-time, part-time, and consultant professional staff in employee records.
(3) The facility shall perform a health screening, including tuberculosis testing, on each employee before employment or not later than seven days after employment.
(i) Use of outside resources. Arrangements or agreements pertaining to services furnished by outside resources shall specify in writing that the facility assumes responsibility for the following:
(1) Obtaining services that meet professional standards and principles that apply to professionals providing services; and
(2) assuring the timeliness of the services.
(j) Medical director.
(1) The facility shall designate a physician to serve as medical director.
(2) the medical director shall be responsible for the following:
(A) Implementation of resident care policies reflecting accepted standards of practice;
(B) coordination of medical care in the facility; and
(C) provision of consultation to the facility staff on issues related to the medical care of residents.
(k) Laboratory services. The facility shall provide or obtain clinical laboratory services to meet the needs of the residents. The facility shall be responsible for the quality and timeliness of the services.
(1) If the facility provides its own clinical laboratory services, it shall meet all of the following requirements:
(A) The services shall meet applicable statutory and regulatory requirements for a clinical laboratory.
(B) The facility staff shall follow manufacturer's instructions for performance of the test.
(C) The facility shall maintain a record of all controls performed and all results of tests performed on residents.
(D) The facility shall ensure that staff who perform laboratory tests do so in a competent and accurate manner.
(2) If the facility does not provide the laboratory services needed by its residents, the facility shall have written arrangements for obtaining these services from a laboratory as required in 42 CFR 483.75(j), as published on October 1, 1993, and herby adopted by reference.
(3) All laboratory services shall be provided only on the order of a physician.
(4) The facility shall ensure that the physician ordering the laboratory service is notified promptly of the findings.
(5) the facility shall ensure that the signed and dated clinical reports of the laboratory findings are documented in each resident's clinical record.
(6) The facility shall assist the resident, if necessary, in arranging transportation to and from the source of laboratory services.

(l) Radiology and other diagnostic services. The facility shall provide or obtain radiology and other diagnostic services to meet the needs of its residents.

(1) If the facility provides its own radiology and diagnostic services, the services shall meet applicable statutory and regulatory requirements for radiology and other diagnostic services.

(2) If the facility does not provide the radiology and diagnostic services needed by its resident, the facility shall have written arrangements for obtaining these services from a licensed provider or supplier.

(3) All radiology and diagnostic services shall be provided only on the order of a physician.

(4) The facility shall ensure that the physician ordering the radiology or diagnostic services is notified promptly of the findings.

(5) The facility shall document signed and dated clinical reports of the radiological or diagnostic findings in the resident’s clinical record.

(6) The facility shall assist the resident, if necessary, in arranging transportation to and from the source of radiology or diagnostic services.

(m) Clinical records.

(1) The facility shall maintain clinical records on each resident in accordance with accepted professional standards and practices. The records shall meet the following criteria:

(A) Be complete;
(B) be accurately documented; and
(C) be systematically organized.

(2) Clinical records shall be retained according to the following schedule:

(A) At least five years following the discharge or death of a resident; or
(B) for a minor, five years after the resident reaches 18 years of age.

(3) Resident records shall be the property of the facility.

(4) The facility shall keep confidential all information in the resident’s records, regardless of the form or storage method of the records, except when release is required by any of the following:

(A) transfer to another health care institution;
(B) law;
(C) third party payment contract;
(D) the resident or legal representative; or
(E) in the case of a deceased resident, the executor of the resident’s estate, or the resident’s spouse, adult child, parent, or adult brother or sister.

(5) The facility shall safeguard clinical record information against loss, destruction, fire, theft, and unauthorized use.

(6) The clinical record shall contain the following:

(A) Sufficient information to identify the resident;
(B) a record of the resident’s assessments;
(C) admission information;
(D) the plan of care and services provided;
(E) a discharge summary or report from the attending physician and a transfer form after a resident is hospitalized or transferred from another health care institution;
(F) Physician’s orders;
(G) medical history;
(H) reports of treatments and services provided by facility staff and consultants;
(I) records of drugs, biologicals, and treatments administered; and
(J) documentation of all incidents, symptoms, and other indications of illness or injury, including the date, the time of occurrence, the action taken, and the results of action.
(7) the physician shall sign all documentation entered or directed to be entered in the clinical record by the physician.

(8) Documentation by direct care staff shall meet the following criteria:
   (A) List drugs, biologicals, and treatments administered to each resident;
   (B) be an accurate and functional representation of the actual experience of the resident in the facility;
   (C) be written in chronological order and signed and dated by the staff person making the entry;
   (D) include the resident’s response to changes in condition with follow-up documentation describing the resident’s response to the interventions provided;
   (E) not include erasures or use of white-out. Each error shall be lined through and word “error” added. The staff person making the correction shall sign and date the error. AN entry shall not be recopied; and
   (F) in the case of computerized resident records, include a system to ensure that when an error in documentation occurs, the original entry is maintained and the person making the correction enters the date and that person’s electronic signature in the record.

(9) Clinical record staff.
   (A) The facility shall assign overall supervisory responsibility for maintaining the residents’ clinical records to a specific staff person.
   (B) The facility shall maintain clinical records in a manner consistent with current standards of practice.
   (C) If the clinical record supervisor is not a qualified medical record practitioner, the facility shall provide consultation through a written agreement with a qualified medical record practitioner.

(n) Disaster and emergency preparedness.
   (1) the facility shall have a detailed written emergency management plan to meet potential emergencies and disasters, including, fire, flood, severe weather, tornado, explosion, natural gas leak, lack of electrical or water service, and missing residents.
   (2) The plan shall be coordinated with area governmental agencies.
   (3) The plan shall include written agreements with agencies that will provide needed services, including providing a fresh water supply, evacuation site, and transportation of resident to an evacuation site.
   (4) the facility shall ensure disaster and emergency preparedness by the following means:
      (A) Orienting new employees at the time of employment to the facility's emergency management plan;
      (B) periodically reviewing the plan with employees; and
      (C) annually carrying out a tornado or disaster drill with staff and residents.
   (5) The emergency management plan shall be available to staff, residents, and visitors.

(o) Transfer agreement.
   The facility shall have in effect a written transfer agreement with one or more hospitals that reasonably assures both of the following:
   (1) Residents will be transferred from the facility to the hospital, and timely admitted to the hospital, when transfer is medically appropriate, as determined by the attending physician.
   (2) Medical and other information needed for care and treatment of residents will be exchanged between the institutions.

(p) Quality assessment and assurance.
   (1) The facility shall maintain a quality assessment and assurance committee consisting of these individuals:
      (A) the director of nursing services;
      (B) a physician designated by the facility; and
      (C) at least three other members of the facility’s staff.
   (2) The quality assessment and assurance committee shall perform the following:
(A) Meet at least quarterly to identify issues with respect to what quality assessment and assurance activities are necessary; and
(B) develop and implement appropriate plans of action to correct identified quality deficiencies and prevent potential quality deficiencies

(a) Requirements. Unlicensed employees who provide direct individual care to residents shall be required to perform the following:
(1) Successfully complete at least a 90-hour nurse aide course that has been approved by the secretary; and
(2) pass a state test as specified in K.A.R. 28-39-168.
(b) Certification. Each person shall be issued a nurse aide certificate by the secretary and shall be listed on a public registry upon completion of the requirements specified in subsection (a).
(c) Employment as a trainee.
(1) Each nurse aide trainee I in an approved 90-hour course shall be required to successfully complete part I of the course to demonstrate initial competency before being employed or used as a nurse aide trainee II. A nurse aide trainee II may provide direct care to residents only under the direct supervision of a registered nurse or licensed practical nurse.
(2) Each nurse aide trainee II in an approved 90-hour course shall be issued a nurse aide certificate by the secretary, upon completion of the requirements specified in subsection (a), within four months from the beginning date of the initial course in order to continue employment providing direct care. Nurse aide trainee II status for employment shall be for one four-month period only.
(d) 90-hour nurse aide course.
(1) Each nurse aide course shall be prepared and administered in accordance with the guidelines established by the department in the "Kansas certified nurse aide curriculum guidelines (90 hours)," including the appendices, dated May 2008, and the "Kansas 90-hour certified nurse aide sponsor and instructor manual," pages 1 through 20 and the appendices, dated May 2008, which are hereby adopted by reference.
(2) Each nurse aide course shall consist of a combination of didactic and clinical instruction. At least 50 percent of part I and part II of the course curriculum shall be provided as clinical instruction.
(3) Each nurse aide course shall be sponsored by one of the following:
(A) An adult care home;
(B) a long-term care unit of a hospital; or
(C) a postsecondary school under the jurisdiction of the state board of regents.
(4) Clinical instruction shall be conducted in one or a combination of the following locations:
(A) An adult care home;
(B) a long-term care unit of a hospital; or
(C) a simulated laboratory.
(5) An adult care home shall not sponsor or provide clinical instruction for a 90-hour nurse aide course if that adult care home has been subject to any of the sanctions under the medicare certification regulations listed in 42 C.F.R. 483.151(b)(2), as in effect on October 1, 2007.
(e) Correspondence courses. No correspondence course shall be approved as a nurse aide course.
(f) Other offerings. Distance-learning offerings and computer-based educational offerings shall meet the standards specified in subsection (d).
(a) Approval and qualifications.
(1) Each person who intends to be a course instructor shall submit a completed instructor approval application form to the department at least three weeks before offering an initial course and shall receive approval as an instructor before the first day of an initial course.
(2) Each course instructor shall be a registered nurse with a minimum of two years of licensed nursing experience, with at least 1,750 hours of experience in either or a combination of an adult care home or long-term care unit of a hospital. Each course instructor shall have completed a course in teaching adults, shall have completed a professional continuing education offering on supervision or adult education, or shall have experience in teaching adults or supervising nurse aides.

(b) Course instructor and course sponsor responsibilities.
(1) Each course instructor and course sponsor shall be responsible for ensuring that the following requirements are met:
(A) A completed course approval application form shall be submitted to the department at least three weeks before offering a course. Approval shall be obtained from the secretary at the beginning of each course whether the course is being offered initially or after a previous approval. Each change in course location, schedule, or instructor shall require approval by the secretary.
(B) All course objectives shall be accomplished.
(C) Only persons in health professions having the appropriate skills and knowledge shall be selected to conduct any part of the training. Each person shall have at least one year of experience in the subject area in which that person is providing training.
(D) Each person providing a part of the training shall do so only under the direct supervision of the course instructor.
(E) The provision of direct care to residents by a nurse aide trainee II during clinical instruction shall be limited to clinical experiences that are for the purpose of learning nursing skills under the direct supervision of the course instructor.
(F) When providing clinical instruction, the course instructor shall perform no other duties but the direct supervision of the nurse aide trainees.
(G) Each nurse aide trainee in the 90-hour nurse aide course shall demonstrate competency in all skills identified on the part I task checklist before the checklist is signed and dated by the course instructor as evidence of successful completion of part I of the course.
(H) The course shall be prepared and administered in accordance with the guidelines in the “Kansas certified nurse aide curriculum guidelines (90 hours)” and the “Kansas 90-hour certified nurse aide sponsor and instructor manual,” as adopted in K.A.R. 28-39-165.

(2) Any course instructor or course sponsor who does not meet the requirements of this regulation may be subject to withdrawal of approval to serve as a course instructor or a course sponsor.

(a) Each person whom the secretary has determined to have successfully completed training or passed a test, or both, that is equivalent to the training or test required by this state may be employed without taking this state’s test.
(b) Each person whom the secretary has determined not to be exempt from examination pursuant to subsection (a) but who meets any one of the following requirements shall be deemed to have met the requirements specified in K.A.R. 28-39-165 if that person passes a state test as specified in K.A.R. 28-39-168:
(1) Each person who has received nurse aide training in another state, is listed on another state’s registry as a nurse aide, and is eligible for employment as a nurse aide shall be deemed eligible to take the state test as specified in K.A.R. 28-39-168. Each person whose training in another state is endorsed and who has passed the state test shall be issued a nurse aide certificate.
(2) Each person who meets any of the following criteria shall be deemed eligible to take the state test as specified in K.A.R. 28-39-168:

(A) Has completed training deemed equivalent to the requirements specified in K.A.R. 28-39-165;
(B) is currently licensed in Kansas or another state to practice as a registered nurse, licensed practical nurse, or licensed mental health technician, with a license that has not been suspended or revoked; or
(C) has a license to practice as a registered nurse, licensed practical nurse, or licensed mental health technician that has expired within the 24-month period before applying for equivalency, but has not been suspended or revoked.

(3) Each person who has received training from an accredited nursing or mental health technician training program within the 24-month period before applying for equivalency and whose training included a basic skills component comprised of personal hygiene, nutrition and feeding, safe transfer and ambulation techniques, normal range of motion and positioning, and a supervised clinical experience in geriatrics shall be deemed eligible to take the state test as specified in K.A.R. 28-39-168.

(c) Each person qualified under subsection (a) shall receive written notification from the department of exemption from the requirement to take this state’s test and the fact that the person is eligible for employment.

(d) Each person qualified under subsection (b) shall receive written approval from the department or its designated agent to take the state test. Upon receiving written approval from the department or its designated agent to take the state test, that person may be employed by an adult care home as a nurse aide trainee II to provide direct care under the direct supervision of a registered nurse or licensed practical nurse. Each person employed as a nurse aide trainee II shall be issued a nurse aide certificate by the secretary, upon completion of the requirements specified in K.A.R. 28-39-165, within one four-month period starting from the date of approval, in order to continue employment providing direct care.


(a) Composition of state nurse aide test. The state test shall be comprised of 100 multiple-choice questions. A score of 75 percent or higher shall constitute a passing score.

(b) State nurse aide test eligibility.

(1) Only persons who have successfully completed an approved 90-hour nurse aide course or completed education or training that has been endorsed or deemed equivalent as specified in K.A.R. 28-39-167 shall be allowed to take the state test.

(2) Each person shall have a maximum of three attempts within 12 months from the beginning date of the course to pass the state test after completing an approved 90-hour course as specified in K.A.R. 28-39-165.

(3) If the person does not pass the state test within 12 months after the starting date of taking an approved 90-hour course, the person shall retake the entire course.

(4) If a person whose education or training has been endorsed or deemed equivalent as specified in K.A.R. 28-39-167 and the person does not pass the state test on the first attempt, the person shall successfully complete an approved 90-hour nurse aide course as specified in K.A.R. 28-39-165 to retake the state test. Each person whose training was endorsed or deemed equivalent, who failed the state test, and who has successfully completed an approved nurse aide course shall be eligible to take the test three times within a year after the beginning date of the course.

(c) Application fee.

(1) Each nurse aide trainee shall pay a nonrefundable application fee of $20.00 before taking the state test. A nonrefundable application fee shall be required each time the test is scheduled to be taken. Each person who is scheduled to take the state test, but fails to take the state test, shall submit another fee before being scheduled for another opportunity to take the test.
(2) Each course instructor shall collect the application fee for each nurse aide candidate eligible to take the state test and shall submit the fees, class roster, application forms, and accommodation request forms to the department or its designated agent.
(d) Each person who is eligible to take the state test and who has submitted the application fee and application form shall be issued written approval, which shall be proof of eligibility to sit for the test.
(e) Test accommodation.
(1) Any reasonable test accommodation or auxiliary aid to address a disability may be requested by any person who is eligible to take the state test. Each request for reasonable accommodation or auxiliary aid shall be submitted each time a candidate is scheduled to take the test.
(2) Each person requesting a test accommodation shall submit an accommodation request form along with an application form to the instructor. The instructor shall forward these forms to the department or its designated agent at least three weeks before the desired test date. Each instructor shall verify the need for the accommodation by signing the accommodation request form.
(3) Each person whose second language is English shall be allowed to use a bilingual dictionary while taking the state test. Limited English proficiency shall not constitute a disability with regard to accommodations. An extended testing period of up to two additional hours may be offered to persons with limited English proficiency.
(f) This regulation shall not apply to any person who meets the requirement of K.A.R. 28-39-167(a).

KENTUCKY

902 KAR 20:008. License procedures and fee schedule.
Section 2. Licenses.
...(9) The licensee shall fully disclose to the cabinet the name and address, or a change in the name or address, of:
(a) Each person having an ownership interest of twenty-five (25) percent or more in the facility; and
(b) 1. Each officer or director of the corporation, if a facility is organized as a corporation; or
   2. Each partner, if a facility is organized as a partnership.

902 KAR 20:300. Operation and services; nursing facilities.
Section 1. Definitions. (1) "Facility" means a nursing facility licensed pursuant to this administrative regulation and 902 KAR 20:008.

Section 5. Resident Behavior and Facility Practices.[nursing facilities]
...(2) Abuse. The resident shall have the right to be free from verbal sexual, physical or mental abuse, corporal punishment, and involuntary seclusion.
(3) Staff treatment of residents. The facility shall develop and implement written policies and procedures that prohibit mistreatment, neglect or abuse of residents.
(a) The facility shall:
   1. Not use verbal, mental, sexual, or physical abuse, including corporal punishment, or involuntary seclusion; and
   2. Not employ individuals who have been convicted of abusing, neglecting or mistreating individuals.
(b) The facility shall have evidence that all alleged violations are thoroughly investigated, and shall prevent further potential abuse while the investigation is in progress.
(c) The results of all investigations shall be reported to the administrator or his designated representative within five (5) working days or to other officials in accordance with applicable provisions of KRS Chapter 209 or 620, if the alleged violation is verified appropriate corrective action is taken.
(d) The facility shall document alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, are reported immediately to the administrator of the facility or to other officials in accordance with KRS Chapters 209 and 620.
(e) The facility shall have evidence that all alleged violations are thoroughly investigated, and shall prevent further potential abuse while the investigation is in progress.

Section 6. Quality of Life. [nursing facilities]
...7) Environment.
...(b) Infection control and communicable diseases.
...  3. The facility shall provide in-service education programs on the cause, effect, transmission, prevention and elimination of infections for all personnel responsible for direct patient care.

Section 9. Nursing Services. [nursing facilities]
... (2) Registered nurse.
... (b) Except when waived under subsection (3) or (4) of this section, the facility must designate a registered nurse to serve as the director of nursing on a full-time basis.
... (4) Registered nurse waiver. Wavier of the requirement to provide services of a registered nurse for more than forty (40) hours a week, including a director of nursing specified in subsection (2) of this section, may be granted if the cabinet finds that the facility:
(a) Is located in a rural area and the supply of skilled nursing facility services in the area is not sufficient to meet the needs of individuals residing in the area;
(b) Has one (1) full-time registered nurse who is regularly on duty at the facility forty (40) hours a week; and
(c) Either:
1. Has only patients whose physicians have indicated (through physicians’ orders or admission notes) that they do not require the services of a registered nurse or a physician for a forty-eight (48) hour period; or
2. Has made arrangements for a registered nurse or a physician to spend time at the facility, as determined necessary by the physician, to provide necessary skilled nursing services on days when the regular full-time registered nurse is not on duty.

Section 15. Administration. [nursing facilities] A facility 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.
(1) Compliance with federal, state and local laws and professional standards. The facility shall operate and provide services in compliance with all applicable federal, state and local laws, regulations and codes, and with accepted professional standards and principles that apply to professionals providing services in a facility.
(2) Governing body.
(a) The facility shall have a governing body, or designated persons functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operation of the facility; and
(b) The governing body appoints the administrator who shall be:
1. Licensed as a nursing home administrator pursuant to KRS 216A.080; and
2. Responsible for management of the facility.

(3) Required training of nurse aides.

(a) General rules. A facility shall not use any individual working in the facility as a nurse aide for more than four (4) months, on a full-time, temporary, per diem, or other basis, unless:
   1. That individual is listed on the Kentucky Nurse Aide Registry; and
   2. That individual is competent to provide nursing and nursing related services.

(b) Competency. A facility shall permit an individual to serve as a nurse aide or provide services of a type for which the individual has not demonstrated competence only when:
   1. The individual is currently enrolled and participating in the Kentucky Medicaid Nurse Aide Training Program; or
   2. The facility has asked and not yet received a reply from the Kentucky Nurse Aide Registry for information concerning the individual.

(c) Regular in-service education. The facility shall provide regular performance review and regular in-service education to ensure that individuals used as nurse aides are competent to perform services as nurse aides. In-service education must include training for individuals providing nursing and nursing related services to residents with cognitive impairments.

(4) Proficiency of nurse aides. The facility shall ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents’ needs, as identified through resident assessments, and described in the plan of care.

(5) Staff qualifications.

(a) The facility shall employ on a full-time, part-time, or consultant basis those professionals necessary to carry out the provisions of this administrative regulation.

(b) Professional staff shall be licensed, certified or registered in accordance with applicable state statutes.

(6) Use of outside resources.

(a) If the facility does not employ a qualified professional person to furnish a specific service to be provided by the facility, the facility shall have that service furnished to residents by a person or agency outside the facility.

(b) Arrangements or agreements pertaining to services furnished by outside resources shall specify in writing that the facility assumes responsibility for:
   1. Obtaining services that meet professional standards and principles that apply to professionals providing services in such a facility; and
   2. The timeliness of the services.

(7) Medical director.

(a) The facility shall designate a physician to serve as medical director.

(b) The medical director shall be responsible for:
   1. Implementation of resident care policies; and
   2. The coordination of medical care in the facility.

(8) Laboratory services.

(a) The facility shall provide or obtain clinical laboratory services to meet the needs of its residents. The facility shall be responsible for the quality and timeliness of the services.
   1. If the facility provides its own laboratory services, the services shall meet the applicable state statutes and administrative regulations pursuant to KRS Chapter 333, or laboratory requirements for hospitals for those distinct part units within licensed hospitals.
   2. If the facility provides blood bank and transfusion services, it must meet the applicable conditions for:
      a. Independent laboratories licensed pursuant to KRS Chapter 333; or
      b. Hospitals licensed pursuant to 902 KAR 20:016;
3. If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory must be licensed in accordance with KRS Chapter 333, or meet the laboratory standards in 902 KAR 20:016 for hospitals.

4. If the facility does not provide laboratory services on site, it shall have an agreement to obtain these services only from a laboratory that is licensed pursuant to KRS Chapter 333 as an independent laboratory, or in accordance with 902 KAR 20:016 for hospital laboratories.

(b) The facility shall:
1. Provide or obtain laboratory services only when ordered by the attending physician;
2. Promptly notify the attending physician of the findings;
3. Assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance.
4. File in the resident’s clinical record signed and dated reports of clinical laboratory services.

9) Radiology and other diagnostic services.
(a) The nursing facility shall provide or obtain radiology and other diagnostic services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.
   1. If the facility provides its own diagnostic services, the services must meet the standards established in 902 KAR 20:016, Section 4(6).
   2. If the facility does not provide diagnostic services, it shall have an agreement to obtain these services from a provider or supplier that is licensed or registered pursuant to KRS 211.842 through KRS 211.852.
(b) The facility shall:
   1. Provide or obtain radiology and other diagnostic services only when ordered by the attending physician;
   2. Promptly notify the attending physician of the findings;
   3. Assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance;
   4. File in the resident’s clinical record signed and dated reports of x-ray and other diagnostic services.

10) Clinical records.
(a) The facility shall maintain clinical records on each resident in accordance with accepted professional standards and practices that are:
   1. Complete;
   2. Accurately documented;
   3. Readily accessible; and
   4. Systematically organized.
(b) Retention of records. After resident’s death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.
(c) The facility shall safeguard clinical record information against loss, destruction, or unauthorized use;
(d) The facility shall keep confidential all information contained in the resident’s records, regardless of the form or storage method of the records, except when release is required by:
   1. Transfer to another health care institution;
   2. Law;
   3. Third-party payment contract; or
   4. The resident.
(e) The facility shall:
   1. Permit each resident to inspect his or her records on request; and
2. Provide copies of the records to each resident no later than forty-eight (48) hours after a written request from a resident, at a photocopying cost not to exceed the amount customarily charged in the community.

(f) The clinical record shall contain:
1. Sufficient information to identify the resident;
2. A record of the resident's assessments;
3. The plan of care and services provided; and
4. The results of any preadmission screening conducted by the state; and
5. Progress notes.

(11) Disaster and emergency preparedness.
(a) The facility shall have detailed written plans and procedures to meet all potential emergencies and disasters, such as fire, severe weather, and missing residents.
(b) The facility shall train all employees in emergency procedures when they begin to work in the facility, periodically review the procedures with existing staff, and carry out staff drills using those procedures.

(12) Transfer agreement.
(a) The facility shall have in effect a written transfer agreement with one (1) or more licensed hospitals that reasonably assures that:
1. Residents shall be transferred from the facility to the hospital, and ensured of timely admission to the hospital when transfer is medically appropriate as determined by the attending physician; and
2. Medical and other information needed for care and treatment of residents and when the transferring facility deems it appropriate, for determining whether such residents can be adequately cared for in a less expensive setting than either the facility or the hospital, will be exchanged between the institutions.
(b) The facility shall be considered to have a transfer agreement in effect if the facility has attempted in good faith to enter into an agreement with a hospital sufficiently close to the facility to make transfer feasible.

(13) Quality assessment and assurance.
(a) A facility shall maintain a quality assessment and assurance committee consisting of:
1. The director of nursing services;
2. A physician designated by the facility; and
3. At least three (3) other members of the facility's staff.
(b) The quality assessment and assurance committee:
1. Meets at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary; and
2. Develops and implements appropriate plans of action to correct identified quality deficiencies.

LOUISIANA

97 Subchapter A – General Provisions
§9703. Licensing Process
...B. The applicant or applicant’s designee shall disclose to the department the name and address of all individuals with 5 percent or more ownership interest, and, in the instance where the nursing home is a corporation or partnership, the name and address of each officer or director, and board members.
C. If the nursing home is operated by a management company, or leased in whole or in part by another organization, the applicant or applicant’s designee shall disclose to the department the
name of the management firm and employer identification number, or the name of the leasing organization.

...K. The license shall be conspicuously posted in the nursing home.

§9704. Alzheimer's Special Care Disclosure
A. Any provider offering a special program for persons with Alzheimer's disease or a related disorder must disclose the form of care or treatment that distinguishes it as being especially applicable to or suitable for such persons. For the purpose of this section, a related disorder means progressive, incurable dementia.
B. Prior to entering into any agreement to provide care, a provider must make the disclosure to: any person seeking services within an Alzheimer's special care program; or any person seeking such services on behalf of a person with Alzheimer's disease or a related disorder within an Alzheimer's special care program. A provider must make the disclosure upon characterizing programs or services as specially suited for persons with Alzheimer's disease or a related disorder. Additionally, a provider must give copies of current disclosure forms to all designees, representatives or sponsors of persons receiving treatment in an Alzheimer's special care program.
C. A provider must furnish the disclosure to the department when applying for a license, renewing an existing license, or changing an existing license. Additional disclosure may be made to the state ombudsman. During the licensure or renewal process, the department will examine all disclosures to verify the accuracy of the information. Failure to provide accurate or timely information constitutes noncompliance with this section and may subject the provider to standard administrative penalties or corrective actions. Distributing an inaccurate or misleading disclosure form constitutes deceptive advertising and may subject a provider to prosecution under LA R.S. 51:1401 et seq. In such instances, the department will refer the matter to the Attorney General's Division of Consumer Protection for investigation and possible prosecution.
D. Within seven working days of a significant change in the information submitted to the department, a provider must furnish an amended disclosure form reflecting the change to the following parties:
   1. the department;
   2. any clients with Alzheimer's disease or a related disorder currently residing in the nursing home;
   3. any designee, representative or sponsor of any such client;
   4. any person seeking services in an Alzheimer's special care program; and
   5. any person seeking services on behalf of a person with Alzheimer's disease or a related disorder in an Alzheimer's special care program.
E. A provider must use the "Alzheimer's Special Care Disclosure Form" developed by the department. The disclosure form shall contain the following information:
a written statement of the overall philosophy and mission of the Alzheimer's special care program which reflects the needs of residents afflicted with dementia; a description of the criteria and process for admission to, transfer, or discharge from the program; a description of the process used to perform an assessment as well as to develop and implement the plan of care, including the responsiveness of the plan of care to changes in condition; a description of staff training and continuing education practices; a description of the physical environment and design features appropriate to support the functioning of cognitively impaired adult residents; a description of the frequency and types of resident activities; a statement of philosophy on the family's involvement in care and a statement on the availability of family support programs; a list of the fees for care and any additional program fees.
§9715. Governing Body

A. The nursing home shall have a governing body that is legally responsible for establishing and implementing policies regarding the management and operation of the nursing home. The governing body shall develop and approve policies and procedures which define and describe the scope of services offered. They shall be revised as necessary and reviewed at least annually.

B. The governing body shall be responsible for the operation of the nursing home.

C. The governing body shall appoint, in writing, a licensed administrator responsible for the management of the nursing home.

D. The governing body shall notify the department, in writing by certified mail, when a change occurs in the administrator position within 30 calendar days after the change occurs. The notice shall include the identity of the individual and the specific date the change occurred.

§9717. Administration

A. Facility Administrator. All facilities are required to have full-time administrators. Full-time administrators are persons who are licensed, currently registered and engaged in the day-to-day management of the facility. The administrator's duties shall conform to the following standards.

1. Administrative/management activities shall be the major function of the required duties.

2. An adequate and reasonable amount of time shall be spent on the premises of the facility. The administrative activities must be the major function of the person performing the duties.

3. A major portion of the time, described above, shall be spent during the normal work week of the facility's personnel.

B. A full-time employee functioning in an administrative capacity shall be authorized in writing to act in the administrator's behalf when he/she is absent or functioning as a full-time administrator for two facilities.

C. Administrator Responsibilities and Restrictions

1. No individual may function as a full-time administrator for more than two nursing facilities. When a full-time administrator is engaged in the management of two nursing facilities, the facilities' sizes and proximity to one another have considerable bearing on the administrator's ability to adequately manage the affairs of both nursing facilities.

   a. The response time to either facility shall be no longer than one hour.

   b. If an administrator serves two facilities, he/she must spend 20 hours per week at each facility.

2. If a change occurs in the individual who is the administrator of a nursing facility, notice shall be provided to the Bureau of Health Services Financing, Health Standards Section by the facility administrator or, in the absence of an administrator, by the governing body of the facility at the time the change occurs.

   a. Notice shall include the identity of all individuals involved and the specific changes which have occurred.

   b. Failure to provide written notice by certified mail within 30 calendar days from the date a change occurs will result in a Class C civil money penalty.

   c. The Department shall allow nursing facilities 30 days from the date of the change in the position to fill the resulting vacancy in the administrator position. There shall be no waiver provisions for this position.

   d. The governing body of the facility shall appoint a facility designee charged with the general administration of the facility in the absence of a licensed administrator.

   e. Failure to fill a vacancy or to notify the Department in writing by the thirty-first day of vacancy that the administrator position has been filled shall result in a Class C civil money penalty.
D. Assistant Administrator. A nursing facility with a licensed bed capacity of 161 or more beds must employ an assistant administrator. An assistant administrator shall be a full-time employee and function in an administrative capacity.

§9719. Personnel
A. There shall be sufficient qualified personnel to properly operate each department of the nursing home to assure the health, safety, proper care, and treatment of the residents.
1. Time schedules shall be maintained indicating the numbers and classification of all personnel, including relief personnel, who work on each tour of duty. The time schedules shall reflect all changes so as to indicate who actually worked.
2. Should there be a need to commingle the nursing service staff with other personnel:
   a. nurse aides shall not work in food preparation after having provided personal care to residents;
   b. laundry and housekeeping personnel shall not provide nursing care functions to residents;
   c. nursing service personnel may perform housekeeping duties only after normal duty hours of the housekeeping staff or when a situation arises that may cause an unsafe situation.
B. Personnel records shall be current and available for each employee and shall contain sufficient information to assure that they are assigned duties consistent with his or her job description and level of competence, education, preparation, and experience.

§9721. Criminal History Provisions; Screening
A. Nursing homes shall have criminal history checks performed on non-licensed personnel to include CNAs, housekeeping staff, activity workers, and social service personnel in accordance with R.S. 40:1300.5 et seq.
B. All personnel requiring licensure to provide care shall be licensed to practice in the state of Louisiana. Credentials of all licensed full-time, part-time, and consultant personnel shall be verified on an annual basis, in writing, by a designated staff member.

§9723. Policies and Procedures
A. There shall be written policies and procedures:
1. available to staff, residents, and/or sponsors governing all areas of care and services provided by the nursing home;
2. ensuring that each resident receives the necessary care and services to promote the highest level of functioning and well-being of each resident;
3. developed with the advice of a group of professional personnel consisting of at least a licensed physician, the administrator, and the director of nursing service;
4. approved by the governing body;
5. revised, as necessary, but reviewed by the professional group at least annually;
6. available to admitting physicians; and
7. reflecting awareness of, and provision for, meeting the total medical and psychosocial needs of residents, including admission, transfer, and discharge planning; and the range of services available to residents, including frequency of physician visits by each category of residents admitted.
B. The administrator, or his designee, is responsible, in writing, for the execution of such policies.

§9727. Staff Orientation, Training and Education
A. New employees shall have an orientation program of sufficient scope and duration to inform the individual about his/her responsibilities and how to fulfill them.
B. The orientation program shall include at least a review of policies and procedures, job description, and performance expectations prior to the employee performing his/her responsibilities.
C. A staff development program shall be conducted by competent staff and/or consultants and planned based upon employee performance appraisals, resident population served by the nursing home, and as determined by facility staff. All employees shall participate in in-service education programs which are planned and conducted for the development and improvement of their skills.

D. The in-service training shall include at least problems and needs common to the age of those being served; prevention and control of infections; fire prevention and safety; emergency preparedness; accident prevention; confidentiality of resident information; and preservation of resident dignity and respect, including protection of privacy and personal and property rights.

E. The facility’s in-service training shall be sufficient to ensure the continuing competence of the staff but must be provided no less than 12 hours per year.

F. Records of in-service training shall be maintained indicating the content, time, names of employees in attendance, and the name of the presenter.

G. Dementia Training

1. All employees shall be trained in the care of persons diagnosed with dementia and dementia-related practices that include or that are informed by evidence-based care practices.

2. Nursing facility staff who provide care on a regular basis to residents in Alzheimer’s special care units shall meet the following training requirements:
   a. Staff who provide nursing and nursing assistant care to residents shall be required to obtain at least eight hours of dementia-specific training within 90 days of employment and five hours of dementia-specific training annually. The training shall include the following topics:
      i. an overview of Alzheimer's disease and related dementias;
      ii. communicating with persons with dementia;
      iii. behavior management;
      iv. promoting independence in activities of daily living; and
      v. understanding and dealing with family issues.

   NOTE: For purposes of this Section, "regular basis" shall mean more than 10 full shifts in any one calendar year.

   b. Staff who have regular communicative contact with residents, but who do not provide nursing and nursing assistant care, shall be required to obtain at least four hours of dementia-specific training within 90 days of employment and one hour of dementia training annually. This training shall include the following topics:
      i. an overview of dementias; and
      ii. communicating with persons with dementia.

   c. Staff who have only incidental contact with residents shall receive general written information provided by the facility on interacting with residents with dementia.

3. Nursing facility staff who do not provide care to residents in an Alzheimer’s special care unit shall meet the following training requirements.
   a. Staff who provide nursing assistant care shall be required to obtain four hours of dementia-specific training within 90 days of employment and two hours of dementia training annually.
   b. Staff who are not licensed and who have regular communicative contact with residents but do not provide nursing assistant care shall be required to obtain four hours of dementia-specific training within 90 days of employment and one hour of dementia training annually. The training shall include the following topics:
      i. an overview of dementias; and
      ii. communicating with persons with dementia.

   c. Staff who have only incidental contact with residents shall receive general written information provided by the facility on interacting with residents with dementia.

4. Staff delivering approved training will be considered as having received that portion of the training that they have delivered.
5. Nothing herein shall be construed to increase the number of training hours already required by regulations promulgated by the department.
6. Any dementia-specific training received in a nursing assistant program approved by the Department of Health and Hospitals or the Department of Social Services may be used to fulfill the training hours required pursuant to this Section.
7. Nursing facility providers may offer an approved complete training curriculum themselves or may contract with another organization, entity, or individual to provide the training.
8. The dementia-specific training curriculum must be approved by the department or its designee. To obtain training curriculum approval, the organization, entity, or individual must submit the following information to the department or its designee:
   a. a copy of the curriculum;
   b. qualifications of the person(s) or entity that developed the training; and
   c. information on how the training will be delivered (i.e., web-based, classroom, etc.)
9. A provider, organization, entity, or individual must submit any significant content changes to an approved training curriculum to the department, or its designee, for review and approval.
   a. A significant change occurs when there is:
      i. any change of 50 percent or more to the training content;
      ii. a change to the content regarding three or more required topic areas; or
      iii. a change in the delivery method of the training (e.g., from classroom-based to web-based).
   b. Continuing education undertaken by the provider does not require the department's approval.
10. If a provider, organization, entity or individual with an approved curriculum ceases to provide training, the department must be notified in writing within 30 days of cessation of training. Prior to resuming the training program, the provider, organization, entity or individual must reapply to the department for approval to resume the program.
11. An approved training curriculum remains effective for seven years from the date the approval is obtained from the department or its designee.
   a. The department may disqualify a training curriculum offered by a provider, organization, entity or individual that has demonstrated substantial noncompliance with training requirements, including, but not limited to the:
      i. qualifications of the person(s) or entity that developed the training;
      ii. the minimum qualifications of the person(s) or entity delivering the training; or
      iii. training curriculum requirements.
13. Compliance with Training Requirements.
   a. The review of compliance with training requirements will include, at a minimum, a review of:
      i. the documented use of an approved training curriculum; and
      ii. the provider’s adherence to established training requirements.
   b. The department may impose applicable sanctions for failure to adhere to the training requirements outlined in this Section.
14. Training Exclusions and Timelines
   a. Persons who are employed on a contractual basis are excluded from the dementia training requirements.
   b. Nursing facilities must comply with these dementia training requirements by January 1, 2011.
      i. Existing staff must be trained in accordance with these provisions by January 1, 2011.
      ii. New staff must be trained in accordance with these provisions within 90 days from the date of hire.

§9729. Emergency Preparedness
A. The nursing facility shall have an emergency preparedness plan which conforms to the Office of Emergency Preparedness (OEP) model plan designed to manage the consequences of declared
disasters or other emergencies that disrupt the facility’s ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

B. At a minimum, the nursing facility shall have a written plan that describes:
1. the evacuation of residents to a safe place either within the nursing facility or to another location;
2. the delivery of essential care and services to residents, whether the residents are housed off-site or when additional residents are housed in the nursing facility during an emergency;
3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the nursing facility or at another location;
4. Effective immediately, upon declaration by the secretary and notification to the Louisiana Nursing Home Association and Gulf States Association of Homes and Services for the Aging, all nursing facilities licensed in Louisiana shall file an electronic report with the HSS emergency preparedness webpage/operating system, or a successor operation system, during a declared disaster or other public health emergency.
   a. The electronic report will enable the department to monitor the status of nursing facilities during and immediately following an emergency event.
   b. The electronic report shall be filed twice daily at a.m. and 2:30 p.m. throughout the duration of the disaster or emergency event.
   The electronic report shall include, but is not limited to the following:
   i. status of operation (open, limited or closed);
   ii. availability of beds;
   iii. resources that have been requested by the nursing facility from the local or state Office of Emergency Preparedness;
   -generator status;
   -evacuation status;
   vi. shelter in place status; and
   vii. other information requested by the department.

NOTE: The electronic report is not to be used to request resources or to report emergency events.

98 Subchapter A – Nursing Homes
§9801. Medical Director
A. The nursing home shall designate, pursuant to a written agreement, a physician currently holding an unrestricted license to practice medicine by the Louisiana State Board of Medical Examiners to serve as medical director.
B. The medical director shall serve as consultant regarding medical care policies and procedures.

Subchapter B. Nursing Services
§9811. Nursing Service Personnel
...B. The nursing home shall designate a registered nurse to serve as the director of nursing services on a full-time basis during the day-tour of duty.
...D. There shall be on duty, at all times, at least one licensed nurse to serve as charge nurse responsible for the supervision of the total nursing activities in the nursing home or assigned nursing unit.
E. Nurse aides shall be assigned duties consistent with their training and successful demonstration of competencies.

98 Subchapter H. Resident Clinical Records
§9857. General Provisions
A. The nursing home shall maintain clinical records on each resident in accordance with accepted professional standards and practices. Each resident’s clinical record shall be complete, accurately documented, readily accessible, and systematically organized to facilitate retrieving and compiling information.

§9859. Maintenance of Records
A. The overall supervisory responsibility for the resident record service shall be assigned to a responsible employee of the facility.
B. All entries in the clinical record shall be either typewritten or legibly written in ink, dated, and signed.
C. If electronic signatures are used, the nursing home shall develop a procedure to assure the confidentiality of each electronic signature and to prohibit the improper or unauthorized use of any computer generated signature.
D. If a facsimile communications system (FAX) is used, the nursing home shall take precautions when thermal paper is used to ensure that a legible copy is retained as long as the clinical record is retained.
E. A nursing home record may be kept in any written, photographic, microfilm, or other similar method or may be kept by any magnetic, electronic, optical, or similar form of data compilation which is approved for such use by the department.
F. No magnetic, electronic, optical, or similar method shall be approved unless it provides reasonable safeguards against erasure or alteration.
G. A nursing home may, at its discretion, cause any nursing home record or part to be microfilmed, or similarly reproduced, in order to accomplish efficient storage and preservation of nursing home records.
H. Upon an oral or written request, the nursing home shall give the resident or his/her legal representative access to all records pertaining to himself/herself including current clinical records within 24 hours, excluding weekends and holidays. After receipt of his/her records for inspection, the nursing home shall provide, upon request and two working days notice, at a cost consistent with the provisions of R.S. 40:1299(A)(2)(b), photocopies of the records or any portions of them.
I. The nursing home shall ensure that all clinical records are completed within 90 days of discharge, transfer, or death. All information pertaining to a resident’s stay is centralized in the clinical record.

§9861. Content
A. The clinical record contains sufficient information to identify the resident clearly, to justify the diagnosis and treatment, and to document the results accurately.
B. As a minimum, each clinical record shall contain:
   1. sufficient information to identify the resident;
   2. physician’s orders;
   3. progress notes by all practitioners and professional personnel providing services to the resident;
   4. a record of the resident’s assessments;
   5. the plan of care;
   6. entries describing treatments and services provided; and
   7. reports of all diagnostic tests and procedures.

§9863. Confidentiality
A. The nursing home shall safeguard clinical record information against loss, destruction, or unauthorized use. The nursing home shall ensure the confidentiality of resident records, including information in a computerized record system, except when release is required by transfer to another health care institution, law, third party payment contract, or the resident. Information from
or copies of records may be released only to authorized individuals, and the nursing home must ensure that unauthorized individuals cannot gain access to or alter resident records.

§9865. Retention
A. Clinical records shall be retained for a minimum of six years following a resident's discharge or death, unless the records are pertinent to a case in litigation, in which instance they shall be retained indefinitely or until the litigation is resolved.
B. A nursing home which is closing shall notify the department in writing at least 14 days prior to cessation of operation of their plan for the disposition of residents' clinical records for approval.

99 Subchapter B. Infection Control and Sanitation
§9923. Infection Control Program
A. An infection control committee shall be established consisting of the medical director and representatives from at least administration, nursing, dietary, and housekeeping personnel.

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Chapter 2 – Obtaining a License
2.B. Appointment of Administrator
Each licensee shall appoint an administrator for each facility. The licensee and the administrator may be one and the same person.
2.C. First Church of Christ, Scientist Homes
Nursing facilities conducted in accordance with the practice and principle of the body known as the Church of Christ, Scientist, shall be subject to the provisions for licensure by the Department. Approval shall be based upon conditions of public safety and sanitation. Certification shall be required by the First Church of Christ, Scientist, Boston, Massachusetts, that the home is operated in accordance with the practice and principle of that body, and the public shall be informed through the name of the home and any publicity thereon that such home is operated in accordance with the practice and principle of the Church body as indicated above. Nothing in these rules and regulations shall be construed to authorize any medical supervision, regulation or control of the remedial care and treatment of residents in certified Christian Science facilities.

2.E.5. Transfer Agreement
Each applicant for a skilled nursing facility or nursing facility license shall provide a copy of all transfer agreements with licensed hospitals, upon request of the Department.

2.E.7. Compliance with Local Laws
A letter from the appropriate municipal official having jurisdiction over the premises where the facility is to be located indicating compliance with all local laws or codes relative to the type of facility for which licensure is requested.
2.F.2. Multilevel Facility License
For multilevel facilities, a single license will be issued by the Department, identifying each level of service.
2.F.3. Facilities Located in Two Structures on the Same Grounds
When one owner, organization or corporation has separate facilities located in physically separated structures on the same grounds, separate licenses shall not be required.
2.F.4. Facilities Operated by Same Management on Different Premises
Facilities operated by the same management on different grounds shall be required to have in effect a separate license for each facility.

2.J. Posting of License The license shall be conspicuously posted in an area highly visible to residents and the public.

Chapter 4 - Administration

4.A. Administrator

4.A.1. Qualifications
The administrator of a facility licensed pursuant to these regulations shall have a current administrator’s license or a temporary permit issued by the Nursing Home Administrators Licensing Board. Hospital based facilities are not required to have a licensed nursing home administrator.

4.A.2. Functions
The administrator designated on the license shall be responsible for:
- Carrying out the policies of the facility;
- The day-to-day operation and management;
- The control, conservation and utilization of physical and financial resources;
- The hiring of an adequate number of qualified, competent personnel;
- The discharge of such functions as the licensee may properly delegate to him/her;
- Ensuring that the facility is in compliance with State licensing and Federal certification regulations.

4.A.3. Non-Licensed Person to Act in Absence of Administrator
An individual, authorized to act in the absence of the administrator during the normal working day, shall be designated. Any planned absence of the administrator for a period longer than thirty (30) days shall be reported in writing to the Department.

If the licensee of a licensed skilled nursing facility and/or a nursing facility is required to secure a new administrator as a result of an unexpected vacancy, he/she may, upon seventy-two (72) hours notice to the Department and in accordance with the rules and regulations thereof, place the facility in charge of an acting administrator qualified through current experience in administrative long term care responsibilities. This shall be for such limited time mutually agreed upon between the Department and the licensee, as may be necessary to permit the securing of a licensed administrator, but in no event to exceed sixty (60) days. When a licensed administrator has been secured, the provisions of Section 2.H.6., Change of Administrator, shall apply. If unable to secure a licensed administrator within sixty (60) days, the facility shall submit to the Department written evidence of action taken to secure an administrator.

4.A.5. Full-Time Administrator Each nursing facility larger than forty (40) beds in size shall have a full-time administrator.

4.A.6. Part-Time Administrator
- Each nursing facility of forty (40) beds or less in size, may have a part-time administrator.
- All duties and schedules of working hours of part-time administrators of nursing facilities shall be outlined in the policies of the facility.

4.A.7. Shared Administrator
- Separately licensed nursing facilities and/or assisted living facilities may share the same administrator as long as the number of beds for which the administrator is responsible does not exceed one hundred (100), subject to approval of the Department.
- Requests to the Department for exceptions to (a) above may be made in writing when administrative functions for two (2) or more licensed facilities are carried out in a central office. Such requests shall define the functions being handled centrally. The Department shall indicate in
writing whether or not the request for an exception is granted.
c. Any sharing of the same administrator shall be defined and the duties and schedule of working
hours for each facility shall be outlined in the policy material of the facilities involved.
4.A.8. Administrator In Training
Any facility that has an administrator in training (AIT) must ensure that a licensed administrator or
designee other than the AIT is in charge of the facility. No AIT is to be listed on any facility license as
the administrator.
4.B. Register
4.B.1. There shall be a waiting list for facility admissions which shall be maintained in a bound book,
updated as necessary and available for public review.
4.B.2. There shall be a resident admission and discharge register in a bound book or on a computer
identifying each resident and the date admitted to and discharged from the facility.
4.C. Daily Census Each facility shall maintain a daily census of residents, including the following:
4.C.1. Admissions;
4.C.2. Discharges;
4.C.3. The number and bed locations of each resident in the facility as of midnight each day.
4.D. Transfer Agreement
4.D.1. Requirements
Each facility shall have in effect a written agreement with a hospital sufficiently close to the facility
to make feasible the transfer between them of residents and their records, which provides the basis
for effective working arrangements under which inpatient hospital care or other hospital services
are available promptly to the facility’s residents when needed.
4.D.2. Content
a. The transfer agreement shall provide for the transfer of written information pertaining to the
care which the resident has been receiving.
b. The transfer agreement shall provide for the transfer of written information relative to personal
effects of significant value.
4.D.3. Execution
Each transfer agreement shall be signed by the administrator or authorized representative of each
facility participating in the agreement.
4.E. Outside Resources
4.E.1. Requirements
If the facility does not employ a qualified professional person such as a physical therapist,
occupational therapist or speech therapist to render a specific service to be provided by the facility,
there shall be arrangements for such a service through a written agreement with an outside
resource, a person or agency, that will render direct service to residents or act as a
consultant.
4.E.2. Contents of Agreement
a. The responsibilities, functions, objectives, and terms of the agreement, including financial
arrangements and charges, of each such outside resource shall be delineated in writing.
b. The agreement shall specify that the facility retains administrative responsibility for the services
rendered.
c. When the agreement is with a consultant, there shall be provision for dated, signed reports to the
administrator of assessments and/or recommendations. These shall be retained by the
administrator for follow-up action and evaluation of performance.
4.E.3. Execution
The agreement shall be signed by the administrator or authorized representative and the person or
agency providing the service.
4.F. Rebating Prohibited
No owner, administrator, employee or representative of a licensed facility shall directly or indirectly pay any commission, bonus, or gratuity in any form whatsoever to any physician, organization, agency or person for residents referred.

4.G.2. Deceased Residents
A facility shall comply with all appropriate Maine statutes and regulations pertinent to deceased residents.

4.H. Quality Assurance Committee
All nursing facilities must maintain a quality assurance committee, which may act as a committee of the whole, and which reports to the administrator or the Governing Body.

4.H.1. Composition of Committee
a. The Director of Nursing Services;
b. The Medical Director;
c. A Pharmacist;
d. At least three (3) other members of the facility staff.

4.H.2. Responsibilities of the Committee
a. Meet at least quarterly;
b. Monitor the quality, quantity and necessity of services. Identify and document problems or deficiencies.
c. Develop and implement appropriate plans of action to correct identified problems or deficiencies which shall be available for review upon request of the Department.

4.H.3. Components and Functions of the Committee
a. Infection Control. Assure policies and procedures are based upon current standards and Centers for Disease Control guidelines for:
   a. Prevention of infection;
   b. Universal precautions;
   c. Employee and resident infections;
   d. Linen handling;
   e. Food handling;
b. Accident Prevention. Monitor and analyze incident reports and recommend policies and procedures for accident prevention.
c. Pharmaceutical Services. Monitor pharmaceutical practices, identify concerns, and recommend changes, when necessary.
d. Utilization Review. Establish and monitor a Utilization Review plan that shall include:
   1. Monitoring of admissions (regardless of payment source), and necessity of services;
   2. Review of all residents (regardless of payment source), continued stays and discharge planning;
   and
   3. Review the implementation of monitoring of appeal rights and the process of transfer and discharge notice.

4.I. Complaints
4.I.2. A system must be established for the review, within forty-eight (48) hours, of each complaint received by the administrator and/or any designated member of the facility staff. A report of findings and action taken shall be prepared and submitted to the Quality Assurance Committee, and be available for review upon request of the Department.

Chapter 5 – Facility Policies
5.A. Professional Policy Group
5.A.1. Requirements
Each facility shall have written policies which govern all areas of services provided and are developed with the advice of, and with provisions for, annual review by a group of professional personnel including the administrator, Director of Nurses, a physician, a registered pharmacist, and such other professional personnel as necessary.

5.A.2. Meetings
The professional policy group shall meet as necessary, but at least annually, to review written policies and reports of the Quality Assurance and other Committees. All members of the group should be present or have input and minutes of meetings shall be recorded and reflect the activities.

5.A.3. The professional policy group meetings may be incorporated within the Quality Assurance Committee.

5.B. Written Policies
5.B.1. The written policies of each facility shall be consistent with State licensing and Federal certification requirements and shall include:
   a. Specific reference to indicate the person or persons responsible for the execution of such policies;
   b. A written outline of the objectives of the facility;
   c. Provision for these written policies to be available at all times to residents, families, admitting physicians, sponsoring agencies, staff, and the public;
   d. Provision for implementation of policies and training of staff;

5.B.2. Policies shall address all areas of services provided and facility practices regarding:
   a. Resident Rights, including advanced directives for care and treatment, and grievance procedures;
   b. The types and extent of services that are available in the facility;
   c. The extent of medical and nursing practices that may be provided by the facility;
   d. The type of residents that the facility will accept, based on sex, mental status, source of referral, etc. Policies should also provide that residents will be accepted regardless of race, color, national origin, sexual orientation or reimbursement source;
   e. the waiting list for facility admissions;
   f. the Quality Assurance Committee;
   g. admissions, transfers and discharges:
      1. provision for prevention of resident transfer from one part of the facility to another, except from a private room, solely because of Medicaid status;
      2. provision for prevention of discharging a patient from a nursing facility solely because of Medicaid status;
      3. nursing facility must establish and follow written readmission policies which are consistent with all applicable regulations and statutes.
   h. Physician services;
   i. Emergencies;
   j. Pharmaceutical services;
   k. Dietary services;
   l. Diagnostic and other services, including the tests which may be done within the facility;
   m. Written agreements with outside resources;
   n. Social services;
   o. Independent and group activities;
   p. Physical and chemical restraints;
   q. Resident records;
   r. Maintenance, laundry and housekeeping services;
   s. Infection control and waste management;
   t. Smoking restrictions;
   u. Dental services;
   v. Disaster preparedness;
   w. Reporting of abuse, neglect and/or misappropriation of resident property;
Chapter 8 - Personnel

8.A. Personnel Policies
The facility shall have policies that address all personnel practices.

8.B. Staff Qualifications

8.B.1. The facility must employ, on a full time, part time, or consultant basis those persons necessary to carry out the provisions of these regulations.

8.B.2. Staff must be licensed, certified, or registered in accordance with applicable State laws.

8.C. Employees

8.C.1. Nursing Staff

a. Licensed Staff
R.N.s and L.P.N.s must hold a current State of Maine license or permit, which must be verified prior to employment and upon each renewal

b. Certified Nursing Assistant
1. A facility must not employ anyone as a nursing assistant for more than four (4) months, on a full-time, temporary, per diem, or other basis, unless that individual has completed a training and/or competency evaluation program that is based upon the standard curriculum established by the Maine State Board of Nursing and approved by the Department of Education, or has been granted reciprocity or has been deemed competent under Maine State Board of Nursing rules.

2. When an individual has not performed paid nursing services for a continuous period of twenty-four (24) consecutive months since the most recent completion of a training and competency evaluation program, the individual must meet qualifications for competency established by the Maine State Board of Nursing.

3. A facility may not use staff of outside agencies to perform nursing assistant duties, unless that person is a CNA.

4. The facility must check with the State of Maine Registry of Certified Nursing Assistants to assure that the prospective CNA is listed on the Registry and has no record of a conviction or a substantiated complaint of resident abuse, neglect or misappropriation of residents' funds or property.

8.C.2. Non-Nursing Personnel
There shall be adequate numbers of non-nursing personnel to perform the necessary services and meet the needs of the residents and the facility. These persons shall not give resident care, unless staffing patterns, training, qualifications and job descriptions reflect the activities of such multi-purpose personnel.

8.C.3. In-Service Program

a. There shall be an orientation program for all new employees that includes review of all applicable facility policies, including resident rights, job description, and related responsibilities.

b. The facility must provide at least twelve (12) hours per year for CNA staff and periodic in-service education to all other employees.

c. The in-service program shall be planned and include at least one program per year relating to resident rights, disaster preparedness, workplace safety and the identified educational needs of the staff.

d. In-service education must include specific training for staff providing nursing and nursing related services to residents with cognitive impairments including but not limited to people with
Alzheimer’s or dementia and for those conditions which may be applicable to the resident population of the facility. For facilities with units specific to residents with Alzheimer’s or dementia, refer to Chapter 23 of these Regulations.

e. Records shall be maintained which indicate the content of and staff participation in all such orientation and staff development programs.

8.C.5. Employment Restrictions
The facility must not employ individuals who have been convicted by a court of law or have had complaints substantiated by the Department of abusing, neglecting, or mistreating individuals or misappropriating funds or property in a health care or related setting.

8.C.7. Age Requirement
No person under the age of sixteen (16) shall fulfill the staffing requirements for CNAs.

8.C.8. Grievances
Employees may voice grievances and register complaints with the administrative staff or appropriate outside agencies without fear of reprisal or discharge and shall expect prompt response and disposition of the grievance. No facility may take any action toward an employee which would create a fear of reprisal or a fear of discharge.

8.D. Personnel Records
8.D.1 Employee Record on File
a. Employment History
A record shall be completed for each employee, kept on file in the facility, and shall be available to Department personnel for inspection. Each record shall contain documentation of references and checks, dates of employment, home address, education or background, social security number, occupational license number if applicable, past experience or type of employment, where previously employed, type of position employed for in this facility and last day employed (if no longer in present facility). The current occupational license number, when applicable, shall be on file.

b. In-services Records shall be maintained of staff attendance at in-services and other educational programs.

c. Work Performance A record shall be kept for each employee of signed performance evaluations.

d. Illness and Accidents A record shall be kept for each employee of all illnesses and of all accidents occurring on duty.

e. Feeding Assistants
All nursing facilities shall maintain a record of the individuals who have successfully completed a State approved feeding assistance program. Feeding assistants shall not feed residents who require the assistance of staff with more specialized training, such as residents with recurrent lung aspirations, difficulty swallowing, on feeding tubes, and parenteral or IV feedings.

8.E. Weekly Time Schedule
Each facility shall post a dated employee weekly time schedule in a convenient place for employee use. This shall contain each employee’s name, job title and location, hours of work and days off for each day of the week. Any changes in staff or hours of work are to be posted on the time schedule. These weekly time schedules shall be kept on file in the facility for one year and shall be available to Department personnel for inspection.

8.F. Laws of the Maine Department of Labor
The current regulations of the Maine Department of Labor shall be followed.

8.G. Identification Badges
All direct care staff shall, at all times, wear identification badges reflecting their name and title, except in situations in which wearing an identification badge would create a safety hazard.
Chapter 9 – Resident Care Staffing
9.A. Minimum Nursing Staff Requirements
Director of Nursing - Responsibilities The Director of Nursing shall be responsible and accountable to the Administrator for:
...Assuring the delivery of orientation programs and staff development...
9.B.2. Certified Nursing Assistants
The nursing tasks assigned to a CNA shall only be those for which the CNA has been trained and which are within the scope of the duties, as defined by the Maine State Board of Nursing rules and regulations.
9.B.3 Nursing Assistant
a. Prior to the initial assignment of a nursing task to a nursing assistant, the Registered Professional Nurse shall determine if the individual is enrolled in a course preparing nursing assistants. The Registered Professional Nurse may assign to that individual only those tasks for which the individual has been satisfactorily prepared as documented by the instructional staff. Such training program or course must be satisfactorily completed within four (4) months from the date of employment.
b. When a nursing assistant is waiting for a training program to start, he/she may participate in non-direct care activities, such as making unoccupied beds and passing trays, and water and linens.

Chapter 10 – Residents’ Rights
10.A. Written Policies
Written policies shall be established by the governing body of each facility regarding the rights and responsibilities of the residents.
10.B. Procedures
Procedures shall be developed and adhered to for training of facility staff concerning these policies and procedures, and for making the policies available to residents, to any guardians, next of kin, sponsoring agencies or representative payees.

Chapter 13 – Nursing Services
13.A.12. Laboratory Services
The facility shall have policies and procedures which:
a. List the laboratory services being performed within the facility;
b. Ensure that the necessary certification is received under the Clinical Laboratory Improvement Amendments of 1988; and
c. Outline procedures for obtaining tests from outside laboratories.

Chapter 16 – Physician Services
16.A.11. Medical Director
a. There shall be a medical director who is responsible for the medical direction and coordination of medical care in the facility.
b. The duties, responsibilities and availability of the medical director, and the terms of agreement, shall be delineated in writing. The agreement shall be signed by the physician serving as medical director and by an authorized representative of the facility.
c. The medical director is responsible for the:
   1. Overall coordination of medical care;
   2. Liaison with attending physicians;
   3. Participation in the Quality Assurance Committee and the Professional Policy Committee.
Chapter 17 – Pharmaceutical Services
17.C. Supervision of Drugs and Biologicals
17.C.2. Responsibilities of the Pharmacist Consultant:
...i. Participates in the Professional Policy Committee and Quality Assurance Committee meetings to review and make recommendations relating to pharmaceutical services.

17.H. Reporting of Medication Errors and Adverse Reactions
17.H.3. Incident Reports
There shall be an incident report made out for each medication error and/or adverse reaction. These reports shall be kept together on the premises of the facility, reviewed by the Quality Assurance Committee and be made available for review by representatives of the Department.

Chapter 19 - Records
19.A. Clinical Records
The facility must maintain clinical records on each resident in accordance with accepted professional standards and practices.
19.A.1. All current clinical information pertaining to a resident's stay shall be available at the nurses station.
  a. The resident's records must be kept in the facility at all times. The record may be in paper or electronic format.
  b. All recording is done in the facility.
  c. The records are immediately available to resident care personnel.
19.A.2. Pertinent, non-clinical information shall be kept current, including address and phone number of the resident's legal representative or interested family member.

19.B. Retention of Records
19.B.1. Active Clinical Records
The following current records shall be available and retained at the nurses station as indicated:
  a. Identification sheet - retain permanently.
  b. Physician Records
    1. History and latest complete report of physical examination.
    2. Progress notes - for at least past 12 months.
    3. Order sheets - for at least past 12 months.
    4. Consultations - for past 12 months.
  c. Professional Services
    1. All MDS forms for the past 15 months.
    2. RAPS summary forms for the past 15 months.
    3. Documentation of interventions, significant changes, observations, acute episodes, and progress notes for the past 12 months.
  d. The Care Plan - for the past 12 months.
  e. Results of any preadmission/annual screening - permanently.
  f. Assessments by any additional professional discipline not included in the comprehensive assessment by the multidisciplinary team - for the past 24 months.
  g. Medication and treatment sheets for past 6 months.
  h. Diagnostic reports, lab, x-ray and diabetic records for past 12 months, unless frequent lab work, then 6 months.
  i. Vital signs and weights for past six (6) months.
j. Personal care records - for past three (3) months.
k. List of valuables.
l. Transfer information.

19.B.2. Purging of the Active Clinical Record
Active clinical records may be purged after the period(s) of retention listed in 19.B.1. above. These purged records must be available at, or easily accessible to the nurses station.

19.C. Miscellaneous Records
19.C.1. Miscellaneous records shall be maintained and retained as follows:
a. Monthly activities schedule - retain for 12 months.
b. Staffing schedule - retain for 5 years for auditing purposes.
c. Menu plans - retain for 3 months.
d. Food purchase orders - retain for 5 years for auditing purposes.
e. Reports of fire drills - retain for 12 months.
f. Incident reports - in a separate file. Current file should include 12 months - retain for 5 years.
g. Quality Assurance Committee and utilization review reports - keep together for 12 months and retain for 5 years.
h. Minutes of Committee meetings, inservice, etc. keep together for 12 months and retain for 5 years.
i. Consultant reports - keep together for 12 months and retain for 5 years for auditing purposes.
j. Reports of surveys, inspections, water tests, permits - keep together for 12 months and retain for 3 years.

19.D. Inactive Clinical Records
19.D.1. Clinical records must be retained for:
a. The period of time required by State law or five years from the date of discharge, whichever is greater.
b. For a minor, three years after a resident reaches legal age under State law.
19.D.2. Before filing, each sheet should be checked to be sure that it is completed as appropriate.
19.D.3. Purged records shall be arranged in chronological order and filed in the inactive files.
19.D.4. For discharged/closed records, all material pertaining to the resident, including the clinical record, administrative record and care plan shall be filed together and according to accepted Medical Record standards.

19.E. Readmissions
19.E.1. When a facility readmits a resident within one month, the resident's clinical record must contain the following documentation:
   a. New physician orders;
   b. Updated physical exam;
   c. A comprehensive assessment; and
   d. A current note by all appropriate professionals.
19.E.2. For readmission after more than one month of discharge, a new record must be completed.

19.F. Transfers and Discharges
19.F.1. For transfers within a facility with distinct parts, the current record may be continued.
19.F.2. Before a facility transfers or discharges a resident from one facility to another facility, institution or agency, the facility must prepare a referral form. The referral form is forwarded at the time a resident is transferred. A copy is to be retained in the resident's record. To ensure the optimal continuity of care, the referral form shall contain an appropriate summary of information about the discharged resident.

19.H. Individual Administrative Records
Records must be kept in the facility, but not necessarily in the nurse's station. Each resident shall have a separate folder which may include:
19.H.1. Resident rights acknowledgment;
19.H.2. Contract with resident;
19.H.3. Statement of who is responsible for personal needs monies;
19.H.4. Records of personal needs monies, including receipts, bank books, or statements and any relevant documentation. These may be filed in inactive files after twelve (12) months;
19.I. Confidentiality
The facility must keep confidential all information contained in the resident’s records, regardless of the form or storage method of the records, except when release is required by:
19.I.1. Transfer to another health care institution;
19.I.2. Law;
19.I.3. Third party payment contract;
19.I.4. The resident; or
19.I.5. The Department.
19.J. Access
The facility must:
19.J.1. Permit each resident and his/her authorized representative to inspect his or her records within twenty-four (24) hours of request. Such inspection shall occur at reasonable times and in the presence of a member of the facility’s staff.
19.J.2. Provide copies of the records to each resident no later than two (2) business days after a written request from a resident, at a photocopying cost not to exceed the amount customarily charged in the community.
19.J.3. Records shall be made available for inspection and/or copying by representatives of the Department.
19.K. Storage of Records
19.K.1. The facility must safeguard clinical record information against loss, destruction, or unauthorized use.
19.K.2. All records shall be completed prior to filing, and shall be filed in a manner to facilitate retrieval of the complete record when needed. Provision shall be made for adequate facilities and equipment, conveniently located, for the safe storage of all records and accessibility when needed.
19.K.3. In the event of change in ownership of any licensed facility, all resident records and registers shall remain the property of the facility.

Chapter 20 – Physical Plant
a. All facilities shall develop a written disaster plan and procedures to meet the needs of the facility. The disaster plan shall be written to identify emergencies and disasters most likely to occur.
1. plan for a disaster within the facility which could encompass moving residents from one area of the facility to another area of the facility or to another building within the community, (i.e., fire, loss of heat, power, or water, structural damage, etc.) The plan must specify the source of emergency power and the methods that will be used to meet the requirements contained in Chapter 20.B.5.
2. second plan for a disaster outside the facility (in the community) which would not necessarily mean moving residents, but which provides a means for heat, lights and food if the existing facility does not have an emergency generator.
3. third plan shall address other potential emergencies, (i.e., severe weather, missing residents, etc.)
b. copy of the disaster plan shall be provided to the Department. Revisions shall be submitted when they occur.
c. employee Instruction
Employees shall be trained when they begin to work in the facility in the use of fire fighting equipment, and in the evacuation of residents from the scene of the fire and other emergencies.
Orientation to the Disaster and Emergency Preparedness Plan shall be provided upon employment, with annual training provided thereafter.

d. Posting of Fire Regulations and Evacuation Plan
Fire regulations and evacuation plans shall be posted in a conspicuous place on each floor of each section of the facility, setting forth the emergency steps to be taken on discovery of a fire.
e. Drills
Drills, constituting rehearsal of the disaster plan, shall be conducted at irregular intervals twelve (12) times a year. There shall be at least three (3) drills a year for each shift. A record shall be kept of each drill, showing date and time, staff performance, results of each drill, and corrective measures being taken as directed thereby.

20.O. Housekeeping
20.O.3. Infection Control
The facility shall provide a hygienic environment for residents and staff by having procedures for:
...e. Maintaining liaison with the Quality Assurance Committee as necessary;

Chapter 21 – Infection Control and Biomedical Waste
21.A. Infection Control
The facility must establish an active program for the prevention, control, and investigation of infection according to current standards and Center for Disease Control (CDC) guidelines, which includes:

Chapter 23 – Alzheimer's/Dementia Care Units
23.B. Alzheimer's/Dementia Care Unit Program Disclosure
23.B.1. Disclosure Required
An entity that offers to provide or provides care for individuals with Alzheimer's disease or a related disorder through an Alzheimer's/Dementia Care program shall disclose the form of care or treatment it provides that distinguishes it as being especially applicable to or suitable for those individuals. The disclosure must be made to the Department and to any individual seeking placement within an Alzheimer’s/Dementia Care Unit or the individual's guardian or other responsible party. The Department shall examine and verify the accuracy of all disclosures as part of an entity’s license renewal procedure.
23.B.2. Disclosure Content
The disclosure must explain the additional care provided in the Alzheimer's/Dementia Care Unit and include, at a minimum:
a. The program’s written statement of its philosophy and mission that reflect the needs of individuals afflicted with dementia;
b. The process and criteria for placement in, or transfer or discharge from the program;
c. The process used for the assessment and establishment of a plan of care and its implementation, including the methods by which the plan of care evolves and remains responsive to changes in an individual’s condition;
d. The program’s staff training and continuing education practices;
e. Documentation of the program's physical environment and design features appropriate to support the functioning of cognitively impaired adult individuals;
f. The frequency and types of individuals’ activities provided by the program;
g. A description of family involvement and the availability of family support programs;
h. An itemization of the costs of care and any additional fees; and
i. A description of security measures provided by the facility.

23.C.2. Staffing and Staff Training [Alzheimer's/Dementia Care Unit]

Every effort must be made to provide residents with familiar and consistent staff members in order to minimize resident confusion. All direct care staff assigned to the Alzheimer's/Dementia Care Unit shall be specially trained to work with residents with Alzheimer's Disease and other dementias.

a. Staffing

Only staff trained as specified in Subsections (2)(b) and (2)(c) of this rule shall be maintained and assigned to the unit. Staffing shall be sufficient to meet the needs of the residents and outcomes identified by the individual care plan and sufficient to implement the full day and evening care program. Staffing levels on the night shift will depend on the sleep patterns and needs of residents (without control of sleep by medications). Staffing shall be sufficient to enable each resident to maximize their functioning, self-care and independence.

b. Training

1. Pre-Service Training

The goals of training and education for staff of Alzheimer's/Dementia Care Units are to enhance staff understanding and sensitivity toward the unit residents, to allow staff to master care techniques, to ensure better performance of duties and responsibilities and to prevent staff burnout. The trainer(s) shall be qualified individuals with experience and knowledge in the care of individuals with Alzheimer's disease and other dementias. The facilities shall provide a minimum of eight (8) hours of classroom orientation and eight (8) hours of clinical orientation to all new employees assigned to the unit. In addition to the usual facility orientation, which would include such topics as basic resident rights, confidentiality, emergency procedures, infection control, facility philosophy related to Alzheimer's dementia care, wandering/egress control, the eight (8) hours of classroom orientation should also include the following topics:

   (a) A general overview of Alzheimer's disease and related dementias;
   (b) Communication basics;
   (c) Creating a therapeutic environment;
   (d) Activity focused care;
   (e) Dealing with difficult behaviors; and
   (f) Family issues.

2. Inservice Training

Ongoing inservice training shall be provided to all medical and non-medical staff who may be in direct contact with residents of the unit. Staff training shall be provided at least quarterly. The facility will keep records of all staff training provided and the qualifications of the trainer(s). Any training provided under the Alzheimer's/dementia curriculum may be credited toward the required twelve (12) hours of training/contact hours for CNAs. At least four (4) of the following topics shall be trained each quarter, so that after six months, staff will have been trained on all of the topics listed. Inservice training will be more comprehensive that what was provided during pre-service orientation.

   (a) An overview of Alzheimer’s disease and related dementias, to include possible causes, general statistics, risk factors, diagnosis, stages and symptoms, and current treatments and research trends;
   (b) Communication, to include communication losses that result from Alzheimer's/dementia, nonverbal communication techniques (i.e. body language, facial expressions and touch), techniques to enhance communication, validation as an approach to communication and environmental factors that affect communication. Any training provided under the Alzheimer's/dementia curriculum may be credited toward the required twelve (12) hours of training/contact hours for CNAs;
   (c) Creating a therapeutic environment, to include safety issues, effective and ineffective strategies for providing care (do’s and don’ts), background noise, staff behavior, consistency, wayfinding and temperature;
   (d) Activity-focused care, to include personal care (dressing, bathing and toileting), nutrition and
dining, structured leisure (gross motor activities, social activities, crafts, sensory enhancement, outdoor activities, spiritual activities, normative activities, and music - see also Section 23.C.5. - Therapeutic Activities) and sexuality;
(e) Dealing with difficult behaviors, which should include strategies to deal with common behavioral issues such as wandering, sundowning, catastrophic reactions, combativeness, paranoia, ignoring self-care; and
(f) Family issues, such as grief, loss, education and support.

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10.07.02.02 License Required.
...B. Separate License Required. Separate licenses are required for facilities maintained on separate premises, even though they are operated under the same management. Separate licenses may be required for separate buildings on the same grounds.
C. Other License Required. A facility having a dual function, including care of the sick requiring hospital facilities in addition to rendering other care services, is required to be licensed for each level of health care rendered.
D. Posting of License Application and Instructions for Written Comment.
   (1) At least 50 days before the anticipated date of the new license or relicensure, a facility shall conspicuously post:
      (a) Its application for initial license or license renewal; or
      (b) A notice describing where in the facility the application for licensure or relicensure may be found.
   (2) The posting shall be near the entrance, in a manner which is plainly visible and easily read by the public.
   (3) The posting shall include instructions for filing written comments to the Department.
E. Posting of License. A facility shall conspicuously post its license on the premises, at or near the entrance, in a manner which is plainly visible and easily read by the public.

10.07.02.03. Licensing Procedure.
...B. Restrictions of License.
   (1) Nomenclature. Comprehensive care facilities or extended care facilities licensed under this regulation may not use in their title the words "Hospital", "Sanitorium", or "Sanitarium".
   ...(3) Local Law or Ordinance, Where Applicable. Comprehensive care facilities or extended care facilities located in political subdivisions which require them to meet certain standards shall submit proof to the Secretary that they meet local laws, regulations, or ordinances at the time application for license is submitted.

10.07.02.07 Administration and Resident Care.
A. Responsibility.
   (1) The licensee shall be responsible for the overall conduct of the comprehensive care facility or extended care facility and for compliance with applicable laws and regulations.
   (2) The administrator shall be responsible for the implementation and enforcement of all provisions of the Patient's Bill of Rights Regulations under COMAR 10.07.09.
B. Delegation to Administrator.
   (1) The licensee, if not acting as an administrator, shall appoint as administrator a responsible person who is qualified by training and experience, and is licensed by the Board of Examiners of
Nursing Home Administrators for the State. The administrator shall be responsible for the control of the operation on a 24-hour basis and shall serve full-time, except that an administrator may, with the Department’s approval, serve on a less than full-time basis for a maximum of two nursing facilities, one of which shall have a licensed capacity of 35 beds or less.

(2) The Department shall consider the following factors when considering whether to approve an administrator to serve on a less than full-time basis:
(a) Geographical location of the facilities;
(b) Ownership of the facilities;
(c) Organizational structure of the facilities;
(d) Size of the facilities; and
(e) Background and experience of the administrator.

C. Absence of Administrator. In the absence of the administrator, the facility at all times shall be under the direct and personal supervision of an experienced, trained, competent employee. When the director of nursing serves as relief for the administrator, he shall designate an experienced, qualified registered nurse to direct the nursing service. The relief director of nursing shall be freed from other responsibilities.

D. Excessive Absenteeism of Administrator. If the administrator is absent from the facility an excessive amount of time, and the Department determines that the director of nursing’s absence from nursing service is having an adverse effect on patient care, the Department may require the designation of a specific registered nurse who shall be named the “assistant director of nursing”. The Department shall be notified of the name of the assistant director of nursing. When the designee is replaced, the Department shall be notified of the name of the registered nurse filling the vacancy.

E. Character. The administrator shall be of good moral character, in good physical and mental health, and shall demonstrate a genuine interest in the well-being and welfare of patients in the facility.

F. Staffing.
(1) The administrator shall employ sufficient and satisfactory personnel as specified in this chapter to give adequate patient care and to do feeding, maintenance, cleaning, and housekeeping.

G. Educational Program. An ongoing educational program shall be planned and conducted for the development and improvement of skills of all the facility’s personnel, including training related to problems and needs of the aged, ill, and disabled. Records shall be maintained reflecting attendance, by name and title, and training content. In-service training shall include at least:
(1) Prevention and control of infections;
(2) Fire prevention programs and patient related safety procedures in emergency situations or conditions;
(3) Accident prevention;
(4) Confidentiality of patient information;
(5) Preservation of patient dignity, including protection of the patient’s privacy and personal and property rights;
(6) Psychophysical and psychosocial needs of the aged ill;
(7) Receipt by each employee of appropriate orientation to the facility and its policies, and to the employee’s position and duties;
(8) Approval by the Department of the orientation and training programs.

H. Employment Records. A written application shall be on file for each employee and shall contain:
(1) Employee’s social security number.
(2) Home address.
(3) Educational background.
(4) Past employment with documentation that references have been considered by the facility. If the employee formerly worked in a nursing home, consideration shall be given to the record as it relates to abuse of patients, theft, and fires.
(5) The licensure of personnel employed as registered or licensed practical nurses shall be verified by the facility.

I. Supportive Personnel. To support placement in a specific position, there shall be sufficient documentation in the employee’s record reflecting his training and experience. In instances when an aide is to be assigned to a particular service such as dietary, physical therapy, or occupational therapy, the person in charge of the service shall be responsible for the evaluation and approval of the qualifications.

J. New Supportive Personnel. New supportive personnel shall be credited for 50 percent of their working time until the employee’s orientation program, as approved by the Department, is completed. The person in charge of the service to which the employee is assigned shall have input into the contents of the orientation program. Policies for the orientation program shall include the number of hours of orientation required for the various levels of supportive personnel. Following the period of orientation the person responsible for the orientation program and the person in charge of the service shall indicate satisfactory completion of the orientation program of the employee. The responsible department’s approval shall be in writing, signed by the appropriate department head whose license number, if applicable shall be recorded in the record. In new facilities the director of nursing and supervisors of the various services, dietary, housekeeping, rehabilitation, and social services, shall be responsible for orienting the new supportive personnel to the facility’s policies and procedures and to the physical plant. There shall be a complete orientation for all the employees in life safety and disaster preparedness. The number of daily admissions of patients shall be controlled to allow sufficient time for on-the-job training. Before the opening of the facility all supportive personnel shall have a minimum of 2 days of orientation training.

K. Relief Personnel. Provision shall be made for qualified relief personnel during vacations or other relief periods.

L. Availability of Information. The administrator shall make available to the Secretary such information as may be requested to insure that the facility is meeting the requirements of these and other applicable regulations.

10.07.02.07-1 Employee Training on Cognitive Impairment and Mental Illness.
A. The following employees shall receive a minimum of 8 hours of training on cognitive impairment and mental illness within the first 90 days of employment:
(1) Any employee who is licensed, certified, or registered under the Health Occupations Article, Annotated Code of Maryland; and
(2) Any employee whose job duties include assisting residents with activities of daily living.
B. The training on cognitive impairment and mental illness shall be designed to meet the specific needs of the facility’s population as determined by the staff trainer, including the following as appropriate:
(1) An overview of the following:
   (a) A description of normal aging and conditions causing cognitive impairment;
   (b) A description of normal aging and conditions causing mental illness;
   (c) Risk factors for cognitive impairment;
   (d) Risk factors for mental illness;
   (e) Health conditions that affect cognitive impairment;
   (f) Health conditions that affect mental illness;
   (g) Early identification and intervention for cognitive impairment;
(h) Early identification and intervention for mental illness; and
(i) Procedures for reporting cognitive, behavioral, and mood changes;
(2) Effective communication including:
(a) The effect of cognitive impairment on expressive and receptive communication;
(b) The effect of mental illness on expressive and receptive communication;
(c) Effective verbal, non-verbal, tone and volume of voice, and word choice techniques; and
(d) Environmental stimuli and influences on communication;
(3) Behavioral intervention including:
(a) Identifying and interpreting behavioral symptoms;
(b) Problem solving for appropriate intervention;
(c) Risk factors and safety precautions to protect the individual and other residents; and
(d) De-escalation techniques;
(4) Making activities meaningful including:
(a) Understanding the therapeutic role of activities;
(b) Creating opportunities for productive, leisure, and self-care activities; and
(c) Structuring the day;
(5) Staff and family interaction including:
(a) Building a partnership for goal-directed care;
(b) Understanding families’ needs; and
(c) Effective communication between family and staff;
(6) End-of-life care including:
(a) Pain management;
(b) Providing comfort and dignity; and
(c) Supporting the family; and
(7) Managing staff stress including:
(a) Understanding the impact of stress on job performance, staff relations, and overall facility environment;
(b) Identification of stress triggers;
(c) Self-care skills;
(d) De-escalation techniques; and
(e) Devising support systems and action plans.
C. Employees who are not licensed, certified, or registered or who do not assist residents with activities of daily living shall receive a minimum of 2 hours of training on cognitive impairment and mental illness within the first 90 days of employment. The training shall include:
(1) An overview of the following:
(a) A description of normal aging and conditions causing cognitive impairment;
(b) A description of normal aging and conditions causing mental illness;
(c) Risk factors for cognitive impairment;
(d) Risk factors for mental illness;
(e) Health conditions that affect cognitive impairment;
(f) Health conditions that affect mental illness;
(g) Early identification and intervention for cognitive impairment;
(h) Early identification and intervention for mental illness; and
(i) Procedures for reporting cognitive, behavioral, and mood changes;
(2) Effective communication including:
(a) The effect of cognitive impairment on expressive and receptive communication;
(b) The effect of mental illness on expressive and receptive communication;
(c) Effective verbal, non-verbal, tone and volume of voice, and word choice techniques; and
(d) Environmental stimuli and influences on communication; and
(3) Behavioral intervention including risk factors and safety precautions to protect the individual and other residents.

D. Ongoing training in cognitive impairment and mental illness shall be provided annually and consist of, at a minimum:

(1) 2 hours for employees who are licensed, certified, or registered under the Health Occupations Article, Annotated Code of Maryland, or who assist residents with activities of daily living; and

(2) 1 hour for all other employees.

E. The training that is described in this chapter may be provided through various means including:

(1) Classroom instruction;

(2) In-service training;

(3) Internet courses;

(4) Correspondence courses;

(5) Pre-recorded training; or

(6) Other training methods.

F. When the training method does not involve direct interaction between faculty and the participant, the facility shall make available to the participant during the training a trained individual to answer questions and respond to issues raised by the training.

10.07.02.09 Resident Care Policies.

A. Written Policies. Comprehensive care facilities and extended care facilities shall develop written policies, consistent with these regulations, to govern the nursing care and related medical or other services they provide covering the following:

(1) Admission, transfer, and discharge policies including categories of patients accepted and not accepted by the facility, or those who are required to transfer to another level of care. The facility's admission policy shall include a statement as to whether or not medical assistance patients will be admitted and if admitted, under what circumstances.

(2) Physician services.

(3) Patients' rights.

(4) Nursing services.

(5) Dietetic services.

(6) Specialized rehabilitative services—occupational therapy services, physical therapy services, speech pathology and audiology services.

(7) Pharmaceutical services.

(8) Laboratory and radiologic services.

(9) Dental services.

(10) Social services.

(11) Patient activities.

(12) Clinical records.

(13) Reports and action required in unusual circumstances.

(14) Utilization review.

(15) Infection control.

(16) Tuberculosis Surveillance. All comprehensive care facilities and extended care facilities shall have written policies and procedures, acceptable to the Department, for tuberculosis surveillance of all residents. See Regulation .21G of this chapter for tuberculosis surveillance requirements.

(17) Disaster plan.

(18) Housekeeping services, pest control, and laundry.

(19) Patient care management.

B. The patient care policies shall be developed with the advice of the principal physician (or medical staff or medical director, if applicable), and at least one registered nurse. Policies shall be reviewed
at least annually by a group of professional personnel including one or more physicians and one or more registered nurses. Written policies shall be kept current with the policies used to administer the facility. For reference purposes, copies of the patient care policies shall be readily available to all personnel responsible for patient care.

C. Policies and Procedures.

(1) Upon the request of the Secretary or the Secretary’s designee, the facility’s policies and procedures shall be made available to the Secretary for onsite review.

(2) The licensee shall submit to the Department any significant substantive changes to the policies and procedures which have occurred since review of the policies and procedures within 2 weeks of implementation of the changes.

10.07.02.11-1 Medical Director Responsibilities.

A. General Responsibilities. The medical director is responsible for:

(1) Overall coordination, execution, and monitoring of physician services;

(2) Monitoring and evaluating the outcomes of the health care, including clinical and physician services provided to the facility’s residents; and

(3) Designating an alternate medical director with sufficient training and experience to perform the responsibilities of the medical director as described in the regulations of this chapter.

B. Practitioner Oversight. The medical director shall:

(1) Oversee all physicians and other licensed or certified professional health care practitioners who provide health care to the facility’s residents;

(2) Ensure that there is a procedure for the review of the practitioners’ credentials and the granting of privileges for licensed or certified professional health care practitioners who treat residents of the nursing facility; and

(3) Recommend rules governing the performance of physicians and other licensed or certified professional health care practitioners who admit residents to the facility.

C. Defining the Scope of Medical Services.

(1) The medical director, in collaboration with the facility, shall recommend written policies and procedures that are approved by the licensee, delineating the scope of physician services and medical care.

(2) The facility shall make these policies and procedures available to a resident or resident’s representative upon admission and whenever a substantive change is made.

D. Ensuring Physician Accountability. The medical director, in collaboration with the facility, shall recommend policies and procedures that cover essential physician responsibilities to the residents and the facility, including:

(1) Accepting responsibility for the care of residents;

(2) Supporting resident discharges and transfers;

(3) Making periodic, pertinent resident visits in the facility;

(4) Providing adequate ongoing medical coverage;

(5) Providing appropriate resident care;

(6) Providing appropriate, timely medical orders;

(7) Providing appropriate, timely, and pertinent documentation;

(8) Advising residents and families about formulating advance directives; and

(9) Any other responsibilities as determined by the facility and the medical director.

E. Quality Assurance. The medical director shall actively participate in the facility's quality improvement process. Participation shall include:

(1) Regular attendance at, and reporting to, the facility's quality improvement committee meetings; and
(2) Routine participation in ongoing facility efforts to improve the overall quality of the clinical care, including facility efforts to evaluate and address the causes of various care-related problems and deficiencies cited by the Office of Health Care Quality.

F. Employee Health Oversight. The facility, in consultation with the medical director and other physicians, if necessary, shall establish and maintain surveillance of the health status of employees, including:

(1) Advising on the development and execution of an employee health program, which shall include provisions for determining that employees are free of communicable diseases according to current acceptable standards of practice; and

(2) Ensuring that the facility plans and implements required immunization programs.

G. Other Related Duties. The medical director shall perform other essential duties related to clinical care and physician practices, including:

(1) Advising the administrator and the director of nursing on clinical issues, including the criteria for residents to be admitted, transferred, or discharged from the nursing facility;

(2) Working with the nursing facility to establish appropriate relationships with area hospitals and other pertinent institutions to improve care of the residents;

(3) Advising and consulting with the nursing facility staff regarding communicable diseases, infection control, and isolation procedures, and serving as a liaison with local health officials and public health agencies that have policies and programs that may affect the nursing facility's care and services to residents;

(4) Providing or arranging for temporary physician services as needed to ensure that each resident has continuous physician coverage;

(5) Participating as appropriate in facility committee projects and meetings concerning clinical care and quality improvement that require physician input; and

(6) Educating or overseeing the education of, and informing, all attending physicians about their roles, responsibilities, and applicable rules and regulations.

H. Medical Director Oversight Plan.

(1) Based upon physician and medical director responsibilities in nursing facilities, as described in this chapter, the medical director shall develop and implement a plan describing how the medical director will carry out the responsibilities for the:

(a) Overall monitoring, coordination, and execution of physician services and medical care to residents of the nursing facility; and

(b) Systematic review of the quality of health care, including medical and physician services, provided to the facility's residents.

(2) Minimum Requirements of the Plan. The medical director oversight plan shall include, at least, a plan to ensure that physicians:

(a) Accept appropriate responsibility for residents under the physicians' care in the nursing facility;

(b) Provide appropriate, timely medical care consistent with widely identified medical principles relevant to the facility's population; and

(c) Provide appropriate, timely, and pertinent medical documentation and orders.

(3) Documentation Regarding Medical Director Activities.

(a) The medical director shall keep documentation regarding the medical director's activities in relation to designated responsibilities.

(b) The documentation required in this subsection may include:

(i) Notes;

(ii) Minutes;

(iii) Copies of faxes, letters, and telephone communications with attending physicians, other facility staff and departments, the administration, the governing body, and others regarding concerns, inquiries, and interventions.
(c) The documentation required in this subsection shall show evidence of the medical director's interventions and follow-up of the effectiveness of those interventions.

I. Quality Assurance Committee Minutes. Committee minutes shall reflect monthly input from the medical director regarding physician issues and general facility clinical care issues.

**10.07.02.11-2 Facility’s Responsibilities in Relation to the Facility’s Medical Director.**

A. The nursing facility shall:

1. Be responsible for working with the medical director to ensure adequate resident care and practitioner performance;
2. Inform the physician of explicit requirements as a medical director and assist the medical director in gaining the necessary information and tools to properly execute those responsibilities; and
3. Ensure that the medical director has the necessary support and authority to perform medical director duties effectively and to hold practitioners accountable.

B. When the attending physician and medical director document a resident’s medical need for a particular treatment, assistive device, or equipment, that treatment, assistive device, or equipment shall be provided by the facility unless the facility documents in the quality assurance committee minutes the reason or reasons why the treatment, assistive device, or equipment should not be provided.

C. When the attending physician and medical director agree that a particular facility-developed protocol is required to ensure that quality medical care is delivered to the facility’s residents, that protocol shall be implemented unless the facility documents in the facility’s patient care committee minutes the reason or reasons why the protocol should not be implemented.

D. Evaluation of Medical Director’s Performance.

1. The facility shall have a mechanism for evaluating the medical director’s performance and for providing the medical director with feedback about that performance.
2. The criteria for evaluation shall be based on explicit medical director responsibilities and shall facilitate the medical director’s improvement and performance of functions and duties.

**10.07.02.12 Nursing Services.**

...B. Director of Nursing. The facility shall provide for an organized nursing service, under the direction of a full-time registered nurse except that a licensed practical nurse serving as director of nursing as of the effective date of these regulations may continue to serve as director of nursing in the comprehensive care facility in which employed.

...E. Director of Nursing’s Vacancy Exceeding 30 Days. If the position of director of nursing remains vacant for a period of 30 days, the license may be revoked unless the administrator and the governing body are able to demonstrate that they have made every effort to obtain a replacement.

...U. Inservice Educational Program. There shall be a continuing inservice educational program in effect for all nursing personnel in addition to a thorough job orientation for new personnel. There shall be documentation of content of programs and names and titles of participants. The program which shall be the responsibility of the director of nursing shall be approved by the Department.

V. Director of Nursing’s Continuing Education. The director of nursing shall assume responsibility for maintaining his own professional competence through participation in programs of continuing education.

**10.07.02.14 Specialized Rehabilitative Services — Occupational Therapy Services, Physical Therapy Services, Speech Pathology and Audiology Services.**

...I. Proof of Licensure. The facility shall maintain a file which includes proof of current licensure of all the rehabilitative services’ personnel.
10.07.02.14-1 Special Care Units — General.

A. A facility which holds a current and valid operating license may establish special care units with the approval of the Office of Licensing and Certification Programs and the Department’s Division of Engineering and Maintenance.

B. A facility may notify the Department of its intention to establish a special care unit before developing and submitting the required documents for approval as described in §C of this regulation.

C. The facility shall obtain Departmental approval of the following pertaining to the special care unit:

1. A description and scope of services to be provided;
2. An organization chart of the special care unit and its inter-relatedness to the rest of the nursing facility;
3. A description of staffing patterns;
4. Qualifications, duties, and responsibilities of personnel;
5. A quality assurance plan which includes:
   (a) Assignment of responsibility for monitoring and evaluation activities;
   (b) Identification of the most important aspects of care provided;
   (c) Identification of indicators and appropriate clinical criteria for monitoring the most important aspects of care;
   (d) Establishment of thresholds (levels or trends) for the indicators that will trigger evaluation of care;
   (e) Monitoring of the important aspects of care by collecting and organizing data for each indicator;
   (f) Evaluation of care when thresholds are reached in order to identify opportunities to improve either care or problems;
   (g) Taking actions to improve care or to correct the problems;
   (h) Assessing the effectiveness of the actions, documenting the improvement in care, and assessing the quality assurance process; and
   (i) Communication of the results of the monitoring and evaluation process to relevant individuals or services;
6. Policies and procedures, including:
   (a) The transfer or referral of residents who require services that are not provided by the special care unit;
   (b) The administration of medicines unique to the needs of the special care residents;
   (c) Infection control measures to minimize the transfer of infection in the special care unit;
   (d) Pertinent safety practices, including the control of fire and mechanical hazards; and
   (e) Preventive maintenance for equipment in the special care unit;
   (f) Protocols for obtaining specialized services, such as arterial blood gases or other STAT services;
   (g) Protocols for emergency situations; and
   (h) An inventory of the specialized equipment to be housed in the unit to provide services in the special care unit.

D. A facility that has been approved to establish a special care unit shall meet all applicable requirements of this chapter.

E. Physician Coordinator.

1. If the facility’s medical director does not have special training and experience in the discipline of the assigned special care unit, the facility shall hire a physician who is appropriately trained and experienced to provide:
   (a) Overall medical supervision of the special care unit; and
   (b) Coordination of all services for the assigned special care unit.
(2) The facility shall verify the candidate’s credentials before employment as physician coordinator.
(3) The physician coordinator, or a designee who meets the requirements of §E(1) of this regulation, shall:
    (a) Respond personally or arrange for another qualified physician to respond to situations warranting medical intervention; and
    (b) Be available to provide any required consultation.
F. Staffing. The facility shall ensure that each unit is sufficiently staffed with qualified personnel to provide appropriate treatment and special care needs of the residents.
G. Nursing Services.
(1) The director of nursing shall designate a registered nurse who has education, training, and experience in caring for the needs of the special care residents to coordinate all nursing care within the special care unit.
(2) Nursing staff shall be:
    (a) Knowledgeable about the emotional and rehabilitative aspects of the special care unit residents; and
    (b) Capable of initiating appropriate therapeutic interventions when needed.
H. Design.
(1) A special care unit shall meet the general construction requirements of Regulations .06 and .26 of this chapter, and the requirements in this regulation.
(2) The facility shall ensure that floor space allocated to each bed meets minimum requirements listed in Regulation .28C of this chapter, and is sufficient to accommodate the special equipment necessary to meet the needs of residents.
I. Radiologic and Laboratory Services. The facility shall ensure that diagnostic radiologic and clinical laboratory services are available 24 hours a day. The services may be provided through contractual arrangements with providers that meet applicable federal and State laws and regulations.
J. Quality Assurance Program. The facility shall:
    (1) Develop a quality assurance plan to monitor and evaluate the care provided in each special care unit; and
    (2) Monitor and evaluate the quality and appropriateness of care provided by the special care unit as part of the facility’s overall quality assurance program.
10.07.02.14-2 Special Care Units—Respiratory Care Unit.
A. A respiratory care unit shall meet the:
    (1) General requirements established for all special care units as outlined in Regulation .14-1 of this chapter; and
    (2) Requirements of this regulation.
B. The facility shall submit to the Department and obtain approval of the following:
    (1) All documents required in Regulation .14-1C of this chapter;
    (2) Policies and procedures for all aspects of care as outlined in Regulation .14-1C(6) of this chapter, and the following:
        (a) Qualifications, duties, and responsibilities of staff, including the staff who are permitted to perform the following procedures:
            (i) Cardiopulmonary resuscitation;
            (ii) Obtaining arterial blood gas samples and their analyses;
            (iii) Pulmonary function testing;
            (iv) Therapeutic percussion and vibration;
            (v) Bronchopulmonary drainage;
            (vi) Coughing and breathing exercises;
            (vii) Mechanical ventilatory and oxygenation support for residents; and
(viii) Aerosol, humidification, and medical gas administration;
(b) Weaning from mechanical ventilatory support and discharge planning for residents of the respiratory care unit; and
(c) The procurement, handling, storage, and dispensing of medical gases.

C. Physician Coordinator. If the facility's medical director does not have special training and experience in diagnosing, treating, and assessing respiratory problems, the facility shall hire a physician who has the special knowledge and experience to provide:
(1) Overall medical supervision of the respiratory care unit; and
(2) Coordination of all services for the respiratory care unit.

D. Staffing. The facility shall ensure that:
(1) Respiratory care services are provided by a sufficient number of qualified personnel;
(2) Respiratory care personnel provide respiratory care services commensurate with their documented training, experience, and competence; and
(3) As appropriate, respiratory care personnel are competent in the following:
(a) The fundamentals of cardiopulmonary physiology and of fluids and electrolytes;
(b) The recognition, interpretation, and recording of signs and symptoms of respiratory dysfunction and medication side effects, particularly those that require notification of a physician;
(c) The initiation and maintenance of cardiopulmonary resuscitation and other related life-support procedures;
(d) The mechanics of ventilation and ventilator function;
(e) The principles of airway maintenance, including endotracheal and tracheostomy care;
(f) The effective and safe use of equipment for administering oxygen and other therapeutic gases and for providing humidification, nebulization, and medication;
(g) Pulmonary function testing and blood gas analysis, when these procedures are performed within the respiratory care unit;
(h) Methods that assist in the removal of secretions from the bronchial tree, such as hydration, breathing and coughing exercises, postural drainage, therapeutic percussion and vibration, and mechanical clearing of the airway through proper suctioning technique;
(i) Procedures and observations to be followed during and after extubation; and
(j) Recognition of and attention to the psychosocial needs of residents and their families.

E. Design.
(1) Emergency Power. The facility unit shall meet all applicable requirements in Regulation .26F of this chapter for emergency electrical power, including the provision of:
(a) Emergency lighting in the respiratory care unit where life support equipment is used; and
(b) Duplex receptacles connected to the facility’s emergency generator to provide emergency power to operate life support equipment and nonflammable medical gas systems in the respiratory care unit.

(2) Ventilator Alarms. The facility shall ensure that each ventilator is equipped with an alarm on both the pressure valve and the volume valve for safety.

F. The facility shall provide pulmonary function testing, and blood gas or pulse analysis capability onsite or through contractual arrangements with providers who meet applicable State and federal laws and regulations.

G. Contractual Services. When any respiratory care services are provided by an outside contractor, the facility shall:
(1) Approve the contractor based on the contractor’s credentials, training, and experience;
(2) Ensure that all contractors:
(a) Provide services 24 hours a day;
(b) Meet all safety requirements;
(c) Abide by all pertinent policies and procedures of the facility;
(d) Provide services in accordance with all laws and regulations governing the facility; and
(e) Participate in the monitoring and evaluation of the appropriateness of services provided as required by the facility's quality assurance program; and
(3) Ensure that all contractual services receive overall medical supervision and coordination by the facility's physician coordinator of the respiratory care unit.

10.07.02.15 Pharmaceutical Services.
A. Facility Responsible for Pharmacy Services. Pharmaceutical services shall be provided in accordance with accepted professional principles and appropriate federal, State, and local laws. Any regulation in this chapter shall govern if higher.
E. Pharmacist Supervises Services. If the facility does not employ a licensed pharmacist, it shall arrange for, by written contract, a licensed pharmacist to provide consultation on the administering of the pharmacy services in accordance with the policies and procedures established by the pharmaceutical services committee. The pharmaceutical services shall be under the general supervision of a qualified pharmacist who shall:
(1) Be responsible, with the advice of the pharmaceutical services committee, to develop, coordinate, and supervise the pharmaceutical services and provide in-service at least twice yearly.

10.07.02.16 Laboratory and Radiologic Services.
A. Approved Source. Laboratory services provided by the facility shall meet the applicable conditions established under COMAR 10.10.01 Medical Laboratories in Maryland.
B. Provisions of Services. If the facility does not provide laboratory and radiologic services, arrangements shall be made for obtaining these services from a physician's office, a licensed laboratory in a hospital or nursing facility, a licensed independent laboratory, or a State-approved portable X-ray supplier.
C. Physician's Order Required. All services shall be provided only on the orders of the attending physician.
D. Reports of Findings. The attending physician shall be notified promptly of the findings. Signed and dated reports of diagnostic services shall be filed with the patient's medical record.
E. Transportation. The facility shall assist the patient, if necessary, in arranging for transportation to and from the source of service.
F. Blood and Blood Products—Blood Handling and Storage. Blood handling and storage facilities shall be safe, adequate, and properly supervised.
G. Storage and Transfusion. If the facility provides for maintaining and transfusing blood and blood products, it shall meet the standards in COMAR 10.10.02 Blood Banks.
H. Transfusion Services. If the facility does not provide its own facilities but does provide transfusion services alone, it shall meet at least the requirements in Regulation .09F—H under COMAR 10.10.02.

10.07.02.17 Dental Services.
B. Advisory Dentist. There shall be an advisory dentist, licensed to practice in the State, who shall:
(3) Provide direction for in-service training to give the nursing staff an understanding of patients' dental problems.

10.07.02.20 Clinical Records.
A. Records for all Patients. Records for all patients shall be maintained in accordance with accepted professional standards and practices.
B. Contents of Record. Contents of record shall be:
(1) Identification and summary sheet or sheets including patient's name, social security number, armed forces status, citizenship, marital status, age, sex, home address, and religion;
(2) Names, addresses, and telephone numbers of referral agencies (including hospital from which admitted), personal physician, dentist, parents’ names or next of kin, or authorized representative; (3) Documented evidence of assessment of the needs of the patient, of establishment of an appropriate plan of initial and ongoing treatment, and of the care and services provided; (4) Authentication of hospital diagnoses (discharge summary, report from patient’s attending physician, or transfer form); (5) Consent forms when required (such as consent for administering investigational drugs, for burial arrangements made in advance, for release of medical record information, for handling of finances); (6) Medical and social history of patient; (7) Report of physical examination; (8) Diagnostic and therapeutic orders; (9) Consultation reports; (10) Observations and progress notes; (11) Reports of medication administration, treatments, and clinical findings; (12) Discharge summary including final diagnosis and prognosis; (13) Discipline assessment; and (14) Interdisciplinary care plan.

C. Staffing. An employee of the facility shall be designated as the person responsible for the overall supervision of the medical record service. There shall be sufficient supportive staff to accomplish all medical record functions.

D. Consultation. If the medical record supervisor is not a qualified medical record practitioner, the Department may require that the supervisor receive consultation from a person so qualified.

E. Completion of Records and Centralization of Reports. Current medical records and those of discharged patients shall be completed promptly. All clinical information pertaining to a patient’s stay shall be centralized in the patient’s medical record.

F. Retention and Preservation of Records. Medical records shall be retained for a period of not less than 5 years from the date of discharge or, in the case of a minor, 3 years after the patient becomes of age or 5 years, whichever is longer.

G. Current Records—Location and Facilities. The facility shall maintain adequate space and equipment, conveniently located, to provide for efficient processing of medical records (reviewing, indexing, filing, and prompt retrieval).

H. Closed or Inactive Records. Closed or inactive records shall be filed and stored in a safe place (free from fire hazards) which provides for confidentiality and, when necessary, retrieval.

10.07.02.21 Infection Control Program.

A. Infection Control Program. The facility shall establish, maintain, and implement an effective infection control program that:

(1) Investigates, controls, and prevents infections in a timely manner through a system that enables the facility to:
   (a) Analyze patterns of infected individuals;
   (b) Analyze changes in prevalent organisms;
   (c) Analyze increases in the rate of infection; and
   (d) Obtain surveillance data for the prevention and control of additional cases;

(2) Determines the procedures, such as appropriate precautions, that are to be applied to an individual resident;

(3) Maintains a record of infections in the facility, and the corrective actions that were taken related to infections; and

(4) Monitors and evaluates the:
(a) Effectiveness of the infection control program by surveying rates of infection, especially of those residents who have an especially high risk of infection; and
(b) Effective implementation of the policies and procedures that are outlined in §F(1) of this regulation.
C. Effective January 1, 2005, the facility's infection control coordinator shall attend a basic infection control training course that is approved by the Office of Health Care Quality and the Office of Epidemiology and Disease Control Program for the Department.

10.07.02.23 Transfer Agreement.
A. Written Agreement. A written agreement with at least one acute hospital shall be effected which shall provide for the following actions:
(1) Planning to ensure that all services required for the continuity of patient care will be made available promptly;
(2) Advance discussion with the patient regarding the reason for the transfer and any available alternatives;
(3) Notification to the next of kin or responsible person regarding the anticipated transfer;
(4) Interchange of medical and other information necessary in the care and treatment of patients transferred between the facilities;
(5) Timely admission to the hospital when the attending physician determines acute hospital care is medically appropriate;
(6) Safe transportation and care of the patient during transfer;
(7) Security and accountability for the patient's personal effects;
(8) Prompt readmission to the comprehensive care facility or the extended care facility at the end of the hospital stay (when program fiscal controls permit);
(9) Annual review of execution of transfer arrangements (by utilization review committee or other designated group) to assure that each party is fulfilling the needs of both the patients and the providers (the hospital and the comprehensive care facility or the extended care facility);
(10) If needs are not being met, it is the responsibility of the administrator of the comprehensive care facility or the extended care facility to act on recommendations of the reviewing group and to effect compliance;
(11) Before licensure, the comprehensive care facility or the extended care facility shall submit to the Department a copy of the written agreement, signed by persons authorized to execute the agreement on behalf of the facilities;
(12) Each facility shall maintain a signed copy of the agreement.
B. Facilities Under Common Control. If two facilities are under common control, a written agreement is not required; policies and procedures of both facilities shall provide assurance that §A(1)--(12) will be the practice of the facilities.
C. Exception for Comprehensive Care Facility. If a comprehensive care facility is unable to effect a transfer agreement with a hospital in the community and can document its attempts to secure an agreement, the facility shall be considered to have such an agreement in effect.
Agency Note: It is recommended that the comprehensive care facility arrange for a similar transfer agreement with an extended care facility.

10.07.02.24 Emergency and Disaster Plan.
A. Emergency and Disaster Plan.
(1) The licensee shall develop an emergency and disaster plan that includes procedures that shall be followed before, during, and after an emergency or disaster, including:
(a) Evacuation, transportation, or shelter in place of residents;
(b) Notification of families and staff regarding the action that will be taken concerning the safety and well-being of the residents;
(c) Staff coverage, organization, and assignment of responsibilities for ongoing shelter in place or evacuation, including identification of staff members available to report to work or remain for extended periods; and
(d) The continuity of services, including:
   (i) Operations, planning, and financial and logistical arrangements;
   (ii) Procuring essential goods, equipment, and services to sustain operations for at least 72 hours;
   (iii) Relocation to alternate facilities or other locations; and
   (iv) Reasonable efforts to continue care.
(2) The licensee shall have a tracking system to locate and identify residents in the event of displacement due to an emergency or disaster that includes at a minimum the:
   (a) Resident’s name;
   (b) Time that the resident was sent to the initial alternative facility or location; and
   (c) Name of the initial alternative facility or location where the resident was sent.
(3) When the nursing facility relocates residents, the facility shall send a brief medical fact sheet with each resident that includes at a minimum the resident’s:
   (a) Name;
   (b) Medical condition or diagnosis;
   (c) Medications;
   (d) Allergies;
   (e) Special diets or dietary restrictions; and
   (f) Family or legal representative contact information.
(4) The brief medical fact sheet for each resident described in §A(3) of this regulation shall be:
   (a) Updated upon the occurrence of any change of information on the medical fact sheet;
   (b) Reviewed at least monthly; and
   (c) Maintained in a central location readily accessible and available to accompany residents in case of an emergency evacuation.
(5) The licensee shall review the emergency and disaster plan at least annually and update the plan as necessary.
(6) The licensee shall:
   (a) Identify a facility, facilities, alternate location, or alternate locations that have agreed to house the licensee’s residents during an emergency evacuation; and
   (b) Document an agreement with each facility or location.
(7) The licensee shall:
   (a) Identify a source or sources of transportation that have agreed to safely transport residents during an emergency evacuation; and
   (b) Document an agreement with each transportation source.
(8) Upon request, a licensee shall provide a copy of the facility’s emergency and disaster plan to the local emergency management organization for the purposes of coordinating local emergency planning. The licensee shall provide the emergency and disaster plan in a format that is mutually agreeable to the local emergency management organization.
(9) The licensee shall identify an emergency and disaster planning liaison for the facility and shall provide the liaison’s contact information to the local emergency management organization.
(10) The licensee shall prepare an executive summary of its evacuation procedures to provide to a resident, family member, or legal representative upon request. The summary shall, at a minimum:
   (a) List means of potential transportation to be used in the event of evacuation;
   (b) List potential alternative facilities or locations to be used in the event of evacuation;
   (c) Describe means of communication with family members and legal representatives;
(d) Describe the role and responsibilities of the resident, family member, or legal representative in the event of an emergency situation; and
(e) Notify families that the information provided may change depending upon the nature or scope of the emergency or disaster.

B. Evacuation Plans. The facility shall conspicuously post individual floor plans with designated evacuation routes on each floor.

C. Orientation and Drills.
(1) The licensee shall:
(a) Orient staff to the emergency and disaster plan and to their individual responsibilities within 24 hours of the commencement of job duties; and
(b) Document completion of the orientation in the staff member's personnel file through the signature of the employee.

(2) Fire Drills.
(a) The licensee shall conduct fire drills at least quarterly on all shifts.
(b) The licensee shall:
(i) Document completion of each drill;
(ii) Have all staff who participated in the drill sign the document; and
(iii) Maintain the documentation on file for a minimum of 2 years.

(3) Semiannual Emergency and Disaster Drill.
(a) The licensee shall conduct a semiannual emergency and disaster drill on all shifts during which the facility practices evacuating residents or sheltering in place so that each is practiced at least one time a year.
(b) The drills may be conducted via a table-top exercise if the licensee can demonstrate that moving residents will be harmful to the residents.
(c) Documentation. The licensee shall:
(i) Document completion of each drill or training session;
(ii) Have all staff who participated in the drill or training sign the document;
(iii) Document any opportunities for improvement as identified as a result of the drill; and
(iv) Keep the documentation on file for a minimum of 2 years.

(4) The licensee shall cooperate with the local emergency management agency in emergency planning, training, and drills and in the event of an actual emergency.

10.07.02.25 Location and Communication.
The site of the facility shall be approved by the Department. It shall be located in an area convenient to professional personnel and other employees. The environment shall be free from excessive noise and air pollution. In new facilities sound transmission limitations shall be in accordance with Standard No. E 90 of the American Society for Testing and Materials (ASTM), as revised from time to time. The facility shall be located on a well-drained site not subject to flooding. If it is served by private access roads, the facility shall maintain the roads in passable condition at all times. The following criteria shall control location of a facility proposed to be located near an airport:
A. Class I, Military Airports Handling Heavy Aircraft. Medical facilities may not be located beneath the approach/Departure corridors. The corridor shall be defined as 2 miles wide and 5 miles long beginning at the end of the runway. Medical facilities may not be located beneath the airport traffic pattern, the pattern being defined as a 1 mile wide track centered on the nominal traffic pattern.
B. Class II, Commercial Airports Handling Heavy Commercial Aircraft. Medical facilities may not be located beneath the approach/Departure corridor. The corridor shall be defined as 2 miles wide and 5 miles long beginning at the end of the runway.
C. Class III, Military and Commercial Airports Handling Light Aircraft and General Aviation. Medical facilities may not be located beneath the approach/Departure corridor or traffic pattern. The
corridor shall be 1 mile wide and 3 miles long beginning at the end of the runway, the traffic pattern restriction being defined as a 1 mile wide track centered on the nominal pattern.

D. Applicant’s Responsibility to Supply Traffic Pattern Data. It shall be the responsibility of the applicant to furnish all data on corridors and patterns as described above for the purpose of site approval. This data shall be submitted at the same time the facility submits information to Comprehensive Health Planning. The Department’s response to the facility shall be made within the same time frame required for Comprehensive Health Planning.

E. New Facilities. In new construction the noise level may not exceed 40dB(A).

F. Class IV, Heliports. No restrictions when used exclusively for health care purposes. Facilities located near heliports used for purposes other than health care shall meet sound transmission limitations in accordance with Standard No. E 90 of the American Society for Testing and Materials (ASTM), as revised from time to time.

G. All existing facilities and those facilities approved by the Department before the adoption of these regulations shall be exempt from the location requirements of these regulations.

10.07.02.39 Geriatric Nursing Assistant Program.

A. Facility Responsibilities.

1. Each facility shall conduct or arrange a nurses’ aide training program for unlicensed personnel assigned direct patient care duties. This requirement does not extend to physical or occupational therapy assistants or to other employees performing delegated, non-nursing functions. The facility may use an outside program if it has been reviewed and approved by the Department.

2. Each facility shall submit a written proposal to the Department for satisfying the developmental training program requirement.

3. A nurse aide is deemed to satisfy the requirements of this chapter if that individual has successfully completed a training program approved by the State before July 1, 1990, or has been "grandfathered" under previous regulations.

4. Other persons hired as nurse aides after July 1, 1990 shall complete an approved program within 120 days of employment.

5. The facility shall record the satisfactory completion of the program in each employee’s personnel record. A certificate evidencing completion of the program shall be issued to the employee. The signature of the program’s teacher or trainer shall be required for authentication.

B. Course Structure.

1. Effective with employees hired on or after July 1, 1990, the training program course shall consist of 75 hours or more, and include at least 37.5 hours of classroom instruction and not less than 37.5 hours of supervised clinical experience in long-term care.

2. The course content shall adhere to the Geriatric Nursing Assistant Program curriculum in Regulation .40 of this chapter.

3. The course instructor shall have overall supervisory responsibility for the operation of the program, and shall:
   (a) Be a registered nurse licensed in Maryland;
   (b) Have at least 2 years of nursing experience, at least 1 year of which shall have been in caring for the elderly or chronically ill in the past 5 years; and
   (c) Have attended a program of instruction in training methodologies approved by the Department.

4. Supplementary instructors shall be drawn from qualified resource personnel such as registered nurses, licensed practical/vocational nurses, pharmacists, dieticians, social workers, sanitarians, fire safety experts, nursing home administrators, gerontologists, psychologists, physicians, physical and occupational therapists, activities specialists, speech/language/hearing therapists, and residents’ rights experts, as well as persons with relevant experience, such as residents or experienced aides.
(5) Adequate numbers of instructors are required to ensure that each trainee is provided effective assistance and supervision which does not endanger the safety of residents.

(6) Each training program shall have behaviorally stated objectives for each unit of instruction, stating measurable performance criteria.

(7) Each trainee shall be clearly identified as a trainee during all skills training portions of the training.

(8) During training, a trainee may provide only that care for which the trainee has demonstrated competency to the satisfaction of the appropriate program instructor.

(9) An orientation program shall be provided to trainees for a nursing facility in which training is to occur. This program shall consist of:

(a) An explanation of organizational structure, policies, and procedures;
(b) Discussion of the philosophy of care;
(c) Description of the resident population; and
(d) Employee rules.

(10) The orientation may not be included in the required 75 hours of the training course.

(11) A training program shall provide at least 16 hours of training prior to a trainee’s direct assignment to resident care. This instruction shall include the following topics:

(a) Infection control;
(b) Safety and emergency procedures;
(c) Promoting residents’ independence;
(d) Respecting residents’ rights; and
(e) Communication and interpersonal skills.

10.07.02.40 Curriculum for the Geriatric Nursing Assistant Program.

A. Introduction.

(1) Role of nursing assistant;
(2) Relationships of nursing assistant to health care team;
(3) Purpose of long-term care;
(4) Patient’s rights.

B. Approaches of Caring for the Aging Patient.

(1) Observation/reporting:
(a) Changing function and behavior—normal vs. abnormal,
(b) Confidentiality;
(2) Communication:
(a) Forms (examples, body language, verbal and nonverbal),
(b) Patient, family and staff;
(3) Cultural and social needs:
(a) Background—past/present views,
(b) Social myths and prejudice;
(4) Spiritual needs;
(5) Family’s needs and reaction.

C. Patient Environment.

(1) Safety:
(a) Protective devices/restraints,
(b) Fire and disaster;
(2) Infection control:
(a) Handwashing;
(b) Signs and symptoms of common communicable disease;
(c) Basics in isolation techniques;
(3) Maintaining the patient room:
(a) General environmental cleanliness;
(b) Age-related consideration (for example, temperature, glare, noise);
(4) Equipment:
(a) Storage,
(b) Use,
(c) Preventive maintenance.

D. Basic Skills. These skills will require instruction, demonstration, and return demonstration by each student.
(1) Bedmaking:
(a) Supplies,
(b) Occupied/unoccupied,
(c) Method,
(d) Handling of linens (clean and dirty);
(2) Personal grooming:
(a) Baths:
(i) Types,
(ii) Supplies,
(iii) Nail care,
(iv) Foot care,
(v) Hair care;
(b) Oral hygiene:
(i) Importance,
(ii) Equipment,
(iii) Procedure,
(iv) Special care;
(3) Feedings:
(a) Types,
(b) Assisting,
(c) Independent,
(d) Complete;
(4) Bedpans and urinals:
(a) Precautions,
(b) Positioning;
(5) Body mechanics:
(a) Transfer:
(i) Equipment,
(ii) Principles,
(iii) Types;
(b) Positioning:
(i) Bed,
(ii) Chair.

E. Intermediate Skills. These abilities will require instruction, demonstration, and return demonstration by each student.
(1) Ambulation:
(a) Walker;
(b) Cane;
(2) Enemas:
(a) Types,
(b) Positioning;
(3) Collection and types of specimens (urine, stool, and sputum);
(4) Intake and output—observation and recording;
(5) Vital Signs:
(a) Temperature,
(b) Pulse,
(c) Respirations,
(d) Height,
(e) Weight,
(f) Blood pressure;
(6) Terminal care:
(a) Dying vs. death,
(b) Family—present and past,
(c) Personal possessions,
(d) Cultural benefits,
(e) Postmortem care.

F. Advance Skills. These skills will require instruction, demonstration, and return demonstration by each student.

(1) Bowel and bladder training;
(2) Range of motion;
(3) Reality orientation;
(4) Patient care planning implementation;
(5) Oxygen;
(6) Emergency procedures;
(7) Decubitus care and prevention;
(8) Feeding tube care;
(9) Catheter care and positioning of tube for drainage;
* (10). Impactions—observation and removal;
* (11) Colostomy/ileostomy/ileo-conduit;
(12) Hot and cold applications;
* (13) Sitz baths. ---------
* Optional procedures.

G. Principles of Body Systems. Objectives of this unit will be to present a basic overview of each system as it relates to patient limitation/condition/disease.

(1) Circulatory;
(2) Respiratory;
(3) Muscular and skeletal;
(4) Sensory/neurological;
(5) Metabolic/endocrine;
(6) Urinary;
(7) Gastrointestinal;
(8) Skin.

H. Dementia. Objectives of this unit will be to enable students to identify and describe behavior and symptoms of dementia, to recognize and report changes in behavior to supervisors, to assist cognitively impaired patients with activities of daily living including personal care and ambulation with the least possible behavior disruptions, to maintain a safe environment for patients with dementia, and to intervene appropriately in behavioral manifestations of dementia.

(1) Introduction.
(a) Definition of dementia disease process;
(b) Misconceptions;
(c) Causes:
   (i) Irreversible,
   (ii) Reversible;
(d) Delirium:
   (i) Recognizing delirium to differentiate delirium from dementia;
   (ii) Causes.
(2) Behaviors and Symptoms.
   (a) Specific behaviors:
      (i) Aggressiveness,
      (ii) Agitation/screaming,
      (iii) Catastrophic,
      (iv) Hallucinations/delusions,
      (v) Inappropriate sexual behavior,
      (vi) Limited attention span,
      (vii) Resistive behavior,
      (viii) Rummaging and hoarding,
      (ix) Suspiciousness,
      (x) Wandering;
   (b) Related behaviors:
      (i) Anxiety,
      (ii) Demanding,
      (iii) Depression/withdrawal,
      (iv) Irritability,
      (v) Sleep changes.
(3) Psychosocial Aspects.
   (a) Impact on family;
   (b) Impact on other residents;
   (c) Coping with losses;
   (d) Staff stress and its management.
(4) Responses to Behaviors. Each behavior shall include a description of the behavior, what to report and when to report, to whom to report, and management aspects (environment, communication, social/activities, physical management).

10.07.02.42 Geriatric Nursing Assistant Program — Competency Evaluation and Registry.

A. Geriatric Nursing Assistant Competency Evaluation.
(1) The Department shall provide for the evaluation and certification of the competency of geriatric nursing assistants.
(2) The Department will approve one or more competency evaluation programs meeting the criteria set forth by the Health Care Financing Administration of the United States Department of Health and Human Services for registration of nursing aides under Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act.
(3) On or after October 1, 1990, a comprehensive care facility may not employ an individual in the capacity of geriatric nursing assistant unless the individual has successfully completed a competency evaluation approved by the Department, except as provided in Regulations .39A(1) and .41B of this chapter. The competency evaluation shall consist of two parts, which are a written evaluation and a clinical skills evaluation.
(4) On or after October 1, 1990, an individual shall be reregistered as a geriatric nursing assistant if there has been a continuous period of 24 months during which the individual did not provide nursing assistant duties for monetary compensation since the individual's last registration.

B. Geriatric Nursing Assistant Registry.
(1) The Department shall establish and maintain a registry of geriatric nursing assistants properly certified to work in that capacity in comprehensive care facilities or extended care facilities in Maryland.
(2) Individuals possessing proof of out-of-State registration as a geriatric nursing assistant as provided under Regulation .41B of this chapter shall submit proof of that registration to the Department in order to be listed in the geriatric nursing assistant registry in Maryland.

(3) Except as provided in Regulation .39A(3) of this chapter, after the establishment of a registry, a nursing facility may not employ an individual as a geriatric nursing assistant who is not listed in the registry.

(4) The registry shall include the following information concerning individuals listed:
(a) Full name, including maiden name and other surnames used;
(b) Address at the time the competency evaluation is passed;
(c) Date of birth;
(d) Social Security number;
(e) Name of training program and date of completion;
(f) An individual’s last known employer and the date of hiring and termination by the employer;
(g) Date or dates of competency evaluation and date of successful completion of competency evaluation;
(h) Any findings documented by the Department of resident neglect or abuse, or misappropriation of resident property involving an individual listed in the registry; and
(i) A brief statement disputing the findings in §B(4)(h), of this regulation, by an individual, if the individual makes a statement.

(5) Before any finding is included in the registry, the Department shall notify the individual involved, and permit the individual to appeal the finding. The appeal shall be filed within 30 days of the notification by the Department. If an appeal is filed in a timely manner, the finding may not be included until a decision by the Secretary that the inclusion of the findings is appropriate.

(6) A person participating in good faith in these activities is not civilly liable under the provisions of Health-General Article, §19-347(g), Annotated Code of Maryland.

(7) Information contained in the registry shall be considered public information under the Maryland Public Information Act and in accordance with federal law.

(8) Renewal and updating of a geriatric aide’s registration is required every 2 years on a schedule set by the State.

(9) Registration fees may be charged to the individual to be listed in the registry.

10.07.02.45 Quality Assurance Program.

A. By January 1, 2001, each nursing facility shall establish an effective quality assurance program that includes components described in this regulation and Regulation .46 of this chapter.

B. The nursing facility shall appoint a qualified individual to manage quality assurance activities within the nursing facility.

C. The nursing facility shall establish a quality assurance committee that includes at least:
(1) A director of nursing;
(2) An administrator;
(3) A social worker;
(4) A medical director;
(5) A dietitian; and
(6) A geriatric nursing assistant of the facility.

D. The Quality Assurance Committee. The quality assurance committee shall:
(1) Designate a chairperson to manage committee activities;
(2) Meet monthly to accomplish quality assurance activities;
(3) Assist in developing and approve the facility’s quality assurance plan;
(4) Submit the quality assurance plan to the Department’s Office of Health Care Quality at the time of licensure or at the time of license renewal;
(5) Submit any change in the quality assurance plan to the Office of Health Care Quality within 30 days of the change;
(6) Review and approve the facility’s quality assurance plan at least yearly; and
(7) Prepare monthly reports for the ombudsman, family council, and residents’ council.
E. Quality Assurance Records. For the purposes of ensuring implementation and effectiveness of the quality assurance program, the facility shall make quality assurance records and documents available to the Office of Health Care Quality.
10.07.02.46 Quality Assurance Plan.
A. The facility’s quality assurance committee shall develop and implement a quality assurance plan that includes procedures for:
(1) Concurrent review;
(2) Ongoing monitoring;
(3) Patient complaints;
(4) Accidents and incidents; and
(5) Abuse and neglect.
B. Concurrent Review. The quality assurance plan shall include:
(1) The procedures for conducting concurrent review of each resident including:
   (a) Criteria to determine any change in a resident’s condition;
   (b) A method to document the concurrent review; and
   (c) Identification of the licensed nurse or nurses conducting the concurrent review;
(2) The procedures to evaluate clinical data for any resident with a change in condition including at least:
   (a) Medications;
   (b) Laboratory values;
   (c) Intake and output;
   (d) Skin breakdown;
   (e) Noted weights;
   (f) Appetite;
   (g) Injuries resulting from accidents or incidents; and
   (h) Any other relevant parameters that may affect the resident’s physical or mental status;
(3) Procedures to take action when there is a change in the resident’s condition; and
(4) Procedure for referral of data to the quality assurance committee, when appropriate.
C. Ongoing Monitoring. The quality assurance plan shall include:
(1) A description of the measurable criteria for ongoing monitoring of all aspects of resident care including:
   (a) Medication administration;
   (b) Prevention of decubitus ulcers, dehydration, and malnutrition;
   (c) Nutritional status and weight loss or weight gain;
   (d) Accidents and injuries;
   (e) Unexpected death; and
   (f) Changes in physical or mental status;
(2) The methodology for collection of data;
(3) The methodology for evaluation and analysis of data to determine trends and patterns;
(4) A description of the thresholds and performance parameters that represent acceptable care for the measured criteria;
(5) Time frames for referral to the quality assurance committee;
(6) A description of the plan for follow-up to determine effectiveness of the recommendations; and
(7) A description of how the quality assurance activities will be documented.
D. Patient Complaints. The quality assurance plan shall include:
A description of a complaint process that effectively addresses resident or family concerns including:
(a) The designated person or persons and their phone numbers to receive complaints or concerns;
(b) The method to be used to acknowledge complaints received; and
(c) The time frames for investigating complaints dependent upon the nature or seriousness of the complaint;
(2) A description of a logging system that will be used including the:
(a) Name of the complainant;
(b) Date the complaint was received;
(c) Nature of the complaint; and
(d) Date that the complainant was notified of the disposition or resolution of the complaint; and
(3) The procedures for:
(a) Notifying residents of their right to file a complaint with the Office of Health Care Quality;
(b) Informing residents, families, or guardians of the complaint process upon admission; and
(c) Posting the complaint process or making it available without the need to request it.
E. Accidents and Injuries. The quality assurance plan shall include:
(1) A definition of accident and injury that is appropriate to the type of resident served by the nursing home;
(2) A description of the process for reporting accidents and injuries including:
(a) Who shall report incidents;
(b) The time frame for reporting incidents; and
(c) The procedure for reporting incidents;
(3) A policy statement that includes a provision that reporting incidents can be done without fear of reprisal;
(4) A description of how internal investigations of accidents and injuries will be handled including:
(a) Assessment of any injury;
(b) Interview of the resident, staff, and witness;
(c) Review of any relevant records including the resident’s medical records, discharge summary, hospital records, etc.; and
(d) Time frames for conducting the investigation;
(5) A description of the process for notifying family or guardian about the incident;
(6) A description of a process for the ongoing evaluation of accidents and injuries to determine patterns and trends; and
(7) A description of how relevant information will be referred to the quality assurance committee.
F. Abuse and Neglect. The quality assurance plan shall include:
(1) The process for implementing COMAR 10.07.09.15 concerning abuse of residents;
(2) A description of the process for providing immediate notification to the family, guardian, or responsible party about the incident;
(3) A description of the process for the ongoing evaluation of validated incidents of abuse and neglect to determine patterns and trends; and
(4) A description of how relevant information will be referred to the quality assurance committee.

MASSACHUSETTS
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150.001: Definitions
Levels of Long-term Care Facilities or Units.
(1) Intensive Nursing and Rehabilitative Care Facility (Level I) shall mean a facility or units thereof that provide continuous skilled nursing care and an organized program of restorative services in
addition to the minimum, basic care and services required in 105 CMR 150.000. Level I facilities shall comply with the Conditions of Participation for Extended Care Facilities under Title XVIII of the Social Security Act of 1965 (P.L. 89-97) and shall provide care for patients as prescribed therein. (2) Skilled Nursing Care Facilities (Level II) shall mean a facility or units thereof that provide continuous skilled nursing care and meaningful availability of restorative services and other therapeutic services in addition to the minimum, basic care and services required in 105 CMR 150.000 for patients who show potential for improvement or restoration to a stabilized condition or who have a deteriorating condition requiring skilled care. (3) Supportive Nursing Care Facilities (Level III) shall mean a facility or units thereof that provide routine nursing services and periodic availability of skilled nursing, restorative and other therapeutic services, as indicated, in addition to the minimum, basic care and services required in 105 CMR 150.000 for patients whose condition is stabilized to the point that they need only supportive nursing care, supervision and observation.

150.002: Administration
(A) Every licensee shall designate a qualified administrator and shall establish by-laws or policies which describe the organization of the facility, establish authority and responsibility, and identify programs and goals. (1) The ownership of the facility and of any applicant or licensee shall be fully disclosed to the Department, including the name and addresses of all owners, or, in the case of corporations, the officers. Holders of all mortgages shall also be reported annually to the Department. (2) The licensee shall be responsible for compliance with all applicable laws and regulations of legally authorized agencies
(B) Administration
(1) A full-time administrator shall be provided in (a) facilities that provide Level I care, (b) facilities that provide Level II care and consist of more than one unit, and (c) facilities that provide Level III care and consist of more than two units. (2) Facilities that provide Level II care with only a single unit, and facilities that provide Level III care with less than two units shall provide an administrator for the number of hours as needed in accordance with the size and services provided by the facility. (3) No more than one administrator is required even in facilities providing multiple units or multiple levels of care. (4) A full-time administrator shall be on the premises during the work day. (5) In facilities that provide Level I, II, or III care, the administrator shall be a licensed nursing home administrator.
(6) The administrator shall be a suitable and responsible person. (7) A responsible person shall be designated to act in the absence of the administrator. (8) The names and telephone numbers of the administrator and his alternate shall be posted and available to the individual in charge at all times. (C) The administrator of the facility shall be responsible to the licensee and shall operate the facility to ensure that services required by patients or resident sat each level of care are available on a regular basis and provided in an appropriate environment in accordance with established policies. (D) The licensee shall be responsible for procurement of competent personnel, and the licensee and the administrator shall be jointly and severally responsible for the direction of such personnel and for establishing and maintaining current written personnel policies, and personnel practices and procedures and encourage good patient and resident care. (1) At all times, every facility shall provide a sufficient number of trained, experienced and competent personnel to provide appropriate care and supervision for all patients and residents and
to ensure that their personal needs are met. Accurate time records shall be kept on all personnel. Personnel time records shall be posted and maintained on a weekly basis.
(2) There shall be written job descriptions for all positions including qualifications, duties and responsibilities. Work assignments shall be consistent with job descriptions and qualifications.
(3) There shall be an organized orientation program for all new employees to explain job responsibilities, duties and employment policies.
(4) Personnel shall be currently licensed or registered where applicable laws require licensure and registration.
(5) Completed and signed application forms and employee records shall be maintained. They shall be accurate, current and available on the premises. Such records shall include the following:
(a) Pertinent information regarding identification (including maiden name).
(b) Social Security number, Massachusetts license or registration number (if applicable) and year of original licensure or registration.
(c) Names and addresses of educational institutions attended, dates of graduation, degrees or certificates conferred and name at the time of graduation.
(d) All professional experience, on-the-job training and previous employment in chronological order with name and location of employer, dates of employment, and reasons for terminating employment.
(9) No individual who is an alcoholic or drug abuser whose current use of alcohol and drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others shall be employed or permitted to work.
(10) The Department shall be notified promptly in writing of the resignation or dismissal of the administrator, the director of nurses or the supervisor of nurses and the name and qualifications of the new employee. In the case of dismissal, notice to the Department shall state the reasons.
(E) The administrator shall establish procedures for the notification of the patient, the next of kin or sponsor in the event of significant change in a patient’s or resident’s charges, billings, benefit status and other related administrative matters.
(F) The administrator shall establish procedures for the notification of the physician or physician-physician assistant team or physician-nurse practitioner team and the patient’s or resident’s next of kin or sponsor in the event of an emergency.
(G) The administrator shall be responsible for ensuring that all required records, reports and other materials are complete, accurate, current and available within the facility.
(3) All fires and all deaths resulting from incidents in a facility shall be reported immediately by telephone to the Department. On weekends or holidays, calls should be directed to the State House Capitol Police for relay to personnel on call. The verbal reports shall be confirmed in writing within 48 hours with specific information on injuries to patients, residents or staff, disruption of services and extent of damages. Injury to patients or residents as the result of fire shall be considered an incident under 105 CMR 150.002(G)(1) and shall be reported as indicated therein.
(H) The administrator shall develop and implement policies and procedures governing emergency transport. Such policies and procedures shall include criteria for deciding whether to call the emergency telephone access number 911 or its local equivalent, or a contracted private ambulance service provider, if any, in response to an emergency medical condition. The criteria for determining whether to call 911 versus the contracted provider shall address such factors as the nature of the emergency medical condition, and the time to scene arrival of specified in relevant agreements with the contracted provider, if any.
(I) No later than November 30, 2005, the administrator of a nursing facility shall acquire an automated external defibrillator and develop policies and procedures for the rendering of automated external defibrillation in the facility.
(2) For the purposes of 105 CMR 150.000, the facility shall contract with or employ a physician who shall be the automated external defibrillation medical director for the facility.

(a) The medical director shall oversee and coordinate the automated external defibrillation activities of the facility including:

1. maintenance and testing of equipment in accordance with manufacturer’s guidelines;
2. certification and training of facility personnel;
3. periodic performance review of the facility automated external defibrillation activity.

(b) The medical director shall integrate the facility automated external defibrillation activity with the local Emergency Medical response system.

(J) No later than January 15, 2007 the administrator of a nursing facility shall develop and implement policies and procedures acceptable to the Department that govern the nursing facility’s participation in the Satisfaction Survey conducted by the Department or its designee. These policies and procedures shall include, at a minimum, the provision of the following information to the Department or its designee:

1. The name of each facility resident.
2. The name or names of each resident’s family member or members, legal guardian or other resident designee or designees who acts on behalf of the resident.
3. The mailing address and telephone number for each resident’s family member or members, legal guardian or other resident designee or designees who acts on behalf of the resident.
4. The admission date for each facility resident.

150.003: Admissions, Transfers and Discharges

(D) Admission of Mental Health Patients or Residents.

(1) Level II and III facilities admitting or otherwise caring for individuals discharged from mental institutions, including institutions under the control of or affiliated with the Department of Mental Health, shall meet the following conditions for care and supervision.

...(f) The staff of long-term care facilities accepting such individuals has had special training or experience in the field of mental health or the facility provides regular in-service training programs on subjects of mental health for the staff.

(G) Transfer and Discharge.

(1) Facilities providing Level I, II or III care shall enter into a written transfer agreement with one or more general hospitals that provides for the reasonable assurance of transfer and inpatient hospital care for patients whenever such transfer is medically necessary as determined by the attending physician or physician-physician assistant team or physician-nurse practitioner team. The agreement shall provide for the transfer of acutely ill patients to the hospital ensuring timely admission and provisions for continuity in the care and the transfer of pertinent medical and other information. Every facility providing SNCFC or both shall enter into a written transfer agreement with one or more hospitals which have an organized pediatric department.

150.004: Patient Care Policies

(A) All facilities that provide Level I, II or III care shall have current, written policies that govern the services provided in the facility:

Admission, transfer and discharge procedures; Physician, physician-physician assistant team and physician-nurse practitioner team services; Diagnostic services; Nursing services; Pharmaceutical services and medications; Dietary services; Restorative services; Carry over services (in a certified facility); Social services; Other professional services (dental, podiatric, etc.) and diagnostic services; Patient or resident activities and recreation; Emergency and disaster plans; Personal comfort, safety, and accommodations; Clinical Records Utilization Review.
(B) The administrator shall be responsible for the development of these policies with the advice of professional advisors or consultants, the director or supervisor of nurses and representatives from other disciplines as may be appropriate.
(C) Policies shall be reviewed and revised at least annually
(E) In a facility having both a SNCFC and units for adults, written policies shall be established regarding interactions between children and adults.
(F) All facilities shall have policies and procedures sufficient to deal effectively with emergencies arising from a patient's or resident's mental health crisis.

150.005: Physician Services

...(B) Facilities that provide Level I, II or III care shall provide medical supervision through a written agreement with
(a) an organized medical staff of a hospital,
(b) an organized medical staff within the facility,
(c) a local medical society, or
(d) two or more advisory physicians (at least one of whom does not have a proprietary interest in the facility).
(1) Supervisory and advisory functions shall include: advice on the development of medical and patient care policies concerning patient admissions and discharge, medical records, responsibilities of attending physicians or physician-physician assistant team or physician-nurse practitioner team, supportive and preventive services, emergency medical care, and the review of the facility's overall program of patient care.
(2) Staff or advisory physicians shall spend at least four hours per month in the facility devoted to supervisory and advisory functions.

150.006: Other Professional Services and Diagnostic Services

...(F) Diagnostic Services.
(1) Facilities shall make arrangements for the prompt and convenient performance of regular and emergency diagnostic, laboratory, x-ray and other clinical tests or procedures when ordered.
(2) All diagnostic services shall be ordered by a physician, physician assistant or nurse practitioner and he shall be promptly notified of the test results.
(3) All findings and reports shall be recorded in the patient's or resident's clinical record.
(4) No clinical laboratory tests shall be routinely performed in facilities providing Level I, II, III or IV care except simple urine tests customarily performed by nursing personnel for diabetic patients, and tuberculin skin tests.

150.007: Nursing Services

...(C) Qualifications and Duties.
(1) Director of Nurses: The Director of Nurses shall be a registered nurse with at least two years of nursing experience, at least one of which has been in an administrative or supervisory capacity.
...(6) At no time shall direct patient care be provided by individuals under 16 years of age, housekeeping staff or kitchen workers.
...(I) Educational Programs. Facilities that provide Level I, II or III care shall provide a continuing in-service educational program appropriate to the level of care provided in the facility for all nursing personnel. Such a program shall be in addition to a thorough job orientation for new personnel. In addition, facilities that admit residents with MR or DD/ORC shall include, as part of the new personnel job orientation and continuing in-service education, content addressing the theory, skills and techniques required to provide care and services to such residents.
150.010: Restorative Therapy Services: Physical Therapy, Occupational Therapy, Speech, Hearing and Language Therapy (and Therapeutic Recreation in a SNCFC)
(B) Restorative Services Units shall ordinarily be permitted only in facilities that provide Level I care. Units may be permitted in facilities that provide Level II care with the written approval of the Department.

150.011: Social Services
...(G) Social Services
...(6) Social services shall include provision of educational programs for the facility staff in order to promote the development of a therapeutic community, a congenial atmosphere and healthy interpersonal relationships in all facilities.

150.012: Activities and Recreation
...(C) Functions of the Activity Director.
(1) The activity director ... participates in...inservice educational programs.

150.013: Clinical and Related Records
(A) All facilities shall provide conveniently located and suitably equipped areas for the recording and storage of records.
(B) All records shall be permanent, either typewritten or legibly written in ink (no record shall be written in pencil). No erasures or ink eradicator shall be used or pages removed.
(C) All records shall be complete, accurate, current, available on the premises of the facility for inspection and maintained in a form and manner approved by the Department. The following records shall be maintained:
(1) Daily census.
(2) Employee records on all employees.
(3) Patient care policies.
(4) Incident, fire, epidemic, emergency and other report forms.
(5) Schedules of names, telephone numbers, dates and alternates for all emergency or "on call" personnel.
(6) A Patient or Resident Roster approved by the Department.
(7) A Doctor's Order Book with a stiff cover and indexed, looseleaf pages. The Doctor's Order Book shall be current and accurate and shall include all medications, treatments, diets, restorative services and medical procedures ordered for patients or residents. Orders shall be dated, recorded and signed (telephone orders countersigned) by the attending physician or nurse practitioner or physician assistant. Facilities may keep Doctors' Order sheets in the patients' or residents' clinical record provided this procedure is so stated in the facility's written policies. The Doctors' Order sheets shall contain all data listed above.
(8) A bound Narcotic and Sedative Book with a stiff cover and numbered pages.
(9) A Pharmacy Record Book with stiff cover and numbered pages.
(10) A bound Day and Night Report Book with a stiff cover and numbered pages.
(11) Individual patient or resident clinical records in stiff-covered folders.
(12) Record forms to record medical, nursing, social and other service data.
(13) Identification and summary sheets on all patients or residents.
(14) Record forms for listing patients' or residents' clothing, personal effects and valuables.
(D) All facilities shall maintain a separate, complete, accurate and current clinical record in the facility for each patient or resident from the time of admission to the time of discharge. This record shall contain all medical, nursing and other related data. All entries shall be dated and signed. This
record shall be kept in an individual folder at the nurses’ or attendants’ station. The clinical record shall include:

(1) Identification and Summary Sheet including: patient’s or resident’s name, bed and room number, social security number, age, sex, race, marital status (married, separated, widowed or divorced), religion, home address, and date and time of admission; names, addresses and telephone numbers of attending physician or physician-physician assistant team or physician-nurse practitioner team and alternates, of referring agency or institution, and of any other practitioner attending the patient or resident (dentist, podiatrist); name, address and telephone number of next of kin or sponsor; admitting diagnosis, final diagnosis, and associated conditions on discharge; and placement.

(2) A Health Care Referral Form, Hospital Summary Discharge Sheets and other such information transferred from the agency or institution to the receiving facility (105 CMR 150.003(C)(1)).

(3) Admission Data recorded and signed by the admitting nurse or responsible person including: how admitted (ambulance, ambulation or other); referred by whom and accompanied by whom, date and time of admission; complete description of patient’s or resident’s condition upon admission, including vital signs on all admissions and weight (if ambulatory); and date and time attending physician or physician-physician assistant team or physician-nurse practitioner team notified of the admission.

(4) Initial Medical Evaluation and medical care plan including: medical history, physical examination, evaluation of mental and physical condition, diagnoses, orders and estimation of immediate and long-term health needs dated and signed by the attending physician (105 CMR 150.005(F)(1)) or signed by a nurse practitioner or physician assistant and countersigned by the supervising physician within ten days for Level I and Level II patients and within 30 days for Level III...IV patients (105 CMR 150.005(F)(4)).

(5) Physician’s or Physician-Physician Assistant Team’s or Physician-Nurse Practitioner Team’s Progress Notes including: significant changes in the patient’s or resident’s condition, physical findings and recommendations recorded at each visit, and at the time of periodic reevaluation and revision of medical care plans (105 CMR 150.005(G)).

(6) Consultation Reports including: consultations by all medical, psychiatric, dental or other professional personnel who are involved in patient or resident care and services, recorded in each patient’s or resident’s clinical record. Such records shall include date, signature and explanation of the visit, findings, treatments and recommendations.

(7) Medication and Treatment Record including: date, time, dosage and method of administration of all medications; date and time of all treatments; special diets; restorative therapy services and special procedures for each patient or resident, dated and signed by the nurse or individual who administers the medication or treatment.

(8) A Record of all fires and all incidents involving patients or residents and personnel while on duty (105 CMR 150.002(D)(6)(c)).

(9) A Nursing Care Plan for each patient or resident (105.150.007(D)(2)).

(10) Nurses Notes containing accurate reports of all factors pertaining to the patient’s or resident’s needs or special problems and the overall nursing care provided.

(11) Initial Plans and written evidence of periodic review and revision of dietary, social service, restorative therapy services, activity, and other patient or resident care plans.

(12) Laboratory and X-ray Reports.

(13) A list of each patient’s or resident’s clothing, personal effects, valuables, funds or other property (105 CMR 150.002(E)(2), 150.002(E)(3)).

(14) Discharge or Transfer Data including: a dated, signed physician’s order or physician assistant’s order or nurse practitioner’s order for discharge; the reason for discharge and a summary of medical information, including physical and mental condition at time of discharge; a complete and accurate health care referral form; date and time of discharge; address of home, agency or
institution to which discharged; accompanied by whom; and notation as to arrangements for continued care or follow-up.

(15) Utilization Review Plan, Minutes, Reports and Special Studies.

(17) Certified facilities that admit residents with MR or DD/ORC shall maintain as part of the resident’s record the DMR Rolland Integrated Service Plan (RISP) and the Specialized Service Provider Plan.

(E) All clinical records of residents or patients including those receiving outpatient restorative services shall be completed within two weeks of discharge and filed and retained for at least five years. Provisions shall be made for safe keeping for at least five years of all clinical records in the event the facility discontinues operation, and the Department shall be notified as to the location of the records and the person responsible for their maintenance.

(F) All information contained in clinical records shall be treated as confidential and shall be disclosed only to authorized persons.

(G) All facilities shall employ a medical records librarian or shall designate a trained employee of the facility to be responsible for ensuring that records are properly maintained, completed and preserved.

150.014: Utilization Review

(A) Facilities that provide Level I or II care shall review the services, quality of care and utilization of their facilities as detailed below.

(B) The utilization review process or activity shall include a review of all or a sample of patients to determine appropriateness of admissions, duration of stays by level of care, professional services and other relevant aspects of care and services provided by the facility.

(C) Utilization review shall be conducted by one or a combination of the following:

(1) By a utilization review committee, which is multidisciplinary and consists of at least two physicians or physician-physician assistant teams or physician-nurse practitioner teams, a registered nurse and, where feasible, other health professionals.

(2) By a committee or group outside the facility which may be established by the following on the approval of the Department:

(a) By a medical society.

(b) By some or all of the hospitals and extended care facilities in the locality.

(c) By other health care facilities in the locality in conjunction with at least one hospital.

(3) When the above alternatives are not feasible, by a committee sponsored and organized in such a manner as to be approved by the Department.

(4) No member of the utilization review committee shall have a proprietary interest in the facility.

(D) Medical Care Evaluation Reviews (Special Studies).

(1) Reviews shall be made on a continuing basis of all or a sample of patients to determine the quality and necessity of care and services provided and to promote efficient use of health facilities and services. Such studies shall be of appropriate type and duration, and at least one study shall be in progress at all times.

(2) Such studies shall emphasize identification and analysis of patterns of care and services.

(3) The reviews of professional services furnished shall include such studies as types of services provided, proper use of consultation, promptness of initiation of required nursing and related care, the study of therapeutic misadventures (adverse reactions) and other such studies.

(4) Data and information needed to perform such studies may be obtained from statistical services, fiscal intermediaries, the facility’s records and other such sources.

(5) Studies and service shall be summarized and recommendations formulated and presented to the administration and other appropriate authorities.

(6) Reviews shall be made of continuous extended duration.
(a) An initial review of patient needs and length of stay by level of care shall be made at an appropriate interval after admission. This interval shall not be longer than 30 days following admission for facilities that provide Level I or II care and 90 days following admission for facilities that provide Level III care. Subsequent reviews shall be made periodically at designated intervals that are reasonable and consonant with the diagnosis and overall condition of the patient.

(b) No physician or physician-physician assistant team or physician-nurse practitioner team shall have review responsibility for any case in which he was professionally involved.

(c) If physician or physician-physician assistant team or physician-nurse practitioner team members of the committee decide, after opportunity for consultation with the attending physician, that further stay in a given level of care is not medically necessary, there shall be prompt notification (within 48 hours) in writing to the facility, the physician responsible for the patient’s care and the patient or his next of kin or sponsor.

(E) To facilitate review, the utilization review committee shall use the complete medical record or a summary of the record and shall use such methods as a utilization review check list and interviews with the attending physicians or physician-physician assistant teams or physician-nurse practitioner teams as indicated.

(F) The facility shall have in effect a currently applicable written plan for utilization review which applies to all patients in the facility, and a copy of the current plan shall be filed with the Department.

1. The plan shall be approved by the governing body and the medical staff, if any.
2. The development of the plan shall be a responsibility of the medical profession and the administration.
3. A written plan for utilization review activities shall include:
   (a) The organization, objectives and composition of the committee(s) responsible for utilization review.
   (b) Frequency of meetings
   (c) The type and content of records to be kept.
   (d) Description of the method to be used in selecting cases for special studies.
   (e) A description of the method utilized to determine periodic reviews.
   (f) Procedures to be followed for preparing committee reports and recommendations including their dissemination and implementation.

(G) Administrative Responsibilities.

1. The administration shall provide support and assistance to the utilization review committee in: assembling information, facilitating chart reviews, conducting studies, exploring ways to improve procedures, maintaining committee records, promoting the most efficient use of available health services and facilities and in planning for the patient’s continuity of care upon discharge.
2. The administration shall act appropriately upon recommendations made by the utilization review committee.

3. In order to encourage the most efficient use of available health services and facilities, assistance to the physician or physician-physician assistant team or physician-nurse practitioner team in timely planning for alternate or post-facility care shall be initiated as promptly as possible, either by the facility’s staff, or by arrangement with other agencies. For this purpose, the facility shall make available to the attending physician or physician-physician assistant team or physician-nurse practitioner team current information on resources available for continued post-discharge care for patients and, shall arrange for prompt transfer of appropriate medical and nursing information in order to assure continuity of care upon discharge or transfer of a patient.

(H) Records, reports and minutes shall be kept of the activities of the utilization review committee, and they shall be complete, accurate, current and available within the facility.

1. The minutes of each meeting shall include:
   (a) A summary of the number and types of cases reviewed and findings.
(b) Committee actions and recommendations on extended stay cases and other types of cases.
(c) Interim reports, final conclusions and recommendations resulting from medical care evaluation reviews (special studies).
(2) Reports shall regularly be made by the committee to the medical staff (if any), the administration and the governing body. Information and reports shall be submitted to the Massachusetts Department of Public Health as may be required.

150.015: Patient Comfort, Safety, Accommodations and Equipment
...(D) Fire Protection.
(1) All fires shall be reported to the Department as specified in 105 CMR 150.002(G)(3).
(2) All facilities shall have an approved quarterly fire report in accordance with the M.G.L. c. 1, § 4.
(3) At least once a year, employees of the home shall be instructed by the head of the local fire department or his representative on their duties in case of fire and this noted in the facility's record.
...(10) No patients or residents shall be permitted to have access to lighter fluid or wooden household matches.
...(E) Disaster Plan.
(1) Every facility shall have a written plan and procedures to be followed in case of fire, or other emergency, developed with the assistance of local and state fire and safety experts, and posted at all nurses’ and attendants’ stations and in conspicuous locations throughout the facility.
(2) The plan shall specify persons to be notified, locations of alarm signals and fire extinguishers, evacuation routes, procedures for evacuating helpless patients, and assignment of specific tasks and responsibilities to the personnel of each shift.
(3) All personnel shall be trained to perform assigned task.
(4) Simulated drills testing the effectiveness of the plan shall be conducted for all shifts at least twice a year.

153.030: Restrictions
(A) No facility in which part of the premises is utilized for tenant occupancy or for business shall be approved for licensure except as provided in 105 CMR 150.012(1).
(B) Office space for physicians, dentists, podiatrists, physiotherapists or paramedical persons is not permitted in any facility.
(C) Facilities shall not provide laboratory services and shall not store or use x-ray equipment.

105 CMR 155.000: PATIENT AND RESIDENT ABUSE PREVENTION
155.010: Responsibilities of the Facility
...(E) Responsibility to Contact Registry.
(1) All facilities...shall contact the registry prior to hiring a nurse aide in order to determine whether the prospective employee has met the federal requirements for competency contained in 42 USC s.1396r and has been certified as a nurse aide for employment in a facility.
(2) All facilities shall contact the registry prior to hiring any employee to ascertain if there is any sanction, finding or adjudicated finding of patient or resident abuse, neglect, mistreatment or misappropriation of patient or resident property against the prospective employee.
(F) Provision of Training. Each facility... shall provide orientation and annual inservice training programs for all staff on patient and resident abuse, neglect, mistreatment, and misappropriation of patient or resident property.
(1) All new employees shall receive orientation before they begin an assignment to care for a patient or resident. Such orientation shall include:
(a) provision of information about the requirements of M.G.L. c. 111, §§ 72F through 72L, and 105 CMR 155.000;
(b) instruction on the obligation to report suspected patient or resident abuse, neglect, mistreatment or misappropriation of patient or resident property, and the reporting procedures as set forth in 105 CMR 155.000; and
(c) close observation of new employees.

(2) Immediately after beginning employment and at least once a year thereafter, all personnel of facilities...shall receive inservice training which shall include, but not be limited to, the following:
(a) provision of information about the requirements of M.G.L. c. 111, §§ 72F through 72L and 105 CMR 155.000;
(b) instruction on the obligation to report suspected patient or resident abuse, neglect, mistreatment or misappropriation of patient or resident property, and the reporting procedures as set forth in 105 CMR 155.000;
(c) instruction in techniques for the management of patients or residents with difficult behavior problems;
(d) identification of factors which contribute to or escalate patient or resident behavior which is threatening or assaultive;
(e) assessment of personal responses to patient or resident behavior which is aggressive, threatening or assaultive;
(f) identification and reinforcement of positive and adaptive employee and patient or resident coping behavior;
(g) training in the use of intervention techniques, including verbal responses and safe, non-injurious physical control techniques, as therapeutic tools for threatening or assaultive patients or residents; and
(h) interdisciplinary program and treatment planning for patients and residents, as appropriate.

(G) Adoption of Preventive Policies. Each facility...shall adopt and implement preventive administrative, management and personnel policies and practices, including, but not limited to, the following:
(1) careful interviewing of employee applicants;
(2) close examination of applicant references prior to hiring;
(3) in accordance with applicable federal and state laws, obtaining all available criminal offender record information from the criminal history systems board on an applicant under final consideration for a position that involves the provision of direct personal care or treatment to patients or residents.
(4) cooperation with other facilities...in providing information to prospective employers about an employee’s competence, including the ability to handle patients or residents with difficult behavioral problems;
(5) staff support programs;
(6) development of patient or resident care plans which include approaches to dealing with patients or residents who may exhibit hostile behavior; and
(7) provision of timely and relevant information to employees regarding patients or residents who are emotionally unstable or have difficult behavior problems, and approaches to be used in caring for them.

155.016: Establishment and Content of the Registry for Nurse Aides
(A) The Department shall establish and maintain a registry of all individuals who have met the federal requirements for competency contained in 42 USC §1396r and have been certified as nurse aides for employment in a facility.
(B) A facility ...must not hire or employ on a paid, unpaid, temporary or permanent basis, any individual working as a nurse aide for more than four months, unless that individual is listed in the registry as having demonstrated competency in accordance with 105 CMR 155.016

(C) The registry shall also contain the following:
(1) specific, documented findings or adjudicated findings of patient or resident abuse, neglect, mistreatment or misappropriation of patient or resident property by nurse aides...The documentation must include:
(a) the name, address, telephone number and social security number of such individual;
(b) the nature of the allegation and the record number identifying the documents on which the Department’s conclusion were based; and
(c) the date of the hearing if such individual chose to have one, and its outcome.
(2) a brief statement by the accused nurse aide...disputing the findings, if such individual chooses to provide such statement;
(3) if the Department imposed any suspension or probationary period on the nurse aide...the dates for which such suspension or probation is in effect; and
(4) if known to the Department, any guilty findings made against such individual by a court of law, or any guilty pleas, nolo contendere pleas, or admission to facts sufficient to support a guilty finding made in a court of law by such individual accused of patient or resident abuse, neglect, mistreatment, or misappropriation of patient or resident property.

(D) Disclosure of information on the registry:
(1) the Department must disclose information regarding findings and adjudicated findings of patient or resident abuse, neglect, mistreatment or misappropriation of patient or resident property, other sanctions imposed against any nurse aide... as well as any information regarding guilty findings, guilty pleas, nolo contendere pleas or admitted to sufficient facts to support a guilty finding made by such individual in a court of law.
(2) when disclosing such information regarding any nurse aide...the Department shall also disclose any statement made by such individual disputing the findings.

105 CMR 156.000: THE TRAINING OF NURSES’ AIDES IN LONG-TERM CARE FACILITIES

105 CMR 156.000 sets forth standards for the training of nurses’ aides who assist nurses in providing nursing care in level II/III long-term care facilities...The following are available in Department of Public Health guidelines: curriculum specifications; evaluation form to be used by all instructors; course application form and blank document of completion.

156.010: Scope and Applicability
105 CMR 156.000 applies to all licensed level II and III long-term care facilities and those level IV units which employ nurses’ aides as defined below.

156.100: Responsibilities of the Facility
(A) Any facility which hires a nurses’ aide, except as described in 105 CMR 156.100(D), shall provide, or arrange to provide, training for said nurses’ aide in accordance with 105 CMR 156.000 except as provided for in 105 CMR 156.130. Such training shall be completed within 90 days of commencement of employment, as provided for in 105 CMR 156.140(C).
(B) The facility shall be responsible for documenting that all nurses’ aides employed by the facility are in conformity with the training requirements as set forth in 105 CMR 156.000.
(C) The documentation shall include but is not limited to:
(1) For each nurses’ aide:
(a) Document of Completion; or
(b) Evidence of enrollment in a training course, or participation in the evaluation process in accordance with timeframes set forth in 105 CMR 156.120, 105 CMR 156.130, and 105 CMR 156.140; and
(2) If the licensee/facility served as a training provider, the documentation specified in 105 CMR 156.200: Responsibilities of Training Providers.

(D) The facility shall ensure that all nurses' aides employed through temporary help agencies have successfully completed a nurses' aide training course in accordance with 105 CMR 156.120, are enrolled in a nurses' aides training course with planned completion in accordance with 105 CMR 156.120, or are currently being evaluated with planned completion in accordance with 105 CMR 156.130.

(1) The facility shall have a written agreement with the temporary help agency that the agency will provide only nurses' aides trained in conformity with 105 CMR 156.100(D).

(2) For nurses' aides employed through temporary help agencies, the facility shall verify, prior to employment by the facility, that such nurses' aides have been trained in conformity with 105 CMR 156.000 as specified in 105 CMR 156.100(D).

(E) The facility shall not continue to employ any nurses' aides who has not:
(1) Successfully completed both of the following:
   (a) Training in accordance with these regulations, 105 CMR 156.120 within 90 days of commencement of employment as provided for in 105 CMR 156.140(C); and
   (b) Evaluation as specified in 105 CMR 156.400 and a Document of Completion received within 180 days of commencement of employment as provided for in 105 CMR 156.140(C); or
(2) Successfully completed the equivalency evaluation in accordance with the timeframes set forth in 105 CMR 156.130 and 156.140(C).

(F) The facility shall ensure that nurses' aides perform only those tasks for which they have been trained and for which they have successfully demonstrated their ability to correctly perform these tasks. Such demonstrations shall be documented on the evaluation form as specified in 105 CMR 156.400.

156.120: Nurses' Aides Required to Take Training Course
(A) All nurses' aides employed by a long-term care facility must be trained in accordance with 105 CMR 156.000 except as provided for in 105 CMR 156.130.

(B) A nurses' aide who has completed training and received a Document of Completion in accordance with 105 CMR 156.000: The Nurses' Aides Training, but who has not been employed as a nurses' aide by a long-term care facility or temporary help agency for long-term care facilities for two or more consecutive years subsequent to such completion, shall be considered a new employee and is required to repeat training as specified in 105 CMR 156.120.

(C) Each nurses' aide must complete training within 90 days of the commencement of employment, as provided for in 105 CMR 156.140(C).

(D) Each nurses' aide must successfully complete evaluation as specified in 105 CMR 156.400 within 180 days of the commencement of employment, as provided for in 105 CMR 156.140(C).

156.130: Nurses' Aides Who May Substitute Equivalency Evaluation for Training Course
The following individuals are eligible for equivalency evaluation in lieu of completion of a training course to satisfy the requirements of 105 CMR 156.000. If such individuals choose not to take the equivalency evaluation in lieu of the training course, they shall be considered new employees subject to the requirements set forth in 105 CMR 156.120.

(A) Individuals who have completed training equivalent to the minimum standard curriculum.
(1) Such individuals shall have completed one of the following within the two years preceding the commencement of employment to be eligible for the equivalency evaluation:
(a) Documented successful completion of long-term care nurses’ aides training programs regulated by other states;
(b) Documented successful completion of a clinical course in an approved school of nursing, in accordance with 244 CMR 6.00, which included hands-on care skills as specified in the minimum standard curriculum.

(2) Such nurses’ aides shall successfully complete an equivalency evaluation in accordance with 105 CMR 156.400 as follows:
(a) Nurses’ aides, described in 105 CMR 156.130(A)(1), whose employment in a Massachusetts long-term care facility commenced prior to the date of promulgation of these regulations shall successfully complete an equivalency evaluation on or before June 30, 1989;
(b) Nurses’ aides, described in 105 CMR 156.130(A)(1), who are hired on or after the date of promulgation and prior to January 1, 1989 shall successfully complete equivalency evaluation on or before March 31, 1989;
(c) Nurses’ aides, described in 105 CMR 156.130(A)(1), hired on or after January 1, 1989 shall successfully complete evaluation within 90 days subsequent to the commencement of employment.

(B) Nurses’ aides whose employment by a licensed long-term care facility or temporary help agency commenced prior to the promulgation of 105 CMR 156.000.

(1) Such nurses’ aides shall meet the following eligibility requirements:
(a) Have completed a nurses’ aide training course within the preceding two years; or
(b) Have been employed as a nurses’ aide by a long-term care facility or by a temporary help agency and assigned to long-term care facilities one year out of the past three years on a full-time basis or at least 100 days in the year prior to promulgation with no interruption in employment greater than ten weeks.

(2) Such nurses’ aides shall successfully complete an equivalency evaluation in accordance with 105 CMR 156.400 on or before June 30, 1989.

(C) The Commissioner or his or her designee may waive the qualifications for individuals permitted to take the equivalency evaluation in lieu of the training course imposed by 105 CMR 156.130(A) and (B) upon finding that:
(1) The individual has had the following experience:
(a) Employment as a nurses’ aide for one year out of the past three years on a full-time basis or at least 100 in the year prior to proposed evaluation with no interruption in employment greater than ten weeks; and
(b) Provision of direct care services to the elderly including but not limited to bathing, grooming, and feeding during the employment period specified above in 105 CMR 156.130(C)(1)(a); and
(c) Provision of such direct care services in an institutional setting including a chronic or acute care hospital.

(2) The proposed waiver does not jeopardize the health or safety of the facility's residents and does not limit the facility's capacity to give adequate care.

(3) The facility provides to the Commissioner or his or her designee written documentation supporting its request for a waiver.

(4) Such nurses’ aides shall successfully complete an equivalency evaluation in accordance with 105 CMR 156.400 as follows:
(a) Nurses’ aides, for whom a waiver has been obtained pursuant to 105 CMR 156.130(C), whose employment in a long-term care facility commenced prior to January 1, 1989 shall successfully complete equivalency evaluation on or before March 31, 1989;
(b) Nurses’ aides, for whom a waiver has been obtained pursuant to 105 CMR 156.130(C) and who are hired on or after January 1, 1989 shall successfully complete evaluation within 90 days subsequent to the commencement of employment.

(D) A facility shall not continue to employ an individual as a nurses’ aide who does not successfully complete an evaluation as pursuant to the provisions of 105 CMR 156.130.
156.140: Implementation Schedule
(A) Upon promulgation of these regulations, 105 CMR 156.000, training providers may:
(1) submit training courses for approval according to procedures set forth in 105 CMR 156.330;
(2) begin training courses upon notification of course approval by the Department.
(B) For courses which began prior to date of promulgation, but which will be completed subsequent to promulgation of 105 CMR 156.000, training providers shall:
(1) modify courses as necessary to include the minimum standard curriculum as specified in 105 CMR 156.330;
(2) submit such courses for approval according to procedures set forth in 105 CMR 156.330;
(3) include evaluation as specified in 105 CMR 156.400 in such training courses.
(C) While training may begin upon promulgation of 105 CMR 156.000 as specified in 105 CMR 156.130, and who are hired on or after January 1, 1989 shall complete training within 90 days subsequent to the commencement of employment and shall successfully complete evaluation within 180 days subsequent to the commencement of employment, as specified in 105 CMR 156.310. Nurses’ aides hired on or after the date of promulgation and prior to January 1, 1989 shall complete training on or before March 31, 1989 and shall successfully complete evaluation on or before June 30, 1989.

156.200: Responsibilities of Training Providers
(A) Nurses’ aides training providers shall:
(1) employ, or have written arrangements with, an instructor who meets the qualifications as specified in 105 CMR 156.210: Qualifications of the Instructor;
(2) provide, or have written arrangements to provide, facilities for classroom and clinical instruction in a level II or III long-term care facility; and
(3) offer a curriculum that has been approved by the Department.
(B) Level IV facilities shall not serve as training providers.
(C) Examples of training providers include but are not limited to: vocational high schools, community colleges, long-term care facilities, and temporary help agencies.
(D) The training provider shall submit a curriculum proposal for approval by the Department as specified in 105 CMR 156.330: Curriculum Approval Mechanism.
(E) The following documentation for each course offered shall be maintained by the training provider and available for inspection by the Department:
(1) curriculum outline and record of dates on which courses were taught;
(2) notification of approval by the Department;
(3) daily attendance roster;
(4) name and resume of instructors showing that each one meets the requirements as specified in 105 CMR 156.210: Qualifications of Instructor;
(5) copies of all Documents of Completion issued by that training provider and
(6) copies of all evaluation forms completed by that training provider.

156.210: Qualifications of the Instructor
(A) Instructors for nurses’ aides training courses shall meet these qualifications:
(1) Be a registered nurse with current licensure; and
(2) (a) 1. Have at least one year’s experience in lesson planning, lesson delivery, student evaluation and remediation in a health care setting with this experience gained in such positions as inservice coordinator, staff educator, or other health personnel instructor; or
2. Have attended the equivalent of twenty-four contact hours in programs which meet continuing education standards currently set forth in regulations governing the Board of Registration in
Nursing 244 CMR 5.00 and which provide instruction in curriculum development, use of teaching strategies for adult learners and student evaluation; or
(b) Meet all of the following qualifications:
- Have a written agreement for consultation with a registered nurse who has the qualifications set forth in 105 CMR 156.210(A)(1) and (2)(a);
- Obtain such consultation prior to each course, midway through the course and at the end of the course prior to final evaluation. This consultation shall include lesson plans, teaching strategies, resource materials, evaluation procedures, and remediation methods;
- Document the dates and recommendation of the consultations; and
- Attend program(s) which meets continuing education standards set forth in the regulations governing the Board of Registration in Nursing 244 CMR 5.00 consisting of not less than 24 contact hours of adult education within the first year as instructor.
(3) The Commissioner or his or her designee may waive the qualifications of the instructor imposed by 105 CMR 156.210(A)(1) and (2) upon finding that:
(a) The proposed instructor has obtained sufficient experience in the care of long-term care residents and teaching adults how to provide such health care to ensure that he or she may train nurses’ aides to perform the objectives outlined in the minimum standard curriculum described in 105 CMR 156.320, and
(b) The training provider provides to the Commissioner or his or her designee written documentation supporting its request for a waiver.
(B) Other health care professionals such as dieticians, social workers, physical therapists, occupational therapists, and others may teach lessons or modules of a nurses’ aides training course.

156.220: Responsibilities of the Instructor
(A) The instructor shall prepare the curriculum that he or she will teach as specified in 105 CMR 156.320: Minimum Curriculum Standards and as prescribed in curriculum specifications as prescribed by and available in guidelines from the Department and shall participate in the planning of each lesson, even if he or she does not teach that specific lesson.
(B) The instructor shall evaluate each student to determine whether he or she has satisfactorily completed each module of nurses’ aides training and shall offer remediation for each student as needed.
(C) The instructor shall sign and issue a Document of Completion for each student upon satisfactory completion of the evaluation which is a part of a nurses’ aides training course as specified in 105 CMR 156.410: Completed Training/Experience.
(D) The instructor who serves as an evaluator for equivalency evaluation in accordance with the provisions of 105 CMR 156.400: Administration of Evaluation shall sign and issue a Document of Completion for each nurses’ aide who successfully completes such an evaluation.
(E) The instructor shall assure that there is a minimum of one instructor for every 25 students in a classroom and a minimum of one instructor for every ten students in practice/clinical sessions.

156.300: Orientation Program
(A) An orientation program shall be given to all nurses’ aides within the first 40 hours of employment. The orientation program shall include the following:
(1) tour of the facility;
(2) description of organizational structure of the facility;
(3) explanation of nurses’ aides job description;
(4) statement of philosophy of care of the facility;
(5) description of resident rights and responsibilities;
(6) description of resident population at the facility;
(7) description of daily routine of residents at the facility;
(8) discussion of the legal and ethical considerations in the care of residents;
(9) explanation and practice regarding the communications system including telephone and resident call-light systems;
(10) explanation and practice regarding emergencies including:
(a) response to resident emergencies;
(b) fire;
(c) other disasters.
(B) Such orientation shall occur at each new facility in which the nurses' aide is employed.
(C) Nurses' aides employed through temporary agencies shall undergo an orientation which includes a minimum of the topics named in 156.300(A)(1), (6), (7), (9) and (10).

156.310: Timing of Nurses' Aides Training
(A) Training conducted on site of employment at long-term care facility. Each nurses' aide shall begin training after orientation and shall complete such training within 90 days of the start of employment and shall also successfully complete evaluation within 180 days of the start of employment as provided for in 105 CMR 156.140(C). During the training period, nurses' aides may perform tasks for which they have been trained and for which they have successfully demonstrated their ability to correctly perform these tasks. Such demonstrations shall be documented on the evaluation form as specified in 105 CMR 156.400.
(B) Training conducted at temporary help agencies. Each nurses' aide shall complete training within 90 days of the start of employment with a temporary help agency as provided for in 105 CMR 156.140(C). Each such nurses' aide shall also successfully complete evaluation within one hundred eighty days of the start of employment with a temporary help agency as provided for in 105 CMR 156.140(C). The facility shall provide orientation to each nurses' aide employed through a temporary help agency.
(C) Training conducted at educational facilities. Each nurses' aide who has been trained at an educational institution outside of the facility shall complete such training prior to employment or within 90 days of the start of employment by a long-term care facility as provided for in 105 CMR 156.140(C). Each such nurses' aide shall also successfully complete evaluation within 180 days of the start of employment as provided for in 105 CMR 156.140(C).

156.320: Minimum Curriculum Standards
(A) Each nurses' aides training course shall be a minimum of 60 hours and shall include all modules of the minimum standard curriculum as prescribed in the curriculum specifications prescribed by and available in guidelines from the Department.
(B) Nurses' aides training courses which begin on or after October 1, 1989 shall be a minimum of 75 hours and shall include all modules of the minimum standard curriculum for 75 hours prescribed by and available in guidelines from the Department. Nurses' aides who have successfully completed an evaluation as specified in 105 CMR 156.400 prior to October 1, 1989 shall be deemed to have met the federal requirements for nurses' aides training specified above.
(C) Curriculum organization and teaching strategies are at the discretion of the instructor.
(D) Facilities that require nurses' aides to perform tasks not included in the minimum standard curriculum shall ensure that nurses' aides are trained to perform these tasks and have successfully demonstrated their ability to perform these tasks. Training for these tasks, including training for tasks related to special resident populations, shall be in addition to the minimum standard curriculum.
(E) Facilities with special resident populations shall use the minimum standard curriculum for nurses' aide training but may adapt content and clinical applications to the facility's specific resident population. However, such adaptations shall continue to require that nurses' aides master all objectives in the minimum standard curriculum. For example, all nurses' aides must learn how to
give bed baths and transfer residents from beds to wheelchairs. However, these skills may be taught with attention to geriatric or pediatric considerations as the resident population dictates.

156.330: Curriculum Approval Mechanism
(A) The training provider shall submit a proposed curriculum to the Department of Public Health, Division of Health Care Quality.
(1) The curriculum shall be submitted eight weeks prior to the start of the first course and every two years thereafter.
(2) If the curriculum is modified, it must be resubmitted to the Department for approval prior to start of the course.
(B) The training provider shall submit the curriculum proposal on the curriculum application form prescribed by and available from the Department.
(C) The Department will review the curriculum proposal to determine whether or not it is in compliance with 105 CMR 156.000 and the curriculum specifications prescribed by and available in guidelines from the Department.
(1) If the curriculum proposal is approved, the Department will issue an approval number and notify the training provider. A copy of the approval will be kept on file at the Department.
(2) If the curriculum proposal is not approved, the Department will return the curriculum to the training provider noting the reason that the course was not approved. The training provider may not begin a nurses’ aides training course until the associated curriculum has been approved by the Department.

156.400: Administration of Evaluation
(A) All nurses’ aides shall undergo evaluation either in conjunction with the training specified in 105 CMR 156.320 or as an evaluation of equivalent training pursuant to 105 CMR 156.130.
(B) All nurses’ aides shall successfully demonstrate all skills on the evaluation form specified in guidelines prescribed by and available from the Department. Such evaluation shall be conducted in conformance with the timeframes set forth in 105 CMR 156.120, 105 CMR 156.130, and 105 CMR 156.140.
(C) Any individual who meets the qualifications specified in Qualifications of the Instructor 105 CMR 156.210 may administer an evaluation as prescribed by and available in guidelines from the Department.
(1) Remedial instruction shall be available from the instructor through a course approved by the Department or shall be available through an approved course specified by the instructor. The course number shall be entered on all Documents of Completion issued as documentation of successful evaluation.
(2) Additional registered nurses may assist the instructor in evaluating nurses’ aides provided that an individual who meets instructor qualifications is available on site.
(D) Instructors shall use the evaluation form as prescribed by and available in guidelines from the Department.
(1) Instructors shall give nurses’ aides the opportunity to read the evaluation, ask questions, and receive remedial instruction prior to administration of the evaluation.
(2) The instructor who observes and evaluates each skill demonstration must sign his or her name in the spaces indicated.
(3) Instructors shall give nurses’ aides the option of responding to the verbal section of the evaluation either orally or in writing.
(a) When the verbal section of the evaluation is administered orally, the instructor shall simplify the language, if necessary, to assist comprehension by the nurses’ aide.
(b) The instructor who evaluates the responses to the verbal section must sign his or her name in the spaces indicated.
(4) Successful completion of the evaluation shall mean that the nurses’ aide is able to correctly demonstrate all clinical skills and answer all questions listed in the evaluation form prescribed by and available in guidelines from the Department. The demonstrations and answers shall be judged complete and correct by the instructor. Remediation and reevaluation shall be provided by the instructor within the timeframes set forth in 105 CMR 156.120, 105 CMR 156.130, and 105 CMR 156.140.

(5) Upon successful completion of the evaluation, the instructor shall sign and issue to the nurses’ aide:
(a) A signed copy of the evaluation form as prescribed by and available in guidelines from the Department, and;
(b) A signed Document of Completion prescribed by and available from the Department.

156.410: Documentation of Completed Training/Experience
(A) Upon successful completion of evaluation in accordance with 105 CMR 156.400: Evaluation of Training/Experience, each nurses’ aide shall receive a Documentation of Completion, (prescribed by and available from the Department) which has been completed, signed and issued by the instructor.
(B) As proof of meeting the training requirements set forth in 105 CMR 156.000: The Nurses’ Aides Training, a nurses’ aide shall show the Document of Completion to any facility administrator upon request.
(C) A nurses’ aide who has successfully completed evaluation as specified in 105 CMR 156.400 and received a Document of Completion in accordance with 105 CMR 156.410(A) shall not be required to repeat nurses’ aide training unless employment has been interrupted for two or more years as described in 105 CMR 156.120(D).

MICHIGAN

PART 1. GENERAL PROVISIONS
R 325.20101 Applicability.
Rule 101. These rules provide for the licensure of nursing homes, including county medical care facilities and child care homes and units, and for the certification of all of the following:
(a) Intermediate (or basic nursing) care facilities (ICF).
(b) Skilled nursing facilities (SNF)....

R 325.20109 State, federal, and local laws, rules, codes, and ordinances; compliance.
Rule 109. A nursing care facility which is licensed or certified shall comply with applicable state and federal laws and rules and shall furnish such evidence as the department may require to show compliance with such laws and rules and applicable local rules, codes, and ordinances, as a condition of licensure or certification.

R 325.20111 Governing bodies, administrators, and supervisors; responsibilities.
Rule 111. (1) The governing body of a nursing home shall assume full legal responsibility for the overall conduct and operation of the home. In the absence of an organized governing body, the owner, operator, or person legally responsible for the overall conduct and operation of the home shall carry out the functions of the governing body.
(2) The governing body shall appoint a licensed nursing home administrator and shall delegate to the administrator the responsibility for operating the home in accordance with policies established
by the governing body. An administrator and all other persons in supervisory positions shall be not less than 18 years of age.
(3) An administrator shall designate, in writing, a competent person who is not less than 18 years of age to carry out the responsibilities and duties of the administrator in the administrator’s absence.

R 325.20112 Policy on patient rights and responsibilities.
...(9)... Inservice training provided by the home to its staff shall include instruction in the patient's rights and responsibilities adopted by the home and the manner in which such rights and responsibilities are respected and violations avoided.

R 325.20117 Disaster plans.
Rule 117. (1) A home shall have a written plan or procedure to be followed in case of fire, explosion, or other emergency.
(2) A disaster plan shall be posted and shall specify all of the following:
(a) Persons to be notified.
(b) Locations of alarm signals and fire extinguishers.
(c) Evacuation routes.
(d) Procedures for evacuating patients.
(e) Frequency of fire drills.
(f) Assignment of specific tasks and responsibilities to the personnel of each shift.
(3) Personnel shall be trained to perform assigned tasks before such assignment.
(4) A disaster plan shall meet with the approval of the state fire marshal.
(5) A disaster plan shall be posted throughout the home in places accessible to employees, patients, and visitors.
(6) A regular simulated drill shall be held for each shift not less than 3 times per year.

PART 2. LICENSURE
R 325.20203 Content of application.
Rule 203. (2) A complete application shall include, at a minimum, all of the following:
...(c) Identification of owners and of financially interested persons as required by R 325.20207...

R 325.20207 Disclosure of ownership interests.
Rule 207. (1) An applicant or licensee shall include all of the following with its application for an initial or renewed license:
(a) The name, address, principal occupation, and official position of all persons who have an ownership interest in the home.
(b) The name, address, principal occupation, and official position of each trustee for a voluntary nonprofit corporation.
(c) The most recent disclosure of ownership and related information prepared pursuant to the federal medicare-medicaid anti-fraud and abuse amendments of 1977, Public Law 95-142, 42 U.S.C. §1320 a-3 and regulations promulgated thereunder.
(d) If a home is located on or in leased real estate, the name of the lessor and any direct or indirect interest the applicant or licensee has in the lease other than as lessee.
(2) The department may accept reports filed with the securities and exchange commission as compliance with this rule, if the department determines that such reports contain the information required.
R 325.20212 Notice to department of change in information required; transfer of license; posting.
Rule 212. (1) A license is issued on the basis of information available to the department on the date of issuance. An applicant or licensee shall give written notice to the department within 5 business days of any change in information submitted as part of an application for initial or renewed licensure.
(2) A license is not transferable between buildings, properties, or owners, from one location to another, or from one part of an institution to another. A change in ownership shall be reported pursuant to section 20142(3) of the code.
(3) The current license shall be posted in a conspicuous public place in the home. For purposes of this rule, the term "license" includes a provisional license, limited license, or a temporary permit.

PART 4. ADMINISTRATIVE MANAGEMENT OF HOMES
R 325.20401 Administrative policy manual.
Rule 401. (1) The home shall make immediately available for on-site inspection by the department an administrative policy manual which shall include, at a minimum, all of the following:
(a) Admission policies, including a copy of the contract form used by the home when admitting patients.
(b) Governing body bylaws or equivalent, if any.
(c) The nursing home departmental policies.
(d) Personnel policies and job descriptions.
(e) Patient bill of rights and responsibilities.
(f) Transfer agreements.
(g) Contracts with providers of health care and health services.
(h) Disaster and emergency plans.
(i) A list of approved abbreviations used in recording administrative orders.
(2) The administrative policy manual shall be reviewed annually by the governing body, owner, or operator and shall be revised as appropriate. Dates of reviews and revisions shall be a matter of record in the home.

R 325.20502 Policies and procedures for care.
Rule 502. (1) The home shall have a written policy governing the nursing care and other services provided to a patient, which shall be implemented through written procedures which are maintained and available to personnel at all times. All personnel shall be oriented to the facility and their responsibilities.
(2) The policy shall be developed by a patient care policy committee consisting of at least 1 licensed physician, the director of nursing, and the administrator, with such additional members as the committee determines appropriate. When a nursing home owner is responsible for more than 1 home, the owner may establish 1 patient care policy committee which has the responsibility for developing appropriate policies for each individual home.
(3) The policy shall be presented to the governing body, owner, or operator for review and approval before implementation, and a record of such approval shall be maintained with the policy.
(4) The policy shall be reviewed by the patient care policy committee at least annually and amended as necessary to meet the needs of patients in the home. Revisions shall be approved by the governing body, owner, or operator. A record of such approval shall be maintained with the policy.
(5) The policy shall govern, at a minimum, all of the following:
...(r) Care of patients in an emergency, during a communicable disease episode, when critically ill, or when mentally disturbed.
R 325.20507 Infection control. Rule 507. A written policy shall govern the control of communicable disease and infections in the nursing home and shall require the establishment and operation of an infection control committee, which shall include at least the director of nursing and representatives of administration, dietary, housekeeping, and maintenance services.

R 325.20509 Training for unlicensed nursing personnel. Rule 509. For purposes of interpreting section 21795(1) of the code, the "buddy system" method of instruction for unlicensed nursing personnel shall not be permitted as the only method of such instruction.

PART 7. NURSING SERVICES
R 325.20701 Director of nursing. Rule 701. (1) The director of nursing shall be a registered nurse with specialized training or relevant experience in the area of gerontology and shall be employed full time by only 1 nursing home.

R 325.20703 Nursing personnel. Rule 703. ...(2) A person employed in the home to give nursing care shall be not less than 17 years of age, except that a student in a board of education-approved cooperative educational program may provide nursing care under supervision of a licensed nurse. (3) A person employed in the home to give nursing care on the nightshift shall be not less than 18 years of age. ...(6) The administrator of the home shall not serve as the director of nursing in homes of 50 or more beds.

R 325.20704 Reporting and enforcement of nurse staffing requirements. Rule 704. (1) A home shall maintain, for a period of not less than 2 years, employee time records, including time cards or their equivalent and payroll records. (2) A home shall submit nurse staffing reports to the department at least quarterly. The department may require more frequent reports when a quarterly report on annual or other survey and evaluation visit or a complaint investigation indicates that deficiencies in nurse staffing requirements may exist. ...(5) The administrator of record, or the acting administrator in the absence of the administrator, in the home shall certify to the accuracy of the nurse staffing reports submitted to the department.

R 325.20708 Rehabilitative nursing care. Rule 708. (1) Rehabilitative nursing care shall be provided as part of the home's nursing care program for patients. ...(6) Rehabilitative nursing policies, procedures, and techniques shall be an integral part of inservice education for nursing personnel in the home.

R 325.20802 Policies and procedures. Rule 802. There shall be ... in-service training for dietary personnel.

PART 10. OTHER SERVICES
R 325.21001 Diagnostic service. Rule 1001. (1) An arrangement shall be made by the administrator for obtaining promptly and conveniently a clinical laboratory, x-ray, or other diagnostic service ordered by the physician. (2) A diagnostic test or service shall be provided only on a written order of the physician.
(3) An arrangement for transporting a patient to and from a source of services outside the home shall be made by the administrator or designated representative.
(4) A written report of each diagnostic test and service shall be included in the patient’s clinical record within 1 week. When written reports are not received within 1 week, the home shall continue to take action to obtain a report at the earliest possible time. A record of this action shall be maintained in the patient’s clinical record.

PART 11. RECORDS
R 325.21101 Required records.
Rule 1101. All of the following records shall be kept in the home and shall be available to the director or his or her authorized representative for review and copying if necessary:
(a) A current patient register.
(b) Contracts between the home and patients.
(c) Patient clinical records.
(d) Accident records and incident reports.
(e) Employee records and work schedules.

R 325.21102 Patient clinical records.
Rule 1102. (1) A clinical record shall be provided for each patient in the home. The clinical record shall be current and entries shall be dated and signed.
(2) The clinical record shall include, at a minimum, all of the following:
(a) The identification and summary sheet, which shall include all of the following patient information:
   (i) Name.
   (ii) Social security number.
   (iii) Veteran status and number.
   (iv) Marital status.
(b) Name, address, and telephone number of next of kin, legal guardian, or designated representative.
(c) Name, address, and telephone number of person or agency responsible for patient's maintenance and care in the home.
(d) Date of admission.
(e) Clinical history and physical examination performed by the physician within 5 days before or on admission, including a report of chest x rays performed within 90 days of admission and a physician’s treatment plan.
(f) Admission diagnosis and amendments thereto during the course of the patient's stay in the home.
(g) Consent forms as required and appropriate.
(h) Physician’s orders for medications, diet, rehabilitative procedures, and other treatment or procedures to be provided to the patient.
(i) Physician’s progress notes written at the time of each visit describing the patient’s condition and other pertinent clinical observations.
(j) Nurse’s notes and observations by other personnel providing care.
(k) Medication and treatment records.
(l) Laboratory and x-ray reports.
(m) Consultation reports.
(n) Time and date of discharge, final diagnosis and place to which patient was discharged, condition on discharge, and name of person, if any, accompanying patient.
(3) Copies of clinical history and physical examination report, discharge summary, transfer form, and other pertinent information arriving at the home with the patient upon transfer from another health facility shall be maintained in the facility.

(4) Clinical records of discharged patients shall be completed within 30 days following discharge.

(5) Clinical records shall be under the supervision of a full-time employee of the home.

(6) Clinical records are retained for a minimum of 6 years from the date of discharge or, in the case of a minor, 3 years after the individual comes of age under state law, whichever is longer.

(7) If a facility ceases to operate, the clinical records shall be transferred with the individual to another health care facility. It is the responsibility of the owner or corporate body to maintain clinical records of discharged patients for the length of retention as stated in subrule (6) of this rule.

(8) If the department believes that patient clinical records are not being properly maintained or completed, the department may order a home to secure from a registered record administrator or accredited record technician on-site consultation of up to 4 hours per quarter until the problem is corrected.

R 325.21103 Patient registers.
Rule 1103. A current register or file of patients shall be maintained and shall include all of the following information for each patient:
(a) Name, social security number, veteran status and number, marital status, age, sex, and home address.
(b) Name, address, and telephone number of next of kin or legal guardian.
(c) Name, address, and telephone number of person or agency responsible for patient’s maintenance and care in the home.
(d) Date of admission.
(e) Date of discharge and place to which patient was discharged, if applicable.

R 325.21105 Employee records and work schedules.
Rule 1105. (1) A record shall be maintained for each employee in the home and shall include all of the following:
(a) Name, address, telephone number, and social security number.
(b) License or registration number, if applicable.
(c) Results of any preemployment or periodic physical examination.
(d) Summary of experience and education.
(e) Beginning date of employment and position for which employed.
(f) References, if obtained.
(g) Results of annual chest x ray or intradermal skin test for tuberculosis.
(h) For former employees, the date employment ceased and the reasons therefor.
(2) A daily work schedule for employees shall be prepared in writing and shall be maintained to show the number and type of personnel on duty in the home for the previous 3 months.
(3) A time record for each employee shall be maintained for not less than 2 years.

PART 12. MEDICAL AUDIT, UTILIZATION REVIEW, AND QUALITY CONTROL
R 325.21203 Medical audits.
Rule 1203. (1) The home, through its medical director, if applicable, and the participation of 1 or more attending physicians, shall complete at least 1 medical audit annually for the following purposes:
(a) To assure the adequacy of documentation, clinical information, and data in the patient’s clinical record.
(b) To evaluate continuity and coordination of patient care and identify problems requiring corrective action.
(c) To assess the quality of medical and other health care and services provided.

(2) Audit results and specific recommendation for corrective action or improvements, if indicated, shall be reported to the governing body, owner, or operator through the administrator. Audit reports shall be retained on file in the home for 1 year.

R 325.21204 Utilization review; quality control.
Rule 1204. For purposes of certification, the home shall carry out such utilization review and quality control programs and activities as may be required by the federal certification standards for skilled nursing and intermediate care facilities.

PART 15. CERTIFICATION
R 325.21501 Certification; effect.
Rule 1501. A nursing home or nursing care facility, or distinct part thereof, shall not be eligible to participate in a federal or state health program requiring certification as an intermediate (basic nursing) care facility (ICF), intermediate care facility/mentally retarded (ICF/MR), skilled nursing facility (SNF), nursing facility for care of mentally retarded patients, nursing facility for care of mentally ill patients, or nursing facility for care of tuberculosis patients unless certified as such by the department in accordance with this code, these rules, and applicable federal and state law and regulations or unless certified by the U.S. secretary of health and human services.

R 325.21508 Requirements for certification as an intermediate (basic nursing) care facility (ICF).
Rule 1508. A licensed nursing care facility shall, at the facility's request, be certified by the department as an intermediate care facility when it is determined by the department, on the basis of facility survey, inspection, investigation, and evaluation that the facility complies with applicable state and federal statutes, rules, and other standards for intermediate care facilities. Such federal regulations are generally available from the Health Care Financing Administration, U.S. Department of Health and Human Services, Washington, D.C. 20024, and the Bureau of Health Care Administration, Michigan Department of Public Health, Lansing, MI 48909.

R 325.21510 Requirements for certification as a skilled nursing facility (SNF).
Rule 1510. (1) A licensed nursing care facility shall, at the facility's request, be certified by the department or, when required, by the U.S. secretary of the department of health and human services as a skilled nursing facility when it is determined by the director of the department or the secretary of the department of health and human services, on the basis of facility survey, inspection, investigation, and evaluation, that the facility complies with applicable state and federal statutes, rules, and other standards for skilled nursing facilities. Such federal regulations are generally available from the Health Care Financing Administration, U.S. Department of Health and Human Services, Washington, D.C. 20024, and the Bureau of Health Care Administration, Michigan Department of Public Health, Lansing, MI 48909.

(2) A licensed nursing care facility certified as a skilled nursing facility shall comply with the following provisions:
(a) There shall be at least 1 licensed nurse on duty for each 64 patients, or fraction thereof, on the day shift, at least 1 licensed nurse on duty for each 96 patients, or fraction thereof, on the afternoon shift, and at least 1 licensed nurse on duty for each 120 patients, or fraction thereof, on the night shift.
(b) Additional licensed nurses shall be employed and on duty when such additional licensed nursing personnel are required to meet minimum nursing care needs because of any of the following:
(i) The physical layout or size of the facility or nursing unit.
(ii) The complexity of patient care needs.
(iii) The qualifications of the nursing staff in terms of training and experience.
(iv) The number of therapeutic treatments to be provided.
(v) The number of medications to be administered.

PART 20. EDUCATION AND TRAINING OF UNLICENSED NURSING PERSONNEL

R 325.22001 Minimum criteria for education and training of unlicensed nursing personnel.
Rule 22001. (1) Each facility shall adopt and implement an education and training program that shall specify minimum competencies, performance objectives, and methods of evaluation which cover at least the content listed in subrule (2) of this rule. If the facility, by policy, does not permit unlicensed nursing personnel to perform a specific procedure covered in subrule (2) of this rule, training in that specific procedure may be excluded.
(2) The following content shall be presented, except as noted in subrule (1) of this rule:
(a) Personnel policies, including the facility's personnel policies, job responsibilities, legal and ethical responsibilities, and the importance of the individual's position as a member of the health care team.
(b) Concepts of care, including physical, psychological, cultural, and social components of care; the impact on the patient of physical and psychological changes that occur with trauma, the aging process, and developmental disabilities; the legal rights and privileges of patients; and communication techniques necessary to provide care.
(c) Environment, including what constitutes a safe and comfortable environment for giving care; safety and fire prevention; emergency procedures, including cardiopulmonary resuscitation, the Heimlich maneuver, and fire and disaster procedures; bed-making and when bed linen should be changed; restraint procedures, including protecting the safety and dignity of the patient; prevention and control of infections; and information necessary to assist the new patient to become aware of the facility's routines and available services.
(d) Collecting and sharing information, including observation of the individual patient and how to recognize changes from normal; vital signs; reporting and documenting observations; and medical terms and abbreviations necessary for the tasks performed.
(e) Personal care, including bathing a patient in a safe and dignified manner while encouraging independence; skin care, including preventive and supportive care; routine morning and evening mouth care, hair and nail care; shaving; dressing and undressing, with emphasis on encouraging and maintaining independence; and prosthetic devices used in providing care.
(f) Nutrition, including the importance of a balanced diet and how to help bring this about; the importance of making meal times a pleasant experience; measuring and recording the patient's food and fluid intake; how to carry out orders to increase or reduce fluid intake, and techniques to assist a patient to eat, with emphasis on encouraging and maintaining independence and dignity.
(g) Elimination, including encouraging and maintaining independence in toileting; the use of the bed pan and urinal; catheter care; preventing incontinence; prevention of constipation; observation, reporting, and recording of significant information about a patient's urine and stool; perineal care; measuring and recording output; urine testing; and bowel and bladder training.
(h) Rehabilitation, including principles of rehabilitation; complications of immobility and their prevention; techniques of turning a patient; maintaining proper body alignment; range of motion
exercises; the use of ambulation aids, including wheelchairs, walkers, canes, and crutches; transfer
techniques; proper body mechanics involved in lifting patients or objects; and use of bed boards,
foot boards, foot stools, trochanter rolls, pillows for positioning, bed cradles, slings, splints, lifting
equipment, and trapezes.

R 325.22002 Verification of competency.
Rule 2002. (1) The director of nursing, or a registered nurse designee, shall verify that each
unlicensed employee providing nursing care is competent to perform all assigned tasks prior to the
time the employee is assigned to perform them, unless the employee is under supervision, as
defined in section 16109 of the code, for training purposes.
(2) Verification of competency shall be indicated by an appropriate entry in the employee’s
personnel record which is signed by the director of nursing or other registered nurse and which
specifies the date and method by which each competency was verified. This information shall be
maintained in each employee’s personnel file for the duration of his or her employment in the
facility.
(3) Personnel files shall also include the number of classroom hours and the hours of planned
clinical experience supervised by a licensed nurse.

R 325.22003 Class outline and lesson plans.
Rule 2003. Class outlines and lesson plans shall be retained in the facility for not less than 2 years.

R 325.22003a Testing for competency.
Rule 2003a. The department shall test the competency of unlicensed nursing personnel by
observation of care given and may interview unlicensed nursing personnel to evaluate the
adequacy of the training program.

R 325.22004 Plan of correction.
Rule 2004. If a violation of R 325.22001 to R 325.22003 is cited, within 30 days the facility shall
submit a written plan to assess and revise the training program to correct the deficiency. Staff of the
department shall assist with this process and shall reevaluate the program within 120 daysof the
date of the citation of the violation to assure compliance.

333.20106 Definitions
Sec. 20106. (1) “Health facility or agency”, except as provided in section 20115, means:
...(h) A nursing home....

33.20141 Health facility or agency; license required; eligibility to participate in federal or state
health program; personnel; services; and equipment; evidence of compliance; providing data and
statistics.
Sec. 20141. (1) A person shall not establish or maintain and operate a health facility or agency
without holding a license from the department.
(2) A health facility or agency is not eligible to participate in a federal or state health program
requiring certification without current certification from the department.
(3) A health facility or agency shall have the physician, professional nursing, health professional,
technical and supportive personnel, and the technical, diagnostic, and treatment services and
equipment necessary to assure the safe performance of the health care undertaken by or in the
facility or agency.
(4) Licensure and certification of a health facility or agency shall be evidence of the fact that the
facility or agency complies with applicable statutory and regulatory requirements and standards at
the time of issuance.
(5) A health facility or agency shall provide the department with the data and statistics required to enable the department to carry out functions required by federal and state law, including rules and regulations.

333.20142 Application for licensure and certification; form; certifying accuracy of information; disclosures, reports; and notices; violation; penalty; false statement as felony.
Sec. 20142.
(3) An applicant or a licensee under part 213 or 217 shall disclose the names, addresses, principal occupations, and official positions of all persons who have an ownership interest in the health facility or agency. If the health facility or agency is located on or in leased real estate, the applicant or licensee shall disclose the name of the lessor and any direct or indirect interest the applicant or licensee has in the lease other than as lessee. A change in ownership shall be reported to the director not less than 15 days before the change occurs, except that a person purchasing stock of a company registered pursuant to the securities exchange act of 1934, 15 U.S.C. 78a to 78kk, is exempt from disclosing ownership in the facility. A person required to file a beneficial ownership report pursuant to section 16(a) of the securities exchange act of 1934, 15 U.S.C. 78p shall file with the department information relating to securities ownership required by the department rule or order. An applicant or licensee proposing a sale of a nursing home to another person shall provide the department with written, advance notice of the proposed sale. The applicant or licensee and the other parties to the sale shall arrange to meet with specified department representatives and shall obtain before the sale a determination of the items of noncompliance with applicable law and rules which shall be corrected. The department shall notify the respective parties of the items of noncompliance prior to the change of ownership and shall indicate that the items of noncompliance must be corrected as a condition of issuance of a license to the new owner. The department may accept reports filed with the securities and exchange commission relating to the filings. A person who violates this subsection is guilty of a misdemeanor, punishable by a fine of not more than $1,000.00 for each violation.

(4) An applicant or licensee under part 217 shall disclose the names and business addresses of suppliers who furnish goods or services to an individual nursing home or a group of nursing homes under common ownership, the aggregate charges for which exceed $5,000.00 in a 12-month period which includes a month in a nursing home’s current fiscal year. An applicant or licensee shall disclose the names, addresses, principal occupations, and official positions of all persons who have an ownership interest in a business which furnishes goods or services to an individual nursing home or to a group of nursing homes under common ownership, if both of the following apply:
(a) The person, or the person’s spouse, parent, sibling, or child has an ownership interest in the nursing home purchasing the goods or services.
(b) The aggregate charges for the goods or services purchased exceeds $5,000.00 in a 12-month period which includes a month in the nursing home’s current fiscal year.

(5) An applicant or licensee who makes a false statement in an application or statement required by the department pursuant to this article is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than $30,000.00, or both.

333.20152 Certification by licensee; developing facilities and programs of care; rating individuals for purposes of reimbursement.
Sec. 20152. (1) A licensee shall certify to the department as part of its application for licensing and certification, that:
(a) All phases of its operation, including its training programs, comply with state and federal laws prohibiting discrimination. The applicant shall direct the administrator of the health facility or agency to take the necessary action to assure that the facility or agency is, in fact, so operated.
(b) Selection and appointment of physicians to its medical staff is without discrimination on the basis of licensure or registration as doctors of medicine or doctors of osteopathic medicine and surgery.

(2) This section does not prohibit a health facility or agency from developing facilities and programs of care that are for specific ages or sexes or rating individuals for purposes of determining appropriate reimbursement for care and services.

333.20171 Rules implementing article; rules promulgated under § 333.21563.
Sec. 20171. (1) The department, after obtaining approval of the advisory commission, shall promulgate and enforce rules to implement this article, including rules necessary to enable a health facility or agency to qualify for and receive federal funds available for patient care or for projects involving new construction, additions, modernizations, or conversions.

(2) The rules applicable to health facilities or agencies shall be uniform insofar as is reasonable.

(3) The rules shall establish standards relating to:
(a) Ownership.
(b) Reasonable disclosure of ownership interests in proprietary corporations and of financial interests of trustees of voluntary, nonprofit corporations and owners of proprietary corporations and partnerships.
(c) Organization and function of the health facility or agency, owner, operator, and governing body.
(d) Administration.
(e) Professional and nonprofessional staff, services, and equipment appropriate to implement section 20141(3).
(f) Policies and procedures.
(g) Fiscal and medical audit.
(h) Utilization and quality control review.
(i) Physical plant including planning, construction, functional design, sanitation, maintenance, housekeeping, and fire safety.
(j) Arrangements for the continuing evaluation of the quality of health care provided.
(k) Other pertinent organizational, operational, and procedural requirements for each type of health facility or agency.

333.20173 Nursing home, county medical care facility, or home for the aged; criminal history check of employment applicants; definitions.
Sec. 20173. (1) Except as otherwise provided in subsection (2), a health facility or agency that is a nursing home, county medical care facility, or home for the aged shall not employ, independently contract with, or grant clinical privileges to an individual who regularly provides direct services to patients or residents in the health facility or agency after the effective date of the amendatory act that added this section if the individual has been convicted of 1 or more of the following:
(a) A felony or an attempt or conspiracy to commit a felony within the 15 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract.
(b) A misdemeanor involving abuse, neglect, assault, battery, or criminal sexual conduct or involving fraud or theft against a vulnerable adult as that term is defined in section 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m, or a state or federal crime that is substantially similar to a misdemeanor described in this subdivision, within the 10 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract.

(2) Except as otherwise provided in this subsection and subsection (5), a health facility or agency that is a nursing home, county medical care facility, or home for the aged shall not employ, independently contract with, or grant privileges to an individual who regularly provides direct
services to patients or residents in the health facility or agency after the effective date of the amendatory act that added this section until the health facility or agency complies with subsection (4) or (5), or both. This subsection and subsection (1) do not apply to an individual who is employed by, under independent contract to, or granted clinical privileges in a health facility or agency before the effective date of the amendatory act that added this section.

(3) An individual who applies for employment either as an employee or as an independent contractor or for clinical privileges with a health facility or agency that is a nursing home, county medical care facility, or home for the aged and has received a good faith offer of employment, an independent contract, or clinical privileges from the health facility or agency shall give written consent at the time of application for the department of state police to conduct a criminal history check under subsection (4) or (5), or both, along with identification acceptable to the department of state police. If the department of state police has conducted a criminal history check on the applicant within the 24 months immediately preceding the date of application and the applicant provides written consent for the release of information for the purposes of this section, the health facility or agency may use a copy of the results of that criminal history check instead of obtaining written consent and requesting a new criminal history check under this subsection, and under subsections (4) and (5), or both. If the applicant is using a prior criminal history check as described in this subsection, the health facility or agency shall accept the copy of the results of the criminal history check only from the health facility or agency or adult foster care facility that previously employed or granted clinical privileges to the applicant or from the firm or agency that independently contracts with the applicant.

(4) Upon receipt of the written consent and identification required under subsection (3), if an applicant has resided in this state for 3 or more years preceding the good faith offer of employment, an independent contract, or clinical privileges, a health facility or agency that is a nursing home, county medical care facility, or home for the aged that has made a good faith offer of employment or an independent contract or clinical privileges to the applicant shall make a request to the department of state police to conduct a criminal history check on the applicant. The request shall be made in a manner prescribed by the department of state police. The health facility or agency shall make the written consent and identification available to the department of state police. If there is a charge for conducting the criminal history check, the health facility or agency requesting the criminal history check shall pay the cost of the charge. The health facility or agency shall not seek reimbursement for the charge from the individual who is the subject of the criminal history check.

The department of state police shall conduct a criminal history check on the applicant named in the request. The department of state police shall provide the health facility or agency with a written report of the criminal history check conducted under this subsection. The report shall contain any criminal history record information on the applicant maintained by the department of state police. As a condition of employment, an applicant shall sign a written statement that he or she has been a resident of this state for 3 or more years preceding the good faith offer of employment, independent contract, or clinical privileges.

(5) Upon receipt of the written consent and identification required under subsection (3), if an applicant has resided in this state for less than 3 years preceding the good faith offer of employment, an independent contract, or clinical privileges, a health facility or agency that is a nursing home, county medical care facility, or home for the aged that has made a good faith offer described in this subsection to the applicant shall comply with subsection (4) and shall make a request to the department of state police to forward the applicant’s fingerprints to the federal bureau of investigation. The department of state police shall request the federal bureau of investigation to make a determination of the existence of any national criminal history pertaining to the applicant. An applicant described in this subsection shall provide the department of state police with 2 sets of fingerprints. The department of state police shall complete the criminal history check under subsection (4) and, except as otherwise provided in this subsection, provide the results of its
determination under subsection (4) to the health facility or agency and the results of the federal bureau of investigation determination to the department of consumer and industry services within 30 days after the request is made. If the requesting health facility or agency is not a state department or agency and if a crime is disclosed on the federal bureau of investigation determination, the department shall notify the health facility or agency in writing of the type of crime disclosed on the federal bureau of investigation determination without disclosing the details of the crime. Any charges for fingerprinting or a federal bureau of investigation determination under this subsection shall be paid in the manner required under subsection (4).

(6) If a health facility or agency that is a nursing home, county medical care facility, or home for the aged determines it necessary to employ or grant clinical privileges to an applicant before receiving the results of the applicant’s criminal history check under subsection (4) or (5), or both, the health facility or agency may conditionally employ or grant conditional clinical privileges to the individual if all of the following apply:

(a) The health facility or agency requests the criminal history check under subsection (4) or (5), or both, upon conditionally employing or conditionally granting clinical privileges to the individual.
(b) The individual signs a statement in writing that indicates all of the following:
   (i) That he or she has not been convicted of 1 or more of the crimes that are described in subsection (1)(a) and (b) within the applicable time period prescribed by subsection (1)(a) and (b).
   (ii) The individual agrees that, if the information in the criminal history check conducted under subsection (4) or (5), or both, does not confirm the individual’s statement under subparagraph (i), his or her employment or clinical privileges will be terminated by the health facility or agency as required under subsection (1) unless and until the individual can prove that the information is incorrect. The health facility or agency shall provide a copy of the results of the criminal history check conducted under subsection (4) or (5), or both, to the applicant upon request.
   (iii) That he or she understands the conditions described in subparagraphs (i) and (ii) that result in the termination of his or her employment or clinical privileges and that those conditions are good cause for termination.

(7) On the effective date of the amendatory act that added this section, the department shall develop and distribute a model form for the statement required under subsection (6)(b). The department shall make the model form available to health facilities or agencies subject to this section upon request at no charge.

(8) If an individual is employed as a conditional employee or is granted conditional clinical privileges under subsection (6), and the report described in subsection (4) or (5), or both, does not confirm the individual’s statement under subsection (6)(b)(i), the health facility or agency shall terminate the individual’s employment or clinical privileges as required by subsection (1).

(9) An individual who knowingly provides false information regarding criminal convictions on a statement described in subsection (6)(b)(i) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500.00, or both.

(10) A health facility or agency that is a nursing home, county medical care facility, or home for the aged shall use criminal history record information obtained under subsection (4), (5), or (6) only for the purpose of evaluating an applicant’s qualifications for employment, an independent contract, or clinical privileges in the position for which he or she has applied and for the purposes of subsections (6) and (8). A health facility or agency or an employee of the health facility or agency shall not disclose criminal history record information obtained under subsection (4) or (5) to a person who is not directly involved in evaluating the applicant’s qualifications for employment, an independent contract, or clinical privileges. Upon written request from another health facility or agency or adult foster care facility that is considering employing, independently contracting with, or granting clinical privileges to an individual, a health facility or agency that has obtained criminal history record information under this section on that individual shall share the information with the requesting health facility or agency or adult foster care facility. Except for a knowing or
intentional release of false information, a health facility or agency has no liability in connection with a criminal background check conducted under this section or the release of criminal history record information under this subsection.

(11) As a condition of continued employment, each employee, independent contractor, or individual granted clinical privileges shall agree in writing to report to the health facility or agency immediately upon being arrested for or convicted of 1 or more of the criminal offenses listed in subsection (1)(a) and (b).

333.20175 Maintaining record for each patient; wrongfully altering or destroying records; noncompliance; fine; licensing and certification records as public records; confidentiality; disclosure; report or notice of disciplinary action; information provided in report; nature and use of certain records, data, and knowledge.

Sec. 20175. (1) A health facility or agency shall keep and maintain a record for each patient including a full and complete record of tests and examinations performed, observations made, treatments provided...

(3) Unless otherwise provided by law, the licensing and certification records required by this article are public records.

(4) Departmental officers and employees shall respect the confidentiality of patient clinical records and shall not divulge or disclose the contents of records in a manner that identifies an individual except pursuant to court order.

333.20178 Nursing home, home for the aged, or county medical care facility; description of services to patients or residents with Alzheimer's disease; contents; "represents to the public" defined.

Sec. 20178. (1) Beginning not more than 90 days after the effective date of the amendatory act that added this section, a health facility or agency that is a nursing home, home for the aged, or county medical care facility that represents to the public that it provides inpatient care or services or residential care or services, or both, to persons with Alzheimer's disease or a related condition shall provide to each prospective patient, resident, or surrogate decision maker a written description of the services provided by the health facility or agency to patients or residents with Alzheimer's disease or a related condition. A written description shall include, but not be limited to, all of the following:

(a) The overall philosophy and mission reflecting the needs of patients or residents with Alzheimer's disease or a related condition.

(b) The process and criteria for placement in or transfer or discharge from a program for patients or residents with Alzheimer's disease or a related condition.

(c) The process used for assessment and establishment of a plan of care and its implementation.

(d) Staff training and continuing education practices.

(e) The physical environment and design features appropriate to support the function of patients or residents with Alzheimer's disease or a related condition.

(f) The frequency and types of activities for patients or residents with Alzheimer's disease or a related condition.

PART 217 NURSING HOMES

333.21711 License required; prohibited terms or abbreviations; license for formal or informal nursing care services; exception.

Sec. 21711. (1) A nursing home shall be licensed under this article.
(2) "Nursing home", "nursing center", "convalescent center", "extended care facility", or a similar
term or abbreviation shall not be used to describe or refer to a health facility or agency unless the
health facility or agency is licensed as a nursing home by the department under this article.
(3) A person shall not purport to provide formal or informal nursing care services of the kind
normally provided in a nursing home without obtaining a license as provided in this article. This
subsection does not apply to a hospital or a facility created by Act No. 152 of the Public Acts of
1885, as amended, being sections 36.1 to 36.12 of the Michigan Compiled Laws.

333.21712 Name of nursing home; change in name; prohibited terms; rehabilitation services.
Sec. 21712. (1) A nursing home shall use the name that appears on the license for its premises. A
nursing home shall not change its name without the approval of the department.
(2) A nursing home shall not use the terms "hospital" or "sanitarium" or a term conveying a
meaning that is substantially similar to those terms in the name of the nursing home. However, a
nursing home may use the term "health center" or "health care center" or "rehabilitation center" or
a term conveying a meaning substantially similar to those terms as long as those terms do not
conflict with the terms prohibited by this subsection.
(3) If a nursing home uses the term "rehabilitation center" in its name as allowed under subsection
(2), the nursing home shall have the capacity to provide rehabilitation services that include, at a
minimum, all of the following:
(a) Physical therapy services.
(b) Occupational therapy services.
(c) Speech therapy services.
(4) A nursing home shall not include in its name the name of a religious, fraternal, or charitable
corporation, organization, or association unless the corporation, organization, or association is an
owner of the nursing home.

333.21713 Owner, operator, and governing body of nursing home; responsibilities and duties
generally.
Sec. 21713. The owner, operator, and governing body of a nursing home licensed under this article:
(a) Are responsible for all phases of the operation of the nursing home and quality of care rendered
in the home.
(b) Shall cooperate with the department in the enforcement of this article and require that the
physicians and other personnel working in the nursing home and for whom a license or registration
is required be currently licensed or registered.

333.21715 Programs of planned and continuing nursing and medical care required; nurses and
physicians in charge; expiration of subsection (1)(a); nature and scope of services.
Sec. 21715. (1) A nursing home shall provide:
(a) A program of planned and continuing nursing care under the charge of a registered nurse in a
skilled facility and a licensed practical nurse with a registered nurse consultant in an intermediate
care facility. This subdivision shall expire December 31, 1979.
(b) A program of planned and continuing medical care under the charge of physicians.
(2) Nursing care and medical care shall consist of services given to individuals who are subject to
prolonged suffering from illness or injury or who are recovering from illness or injury. The services
shall be within the ability of the home to provide and shall include the functions of medical care
such as diagnosis and treatment of an illness; nursing care via assessment, planning, and
implementation; evaluation of a patient's health care needs; and the carrying out of required
treatment prescribed by a physician.
333.21719 Immediate access to acute care facilities.
Sec. 21719. A nursing home shall not be licensed under this part unless the nursing home has formulated, and is prepared to implement, insofar as possible, a plan to provide immediate access to acute care facilities for the emergency care of patients.

333.21720 Nursing home administrator required.
Sec. 21720. (1) The department shall not license a nursing home under this part unless that nursing home is under the direction of a nursing home administrator licensed under article 15.
(2) Each nursing home having 50 beds or more shall have a full-time licensed nursing home administrator. If a nursing home changes nursing home administrators, the nursing home immediately shall notify the department of the change.

333.21720a Director of nursing; nursing personnel; effective date of subsection (1); natural disaster or other emergency.
Sec. 21720a. (1) A nursing home shall not be licensed under this part unless that nursing home has on its staff at least 1 registered nurse with specialized training or relevant experience in the area of gerontology, who shall serve as the director of nursing and who shall be responsible for planning and directing nursing care. The nursing home shall have at least 1 licensed nurse on duty at all times and shall employ additional registered and licensed practical nurses in accordance with subsection (2). This subsection shall not take effect until January 1, 1980.

333.21720b Agreement with county community mental health program.
Sec. 21720b. A nursing home shall not be licensed under this part unless that nursing home has entered into an agreement with the county community mental health program, if available, that will service the mental health needs of the patients of the nursing home.

333.21741 Rules.
Sec. 21741. (1) The department of public health, after seeking advice and consultation from the department of social services, appropriate consumer and professional organizations, and concerned agencies, shall promulgate rules to implement and administer this part.
(2) Initial rules proposed under this part shall be submitted to a public hearing not later than 6 months after this section is enacted into law.
(3) In addition to the rules prescribed in section 20171, rules for nursing homes shall include the establishment of standards relating to:
   (a) Complaint procedures.
   (b) Discharges and transfers.
   (c) Emergency procedures.
   (d) Medical audit procedures.
   (e) Patients' rights.
   (f) Standards of patient care to be provided in nursing homes.
   (g) Training, educational, and competency requirements of nursing home personnel other than licensed personnel.
   (h) Utilization and quality control review procedures.

333.21761 Certification of nondiscrimination; violation of rights; giving preference to members of religious or fraternal institution or organization.
Sec. 21761. (1) In addition to the requirements of section 20152, a licensee shall certify annually to the department, as part of its application for licensure and certification, that all phases of its operation, including its training program, are without discrimination against persons or groups of persons on the basis of race, religion, color, national origin, sex, age, disability, marital status, sexual
preference, or the exercise of rights guaranteed by law, including freedom of speech and association. If the department finds a violation of rights enumerated in this section, the department shall direct the administrator of the nursing home to take the necessary action to assure that the nursing home is, in fact, operated in accordance with the rights listed in this section.

(2) This section shall not be construed to prevent a nursing home operated, supervised, or controlled by a religious or fraternal institution or organization from giving preference to applicants who are members of that religious or fraternal institution or organization.

333.21771 Abusing, mistreating, or neglecting patient; reports; investigation; retaliation prohibited.
Sec. 21771. (1) A licensee, nursing home administrator, or employee of a nursing home shall not physically, mentally, or emotionally abuse, mistreat, or harmfully neglect a patient.
(2) A nursing home employee who becomes aware of an act prohibited by this section immediately shall report the matter to the nursing home administrator or nursing director. A nursing home administrator or nursing director who becomes aware of an act prohibited by this section immediately shall report the matter by telephone to the department of public health, which in turn shall notify the department of social services.
(3) Any person may report a violation of this section to the department.
(4) A physician or other licensed health care personnel of a hospital or other health care facility to which a patient is transferred who becomes aware of an act prohibited by this section shall report the act to the department.
(5) Upon receipt of a report made under this section, the department shall make an investigation. The department may require the person making the report to submit a written report or to supply additional information, or both.
(6) A licensee or nursing home administrator shall not evict, harass, dismiss, or retaliate against a patient, a patient’s representative, or an employee who makes a report under this section.

333.21781 Posting of license and other information.
Sec. 21781. A licensee shall conspicuously post in an area of its offices accessible to patients, employees, and visitors:
(a) A current license.
(b) A complete copy of the most recent inspection report of the nursing home received from the department.
(c) A description, provided by the department, of complaint procedures established under this act and the name, address, and telephone number of a person authorized by the department to receive complaints.
(d) A copy of a notice of a pending hearing or order pertaining to the nursing home issued by the department or a court under the authority of this article or rules promulgated under this article.
(e) A complete list of materials available for public inspection as required by section 21782.

333.21791 Advertising; false or misleading information prohibited.
Sec. 21791. A licensee shall not use false or misleading information in the advertising of a nursing home or its name.

333.21795 Education and training for unlicensed nursing personnel; criteria; competency examinations; rules.
Sec. 21795. (1) The department, in consultation and with the advice of the Michigan board of nursing and appropriate consumer and professional organizations, shall develop by rule minimum
criteria for the education and training for unlicensed nursing personnel in facilities designated in this part.

(2) This section shall not be construed to be a prerequisite for employment of unlicensed nursing personnel in a nursing home.

(3) During the annual licensing inspection the department shall, and during other inspections the department may, conduct random competency examinations to determine whether the requirements of this section are being met. The department shall promulgate rules to administer this subsection.

333.21796 Insuring proper licensing of licensed personnel.
Sec. 21796. The nursing home administrator and licensee shall be responsible for insuring that all licensed personnel employed by the nursing home are properly licensed.

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4658.00 (General)
4658.0015 COMPLIANCE WITH REGULATIONS AND STANDARDS.
A nursing home must operate and provide services in compliance with all applicable federal, state, and local laws, regulations, and codes, and with accepted professional standards and principles that apply to professionals providing services in a nursing home.

4658.0020 LICENSING IN GENERAL.
Subpart 1. Required. For the purpose of this chapter, a state license is required for a facility where nursing home care is provided for five or more aged or infirm persons who are not acutely ill.
„Subp. 4. License to be posted. The license must be posted at the main entrance of a nursing home.
Subp. 5. Separate licenses. Separate licenses are required for institutions maintained on separate, noncontiguous premises even though operated under the same management. A separate license is not required for separate buildings maintained by the same owner on the same premises.
...Subp. 15. Disclosure of controlling persons. According to Minnesota Statutes, section 144A.03, the nursing home license application must identify the name and address of all controlling persons of the nursing home, as defined in Minnesota Statutes, section 144A.01, subdivision 4.
Subp. 16. Disclosure of managerial employees. A nursing home license application must identify the name and address of all administrators, assistant administrators, directors of nursing, medical directors, and all other managerial employees, as defined in Minnesota Statutes, section 144A.01, subdivision 8, and indicate their previous work experience in nursing homes during the past two years.

4658.0050 LICENSEE.
Subpart 1. General duties. The licensee of a nursing home is responsible for its management, control, and operation. A nursing home must be managed, controlled, and operated 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.
Subp. 2. Specific duties. The licensee must develop written bylaws or policies for the management and operation of the nursing home and for the provision of resident care, which must be available to all members of the governing body, and must assume legal responsibility for matters under its control, for the quality of care rendered and for compliance with laws and rules relating to the
safety and sanitation of nursing homes, or which otherwise relate directly to the health, welfare, and care of residents.

Subp. 3. Responsibilities. A licensee is responsible for:

A. Full disclosure of each person having an interest of ten percent or more of the ownership of the home to the department with any change reported in writing within 14 days after the licensee knew of or should have known of the transfer, whichever occurs first. In case of corporate ownership, the name and address of each officer and director must be specified. If the home is organized as a partnership, the name and address of each partner must be furnished. In the case of a home operated by a lessee, the persons or business entities having an interest in the lessee organization must be reported and an executed copy of the lease agreement furnished. If the home is operated by the holder of a franchise, disclosure must be made as to the franchise holder who must also furnish an executed copy of the franchise agreement.

B. Appointment of a licensed nursing home administrator who is responsible for the operation of the home in accordance with law and established policies and whose authority to serve as administrator is delegated in writing.

C. Notification of the termination of service of the administrator and the appointment of a replacement within five working days in writing to the department. If a licensed nursing home administrator is not available to assume the position immediately, notification to the department must include the name of the person temporarily in charge of the home. The governing body of a nursing home must not employ an individual as the permanent administrator until it is determined that the individual qualifies for licensure as a nursing home administrator in Minnesota under Minnesota Statutes, section 144A.04. The governing body of the nursing home must not employ an individual as an acting administrator or person temporarily in charge for more than 30 days unless that individual has secured an acting administrator license, as required by Minnesota Statutes, section 144A.27.

D. Provision of an adequate and competent staff and maintenance of professional standards in the care of residents and operation of the nursing home.

E. Provision of facilities, equipment, and supplies for care consistent with the needs of the residents.

F. Provision of evidence of adequate financing, proper administration of funds, and the maintenance of required statistics. A nursing home must have financial resources at the time of initial licensure to permit full service operation of the nursing home for six months without regard to income from resident fees.

4658.0055 ADMINISTRATOR.

Subpart 1. Designation. A nursing home must designate a licensed nursing home administrator to be in immediate charge of the operation and administration of the nursing home, whether that individual is the licensee or a person designated by the licensee. The individual must have authority to carry out the provisions of this chapter and must be charged with the responsibility of doing so.

Subp. 2. [Repealed, L 2001 c 69 s 2]

Subp. 3. Administrator's absence; requirements. The administrator must not leave the premises without delegating authority to a person who is at least 21 years of age and capable of acting in an emergency and without giving information as to where the administrator can be reached. At no time may a nursing home be left without competent supervision. The person left in charge must have the authority to act in an emergency.

Subp. 4. Notice of person in charge. The name of the person in charge at the time must be posted at the main entrance of the nursing home.

4658.0060 RESPONSIBILITIES OF ADMINISTRATOR.

The administrator is responsible for the:

A. maintenance, completion, and submission of reports and records as required by the department;
B. formulation of written policies, procedures, and programs for operation, management, and maintenance of the nursing home;
C. current personnel records for each employee according to part 4658.0130;
D. written job descriptions for all positions which define responsibilities, duties, and qualifications that are readily available for all employees;
E. work assignments consistent with qualifications and the work load;
F. maintenance of a weekly time schedule which shows each employee's name, job title, hours of work, and days off for each day of the week. The schedule must be dated and communicated to employees. The schedules and time cards, payroll records, or other written documentation of actual time worked and paid for must be kept on file in the home for three years;
G. orientation for new employees and volunteers and provision of a continuing in-service education program for all employees and volunteers to give assurance that they understand the proper method of carrying out all procedures;
H. establishment of a recognized accounting system; and
I. the development and maintenance of channels of communications with employees, including:
   (1) distribution of written personnel policies to employees;
   (2) regularly scheduled meetings of supervisory personnel;
   (3) an employee suggestion system; and
   (4) employee evaluation.

4658.0065 RESIDENT SAFETY AND DISASTER PLANNING.
Subpart 1. Safety program. A nursing home must develop and implement an organized safety program in accordance with a written safety plan. The written plan must be included in the orientation and in-service training programs of all employees and volunteers to ensure safety of residents at all times.

Subp. 3. Written disaster plan. A nursing home must have a written disaster plan specific to the nursing home with procedures for the protection and evacuation of all persons in the case of fire or explosion or in the event of floods, tornadoes, or other emergencies. The plan must include information and procedures about the location of alarm signals and fire extinguishers, frequency of drills, assignments of specific tasks and responsibilities of the personnel on each shift, persons and local emergency departments to be notified, precautions and safety measures during tornado alerts, procedures for evacuation of all persons during fire or floods, planned evacuation routes from the various floor areas to safe areas within the building, or from the building when necessary, and arrangements for temporary emergency housing in the community in the event of total evacuation.

Subp. 4. Availability of disaster plan. Copies of the disaster plan containing the basic emergency procedures must be posted at all nurses’ stations, kitchens, laundries, and boiler rooms. Complete copies of the detailed disaster plan must be available to all supervisory personnel.

Subp. 5. Drills. Residents do not need to be evacuated during a drill except when an evacuation drill is planned in advance.

4658.0070 QUALITY ASSESSMENT AND ASSURANCE COMMITTEE.
A nursing home must maintain a quality assessment and assurance committee consisting of the administrator, the director of nursing services, the medical director or other physician designated by the medical director, and at least three other members of the nursing home’s staff, representing disciplines directly involved in resident care. The quality assessment and assurance committee must identify issues with respect to which quality assurance activities are necessary and develop and implement appropriate plans of action to correct identified quality deficiencies. The committee must address, at a minimum, incident and accident reporting, infection control, and medications and pharmacy services.
4658.0075 OUTSIDE RESOURCES.
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 must have that service furnished to residents under a written agreement with a person or agency outside the nursing home. The written agreement must specify that the service meets professional standards and principles that apply to professionals providing services in a nursing home, and that the service meets the same standards as required by this chapter.

4658.01 (Human Resources)
4658.0100 EMPLOYEE ORIENTATION AND IN-SERVICE EDUCATION.
Subpart 1. Orientation and initial training. All personnel must be instructed in the requirements of the law and the rules pertaining to their respective duties and the instruction must be documented. All personnel must be informed of the policies of the nursing home, and procedure manuals must be readily available to guide them in the performance of their duties.
Subp. 2. In-service education. A nursing home must provide in-service education. The in-service education must be sufficient to ensure the continuing competence of employees, must address areas identified by the quality assessment and assurance committee, and must address the special needs of residents as determined by the nursing home staff. A nursing home must provide an in-service training program in rehabilitation for all nursing personnel to promote ambulation; aid in activities of daily living; assist in activities, self-help, maintenance of range of motion, and proper chair and bed positioning; and in the prevention or reduction of incontinence.
Subp. 3. Reference materials. Textbooks, periodicals, dictionaries, and other reference materials must be available and kept current. A nursing home must review the currency of these reference materials at least annually.
Subp. 4. Coordination of in-service education programs. In a nursing home with over 90 beds, one person must be designated as responsible for coordination of all in-service education programs.

4658.0105 COMPETENCY.
A nursing home must ensure that direct care staff are able to demonstrate competency in skills and techniques necessary to care for residents’ needs, as identified through the comprehensive resident assessments and described in the comprehensive plan of care, and are able to perform their assigned duties.

4658.0120 EMPLOYEE POLICIES.
Subpart 1. Keys. The person in charge of a nursing home on each work shift must have the ability to open all doors and locks in the nursing home except the business office.
Subp. 2. Requirements for staff. A nursing home must have at least one responsible person awake, dressed, and on duty at all times. The person must be at least 21 years of age and capable of performing the required duties of evacuating the residents.
Subp. 3. Identification of staff. Each employee and volunteer must wear a badge which includes name and position.

4658.0130 EMPLOYEES’ PERSONNEL RECORDS.
A current personnel record must be maintained for each employee and be stored in a confidential manner. The personnel records for at least the most recent three-year period must be maintained by the nursing home. The records must be available to representatives of the department and must contain:
A. the person’s name, address, telephone number, gender, Minnesota license, certification, or registration number, if applicable, and similar identifying data;
B. a list of the individual’s training, experience, and previous employment;
C. the date of employment, type of position currently held, hours of work, and attendance records;
and
D. the date of resignation or discharge. Employee health information, including the record of all accidents and those illnesses reportable under part 4605.7040, must be maintained and stored in a separate employee medical record.

4658.0135 POLICY RECORDS.
Subpart 1. Availability of policies. All policies and procedures directly related to resident care adopted by the home must be placed on file and be made available upon request to nursing home personnel, residents, legal representatives, and designated representatives.

4658.0155 REPORTS TO DEPARTMENT.
Reports regarding statistical data and services furnished must be submitted on forms furnished by the department. Copies must be retained by the nursing home.

4658.02 (Resident Policy)
4658.0200 POLICIES CONCERNING RESIDENTS.
...Subp. 2. Telephones. A nursing home must provide at least one non-coin-operated telephone which is accessible to residents at all times in case of emergency.

4658.04 (Records)
4658.0430 HEALTH INFORMATION MANAGEMENT SERVICE.
Subpart 1. Health information management. A nursing home must maintain health information management services, including clinical records, in accordance with accepted professional standards and practices, federal regulations, and state statutes pertaining to the content of the clinical record, health care data, computerization, confidentiality, retention, and retrieval. For purposes of this part, "health information management" means the collection, analysis, and dissemination of data to support decisions related to: disease prevention and resident care; effectiveness of care; reimbursement and payment; planning, research, and policy analysis; and regulations.
Subp. 2. Quality of health information. A nursing home must develop and utilize a mechanism for auditing the quality of its health information management services.
Subp. 3. Person responsible for health information management. A nursing home must designate a person to be responsible for health information management.

4658.0435 CONFIDENTIALITY OF CLINICAL RECORDS AND INFORMATION.
Subpart 1. Maintaining confidentiality of records. Information in the clinical records, regardless of form or storage methods, must be kept confidential according to Minnesota Statutes, chapter 13 and sections 144.335 and 144.651, and federal regulations. A resident’s clinical information in a nursing home must be considered confidential but it must be made available to all persons in the nursing home who are responsible for the care of the resident. The clinical information must be open to inspection by representatives of the Department of Health and others legally authorized to obtain access.
Subp. 2. Electronic transmission of health care data. If a nursing home chooses to transmit or receive health care data by electronic means, the nursing home must develop and comply with policies and procedures to ensure the confidentiality, security, and verification of the transmission and receipt of information authorized to be transmitted by electronic means. A durable copy of the transmission must be placed in the resident’s clinical record.
4658.0440 ABBREVIATIONS.
A nursing home must have an explanation key available for abbreviations or symbols used in
documentation and the collection of data and information.

4658.0445 CLINICAL RECORD.
Subpart 1. Unit record. A resident’s clinical record must be started at admission and incorporated
into a central unit record system. The clinical record must contain sufficient information to identify
the resident, contain a record of resident assessments, the comprehensive plan of care, progress
notes on the implementation of the care plan, and a summary of the resident’s condition at the time
of discharge.
Subp. 2. Form of entries and authentication. Data collected must be timely, accurate, and complete.
All entries must be entered, authenticated, and dated by the person making the entry. If a nursing
home uses an electronic paperless means of storing the clinical record, the nursing home must
comply with part 4658.0475. All entries must be made as soon as possible after the observation or
treatment in order to keep the clinical record current. In cases where authentication is done
electronically or by rubber stamp, safeguards to prevent unauthorized use must be in place, and a
rubber stamp may be used only if allowed by the licensing rules for that health care professional.
Nursing assistants may document in the nursing notes if allowed by nursing home policy.
Subp. 3. Classification systems. All diagnoses and procedures must be accurately and
comprehensively coded to ensure accurate resident medical profiles.

4658.0450 CLINICAL RECORD CONTENTS.
Subpart 1. In general. Each resident’s clinical record, including nursing notes, must include:
A. the condition of the resident at the time of
admission;
B. temperature, pulse, respiration, and blood pressure, according to part 4658.0520, subpart 2, item
1;
C. the resident’s height and weight, according to part 4658.0520, subpart 2, item J;
D. the resident’s general condition, actions, and attitudes;
E. observations, assessments, and interventions provided by all disciplines responsible for care of
the resident, with the exception of confidential communications with religious personnel;
F. significant observations on, for example, behavior, orientation, adjustment to the nursing home,
judgment, or moods;
G. date, time, quantity of dosage, and method of administration of all medications, and the signature
of the nurse or authorized persons who administered the medication;
H. a report of a tuberculin test within the three months prior to admission, as described in part
4658.0810;
I. reports of laboratory examinations;
J. dates and times of all treatments and dressings;
K. dates and times of visits by all licensed health care practitioners;
L. visits to clinics or hospitals;
M. any orders or instructions relative to the comprehensive plan of care;
N. any change in the resident’s sleeping habits or appetite;
O. pertinent factors regarding changes in the resident’s general conditions; and
P. results of the initial comprehensive resident assessment and all subsequent comprehensive
assessments as described in part 4658.0400.
Subp. 2. Physician and professional services. The clinical record must contain the recording
requirements of parts 4658.0710 to 4658.0725.
Subp. 3. Nursing services. The clinical record must contain the recording requirements of parts 4658.0515 to 4658.0530.
Subp. 4. Dietary and food services. The clinical record must contain the recording requirements of parts 4658.0600 and 4658.0625.
Subp. 5. Resident personal funds account. The clinical record must contain the recording requirements of part 4658.0255.
Subp. 6. Activities. The clinical record must contain the recording requirements of part 4658.0900.
Subp. 7. Social services. The clinical record must contain the recording requirements of parts 4658.1015 and 4658.1020.

4658.0455 TELEPHONE AND ELECTRONIC ORDERS.
A. Orders received by telephone, facsimile machine, or other electronic means must be kept confidential according to Minnesota Statutes, sections 144.335, 144.651, and 144.652.
B. Orders received by telephone or other electronic means, not including facsimile machine, must be immediately recorded or placed in the resident's record by the person authorized by the nursing home and must be countersigned by the ordering health care practitioner authorized to prescribe at the time of the next visit, or within 60 days, whichever is sooner.
C. Orders received by facsimile machine must have been signed by the ordering health practitioner authorized to prescribe, and must be immediately recorded or a durable copy must be placed in the resident's clinical record by the person authorized by the nursing home.

4658.0460 MASTER RESIDENT RECORD.
A permanent record must be kept listing at a minimum the full name of the resident, resident identification number, date of birth, date of admission, date of discharge, and discharge disposition. The master resident record must be kept in such a manner that total admissions, discharges, deaths, and resident days can be calculated, and an alphabetical listing of residents can be created.

4658.0470 RETENTION, STORAGE, AND RETRIEVAL.
Subpart 1. Retention. A resident's records must be preserved for a period of at least five years following discharge or death.
Subp. 2. Storage. Space must be provided for the safe and confidential storage of residents' clinical records. Records of current residents must be stored on site.
Subp. 3. Retrieval. If records of discharged residents are stored off site, policies and procedures must be developed and implemented by clinical record personnel and the nursing home administration for the confidentiality, retention, and timely retrieval of records within one working day. The policies and procedures must specify who is authorized to retrieve a record. Off-site archived copies of clinical databases must be protected against fire, flood, and other emergencies. The policies must address the location and retention of records if the nursing home discontinues operation.

4658.0475 COMPUTERIZATION.
If a nursing home is converting to an electronic paperless health information management system:
A. policies and procedures must be established and maintained that require password protection of the clinical database;
B. any outside contract for health information management services must include a provision that the company providing the services assumes responsibility for maintaining the confidentiality of all health information within its control;
C. audit trails must be developed for computer applications to determine the source and date of all entries and deletions;
D. backup systems must be implemented and maintained;
E. preventative maintenance must be implemented and maintained;
F. there must be a plan for preparing, securing, and retaining archived copies of computerized clinical databases;
G. procedures must be implemented for preparing and securing daily, weekly, and monthly archived copies of computerized clinical databases; and
H. there must be confidentiality and protection from unauthorized use of active and archived computerized clinical databases.

4658.05 (Nursing)
4658.0500 DIRECTOR OF NURSING SERVICES.
Subpart 1. Qualifications and duties. A nursing home must have a director of nursing services who is a registered nurse.

4658.0505 RESPONSIBILITIES; DIRECTOR OF NURSING SERVICES.
The written job description for the director of nursing services must include responsibility for:
...C. planning and conducting orientation programs for new nursing personnel, volunteers, and temporary staff, and continuing in-service education for all nursing home staff in nursing homes under 90 beds, if no one is designated as responsible for all in-service education...

4658.07 (Medical Director)
4658.0700 MEDICAL DIRECTOR.
Subpart 1. Designation. A nursing home must designate a physician to serve as medical director.
Subp. 2. Duties. The medical director, in conjunction with the administrator and the director of nursing services, must be responsible for:
A. the development of resident care policies and procedures that are to be approved by the licensee;
B. implementation of resident care policies;
C. the development of standards of practice for medical care to provide guidance to attending physicians;
D. the medical direction and coordination of medical care in the nursing home, including serving as liaison with attending physicians, and periodic evaluation of the adequacy and appropriateness of health professional and supportive staff and services to meet the medical needs of residents;
E. surveillance of the health status of the nursing home's employees as it relates to the performance of their assigned duties;
F. periodic advisement to the director of nursing services to ensure a quality level of delegated medical care provided to residents; and
G. participation, or designation of another physician for participation, on the quality assessment and assurance committee as required by part 4658.0070.

4658.0715 MEDICAL INFORMATION FOR CLINICAL RECORD.
A physician or physician designee must provide the following information for the clinical record:
A. the report of the admission history and physical examination;
B. the admitting diagnosis;
C. a description of the general medical condition, including disabilities and limitations;
D. a report of subsequent physical examinations;
E. instructions relative to the resident's total program of care;
F. written orders for all medications with stop dates, treatments, rehabilitations, and any medically prescribed special diets;
G. progress notes;
H. any advanced directives; and
I. condition on discharge or transfer, or cause of death.
4658.08 (Infection Control)
4658.0800 INFECTION CONTROL.
Subp. 4. Policies and procedures. The infection control program must include policies and procedures which provide for the following:
...D. in-service education in infection prevention and control;

4658.2030 SPECIALIZED CARE UNIT.
Subpart 1. Specialized care unit, defined. For purposes of this part, "specialized care unit" means any nursing unit within a nursing home designed and advertised for a specific population.
Subp. 2. Statement of operations. A nursing home must develop and implement a statement of operations for the specialized care unit, which must include, at a minimum:
A. the philosophy and objectives of the unit;
B. the intended population of the unit; and
C. admission and discharge criteria for the unit.
Subp. 3. Availability of statement of operations. A nursing home must make the statement of operations for the specialized care unit available to the department and to the public.

4658.0095 AVAILABILITY OF LICENSING RULES.
A copy of this chapter must be made available by a nursing home upon request for the use of all nursing home personnel, residents, and family members.

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PART II CLASSIFICATION OF INSTITUTIONS FOR THE AGED OR INFIRM AS NURSING FACILITY
103 NURSING FACILITY
...b. A registered nurse designated as the Director of Nursing Services, who shall be employed on a full time (five [5] days per week) basis on the day shift and be responsible for all nursing services in the facility.

PART III THE LICENSE
104 THE LICENSE
104.01 License. A license shall be issued to each facility that meets the requirements as set forth in these regulations.

105 APPLICATION FOR LICENSE
...105.03 Name of Institution. Every facility or infirm shall be designated by a permanent and distinctive name which shall be used in applying for a license and shall not be changed without first notifying the licensing agency in writing and receiving written approval of the change from the licensing agency. Such notice shall specify the name to be discontinued as well as the new name proposed. The words "hospital", "sanatarium", "sanatorium", "clinic" or any other word which would reflect a different type of facility shall not appear in the title of a facility. Only the official name by which the facility is licensed shall be used in telephone listings, stationery, advertising, etc. Two or more facilities shall not be licensed under a similar name.
106 LICENSING
...106.02 Separate License. Separate license shall be required for institutions maintained on separate premises even though under the same management. However, separate license are not required for buildings on the same grounds which are under the same management.
106.03 Posting of License. The license shall be posted in a conspicuous place on the license premises and shall be available for review by an interested person.
106.04 License Not Transferable. The license for a facility is not transferable or assignable to any other person except by written approval of the licensing agency and shall be issued only for the premises named in the application. The license shall be surrendered to the licensing agency on change of ownership, licensee, name or location of the institution, or in the event that the institution ceases to be operated as a facility. In event of change of ownership, licensee, name or location of the facility, a new application shall be filed.

PART IV ADMINISTRATION
109 THE AUTHORITY FOR ADMINISTRATION FOR INSTITUTION FOR THE AGED OR INFIRM
109.01 Responsibility. The governing authority, the owner, or the person(s) designated by the governing authority or the owner shall be the supreme authority in a facility responsible for the management, control, and operation of the institution including the appointment of a qualified staff.
109.02 Organization. Each facility should establish a written organizational plan, which may be an organizational chart that clearly establishes a line of authority, responsibilities, and relationships. Written personnel policies and job descriptions shall be prepared and given to each employee.
109.03 Relationship of staff to Governing Authority. The administrator, personnel, and all auxiliary organizations shall be directly or indirectly responsible to the governing authority.

110 THE LICENSEE
110.01 Responsibility. The licensee shall be the person who the licensing agency will hold responsible for the operation of the home in compliance with these regulations. The licensee may serve as the administrator or may appoint someone to be the administrator. The licensee shall be responsible for submitting to the licensing agency the plans and specifications for the building, the applications for license, and such reports as are required.
1. Initial Application. The licensee shall submit the following with his initial application:
a. References in regard to this character, temperament, and experience background from three (3) responsible persons not related to him. The licensing agency reserves the right to make investigations from its own source regarding the character of the applicant.
b. Whether the governing body will be a private proprietary, partnership, corporation, governmental, or other (non-profit, church, etc.). If a partnership, the full name and address of each partner. If a corporation or other, the name, address, and title of each officer. If governmental, the unit of government.

111 ADMINISTRATOR
111.01 Responsibility. There shall be a licensed administrator with authority and responsibility for the operation of the facility in all its administrative and professional functions subject only to the policies enacted by the governing authority and to such orders as it may issue. The administrator shall be the direct representative of the governing authority in the management of the facility and shall be responsible to said governing authority for the proper performance of duties. There shall be a qualified individual present in the facility responsible to the administrator in matters of administration who shall represent him during the absence. The persons shall not be a resident of the facility.
112 FINANCIAL
112.01 Accounting. Accounting methods and procedures should be carried out in accordance with a recognized system of good business practice. The method and procedure used should be sufficient to permit annual audit, accurate determination of the cost of operation and the cost per resident per day.
112.02 Financial Structure. All facilities shall have a financial plan which guarantees sufficient resources to meet operating cost at all times and to maintain standards required by these regulations.

113 EMERGENCY OPERATIONS PLAN (EOP)
113.01 The licensed entity shall develop and maintain a written preparedness plan utilizing the “All Hazards” approach to emergency and disaster planning. The plan must include procedures to be followed in the event of any act of terrorism or man-made or natural disaster as appropriate for the specific geographical location. The final draft of the Emergency Operations Plan (EOP), will be reviewed by the Office of Emergency Preparedness and Response, Mississippi State Department of Health, or their designates, for conformance with the “All Hazards Emergency Preparedness and Response Plan.” Particular attention shall be given to critical areas of concern which may arise during any “all hazards” emergency whether required to evacuate or to sustain in place. Additional plan criteria or a specified EOP format may be required as deemed necessary by the Office of Emergency Preparedness and Response. The six (6) critical areas of consideration are:
1. Communications -Facility status reports shall be submitted in a format and a frequency as required by the Office of EOP.
2. Resources and Assets
3. Safety and Security
4. Staffing
5. Utilities
6. Clinical Activities.
Emergency Operations Plans (EOPs) must be exercised and reviewed annually or as directed by the Office of Emergency Preparedness and Response. Written evidence of current approval or review of provider EOPs, by the Office of Emergency Preparedness and Response, shall accompany all applications for facility license renewals.

113.02 Facility Fire Preparedness
Fire Drills. Fire drills shall be conducted one (1) per shift per quarter. Employees shall participate in a fire drill at least four (4) times per year. Written Records. Written records of all drills shall be maintained, indicating content of and attendance at each drill. A fire evacuation plan for the facility shall be posted in each facility in a conspicuous place and kept current.

114 PHYSICAL FACILITIES
...114.02 Communication Facilities. Each facility shall have an adequate number of telephones and extensions to summon help in case of fire or other emergency, and these shall be located so as to be quickly accessible from all parts of the building. The telephone shall be listed under the official licensed name of the facility.

115 RECORDS AND REPORTS
115.01 General. Each facility shall submit such records and reports as the licensing agency may request.
115.02 Annual Report. An annual report shall be submitted to the licensing agency by each facility upon such uniform dates and shall contain such information in such form as the licensing agency prescribes.
115.03 Criminal History Record Checks.
1. Pursuant to Section 43-11-13, Mississippi Code of 1972, the covered entity shall require to be preformed a disciplinary check with the professional licensing agency, if any, for each employee to determine if any disciplinary action has been taken against the employee by the agency, and a criminal history record check on:
   a. Every new employee of a covered entity who provides direct patient care or services and who is employed on or after July 01, 2003, and
   b. Every employee of a covered entity employed prior to July 01, 2003, who has documented disciplinary action by his or her present employer.
2. Except as otherwise provided in this paragraph, no employee hired on or after July 01, 2003, shall be permitted to provide direct patient care until the results of the criminal history record check revealed no disqualifying record or the employee has been granted a waiver. Provided the covered entity has documented evidence of submission of fingerprints for the background check, any person may be employed and provide direct patient care on a temporary basis pending the results of the criminal history record check but any employment offer, contract, or arrangement with the person shall be voidable, if he/she receives a disqualifying criminal record check and no waiver is granted.
3. If such criminal history record check discloses a felony conviction; a guilty plea; and/or a plea of nolo contendere to a felony for one (1) or more of the following crimes which has not been reversed on appeal, or for which a pardon has not been granted, the applicant/employee shall not be eligible to be employed at the licensed facility:
   a. possession or sale of drugs
   b. murder
   c. manslaughter
   d. armed robbery
   e. rape
   f. sexual battery
   g. sex offense listed in Section 45-33-23(g), Mississippi Code of 1972
   h. child abuse
   i. arson
   j. grand larceny
   k. burglary
   l. gratification of lust
   m. aggravated assault
   n. felonious abuse and/or battery of vulnerable adult
4. Documentation of verification of the employee’s disciplinary status, if any, with the employee’s professional licensing agency as applicable, and evidence of submission of the employee’s fingerprints to the licensing agency must be on file and maintained by the facility prior to the new employee’s first date of employment. The covered entity shall maintain on file evidence of verification of the employee’s disciplinary status from any applicable professional licensing agency and of submission and/or completion of the criminal record check, the signed affidavit, if applicable, and/or a copy of the referenced notarized letter addressing the individual’s suitability for such employment.
5. Pursuant to Section 43-11-13, Mississippi Code of 1972, the licensing agency shall require every employee of a covered entity employed prior to July 01, 2003, to sign an affidavit stating that he or she does not have a criminal history as outlined in paragraph (3) above.
6. From and after December 31, 2003, no employee of a covered entity hired before July 01, 2003, shall be permitted to provide direct patient care unless the employee has signed an affidavit as required by this section. The covered entity shall place the affidavit in the employee’s personnel file as proof of compliance with this section.
7. If a person signs the affidavit required by this section, and it is later determined that the person actually had been convicted of or pleaded guilty or nolo contendere to any of the offenses listed herein, and the conviction or pleas has not been reversed on appeal or a pardon has not been granted for the conviction or plea, the person is guilty of perjury as set out in Section 43-11-13, Mississippi Code of 1972. The covered entity shall immediately institute termination proceedings against the employee pursuant to the facility’s policies and procedures.

8. The covered entity may, in its discretion, allow any employee unable to sign the affidavit required by paragraph (7) of this subsection or any employee applicant aggrieved by the employment decision under this subsection to appear before the covered entity’s hiring officer, or his or her designee, to show mitigating circumstances that may exist and allow the employee or employee applicant to be employed at the covered entity. The covered entity, upon report and recommendation of the hiring officer, may grant waivers for those mitigating circumstances, which shall include, but not be limited to: (1) age at which the crime was committed; (2) circumstances surrounding the crime; (3) length of time since the conviction and criminal history since the conviction; (4) work history; (5) current employment and character references; and (6) other evidence demonstrating the ability of the individual does not pose a threat to the health or safety of the patients in the licensed facility.

9. The licensing agency may charge the covered entity submitting the fingerprints a fee not to exceed Fifty Dollars ($50.00).

10. Should results of an employee applicant’s criminal history record check reveal no disqualifying event, then the covered entity shall, within two (2) weeks of the notification of no disqualifying event, provide the employee applicant with a notarized letter signed by the chief executive officer of the covered entity, or his or her authorized designee, confirming the employee applicant’s suitability for employment based on his or her criminal history record check. An employee applicant may use that letter for a period of two (2) years from the date of the letter to seek employment at any covered entity licensed by the Mississippi Department of Health without the necessity of an additional criminal record check. Any covered entity presented with the letter may rely on the letter with respect to an employee applicant’s criminal background and is not required for a period of two (2) years from the date of the letter to conduct or have conducted a criminal history check as required in this subsection.

11. For individuals contacted through a third party who provide direct patient care as defined herein, the covered entity shall require proof of a criminal history record check.

12. Pursuant to Section 43-11-13, Mississippi Code of 1972, the licensing agency, the covered entity, and their agents, officer, employees, attorneys, and representatives, shall be presumed to be acting in good faith for any employment decision or action taken under this section. The presumption of good faith may be overcome by a preponderance of the evidence in any civil action. No licensing agency, covered entity, nor their agents, officers, employees, attorneys and representatives shall be held liable in any employment discrimination suit in which an allegation of discrimination is made regarding an employment decision authorized under this section.

101 DEFINITIONS

...101.05 Criminal History Record Checks.

Employee. For the purpose of fingerprinting and criminal background history checks, employee shall mean any individual employed by a covered entity. The term employee”, also includes any individual who by contract with the covered entity provides direct patient care in a patient’s, resident’s, or client’s room or in treatment rooms. The term “employee” does not include healthcare professional/technical students, as defined in Section 37-29-232, performing clinical training in a licensed entity under contracts between their schools and the licensed entity, and does not include students at high schools who observe the treatment and care of patients in a licensed entity as part of the requirements of an allied health course taught in the school if:
a. The student is under the supervision of a licensed healthcare provider; and
b. The student has signed the affidavit that is on file at the student’s school stating that he or she has not been convicted of or plead guilty or nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, any sex offenses listed in section 45-33-23 (g), child abuse, arson, grand larceny, burglary, gratification of lust, aggravated assault, or felonious abuse and/or battery of a vulnerable adult, or that any such conviction or plea was reversed on appeal or a pardon was granted for the conviction or plea.
c. Further, applicants and employees of the University of Mississippi Medical Center for whom criminal history record checks and fingerprinting are obtained in accordance with Section 37-115-41 are exempt from application of the term employee under Section 43-11-13.

116 RESIDENTS RIGHTS
116.01 General... In-service on residents’ rights and responsibilities shall be conducted annually.

117 STAFF DEVELOPMENT
117.01 Orientation. Each employee shall receive thorough orientation to the position, the facility, and its policies.
117.02 In-service Training. Appropriate in-service education programs shall be provided to all employees on an on-going basis.
117.03 Training Records. A written record shall be maintained of all orientation and in-service training sessions
117.04 Administrator Mentoring. Administrators shall be scheduled to spend two (2) concurrent days with the licensing agency for the purpose of training and mentoring. Placement of an administrator with the licensing agency may include, but not be limited to, assignments within the licensing agency's central offices or placement with a survey team. Any costs associated with placements for the purposes of this section shall be borne by the licensed facility at which the administrator is employed. The administrator shall keep confidential and not disclose to any other persons any identifying information about any person or entity that he/she learned while observing operations as required by this section, except as otherwise mandated by law. This section shall apply to administrators who: 1. received their license from the Mississippi Board of Nursing Home Administrators on or after January 1, 2002; and
2. have been employed by a licensed facility for less than six (6) months, during which time the placement must be completed. This section shall not apply to administrators who: 1. received a license from the Mississippi Board of Nursing Home Administrators on or prior to December 31, 2001; or 2. who were previously employed by the licensing agency in a surveyor capacity. Failure to successfully complete the placement required under this section shall disqualify the administrator from serving in such capacity for a licensed facility until a placement is completed. This section shall go into effect January 1, 2002 and thereafter.

122 REHABILITATIVE SERVICES
122.01 Rehabilitative services. ...The therapies shall be provided by a qualified therapist. ...Each resident’s medical record shall contain written evidence that services are provided in accordance with the written orders of an attending physician or nurse practitioner.

124 MEDICAL RECORDS SERVICES
1. A medical record shall be maintained in accordance with accepted professional standards and practices on all residents admitted to the facility. The medical records shall be completely and accurately documented, readily accessible, and systematically organized to facilitate retrieving and compiling information.
2. A sufficient number of personnel, competent to carry out the functions of the medical record service, shall be employed.
3. The facility shall safeguard medical record information against loss, destruction, or unauthorized use.
4. All medical records shall maintain the following information: identification data and consent form; assessments of the resident's needs by all disciplines involved in the care of the resident; medical history and admission physical exam; annual physical exams; physician or nurse practitioner orders; observation, report of treatment, clinical findings and progress notes; and discharge summary, including the final diagnosis.
5. All entries in the medical record shall be signed and dated by the person making the entry. Authentication may include signatures, written initials, or computer entry. A list of computer codes and written signatures must be readily available and maintained under adequate safeguards.
6. All clinical information pertaining to the residents stay shall be centralized in the resident's medical records.
7. Medical records of discharged residents shall be completed within sixty (60) days following discharge.
8. Medical records are to be retained for five (5) years from the date of discharge or, in the case of a minor, until the resident reaches the age of twenty-one (21), plus an additional three (3) years.
9. A resident index, including the resident’s full name and birth date, shall be maintained.

PART VI SOCIAL SERVICES AND RESIDENT ACTIVITIES

125 SOCIAL SERVICES
125.03 Training. All nursing personnel and employees having contact with resident shall receive social service orientation and in-service training toward understanding emotional problems and social needs of residents.

CHAPTER 50 MINIMUM STANDARDS OF OPERATION FOR ALZHEIMER’S DISEASE/DEMENTIA CARE UNIT

PART I GENERAL ALZHEIMER’S DISEASE/DEMENTIA CARE UNIT

100 DEFINITIONS
100.02 Alzheimer's Disease/Dementia Care Unit (A/D Unit). A licensed nursing home or licensed personal care home (hereinafter referred to as "licensed facility" unless specified otherwise) may establish a separate A/D Unit for residents suffering from a form of dementia or Alzheimer’s Disease. The rules and regulations as set forth in these regulations are in addition to the licensure requirements for the licensed facility, and do not exempt a licensed facility from compliance therewith.
100.03 Alzheimer's Disease/Dementia Care Unit Designation. Any licensed facility that establishes an A/D Unit, and meets the requirements as set forth in this chapter, shall have said designation printed upon the certificate of licensure issued to said facility by the licensing agency. In order for an A/D Unit to receive designation, the facility must have also received licensure from the licensing agency as a nursing home or as a personal care home.

101 STAFFING
101.02 Staff Orientation. The goals of training and education for A/D Units are to enhance staff understanding and sensitivity toward the A/D Unit residents, to allow staff to master care techniques, to ensure better performance of duties and responsibilities, and to prevent staff burnout. The trainer(s) shall be qualified individuals with experience and knowledge in the care of individuals with Alzheimer’s Disease and other forms of dementia. The licensed facility shall
provide an orientation program to all new employees assigned to the A/D Unit. The orientation program shall be outlined in an orientation manual and shall include, but not be limited to:
1. The licensed facility's philosophy related to the care of residents with Alzheimer's Disease and other forms of dementia in the A/D Unit;
2. A description of Alzheimer's Disease and other forms of dementia;
3. The licensed facility's policies and procedures regarding the general approach to care provided in the A/D Unit, including therapies provided; treatment modalities; admission, discharge, and transfer criteria; basic services provided within the A/D Unit; policies regarding restraints, wandering and egress control, and medication management; nutrition management techniques; staff training; and family activities; and
4. Common behavior problems and recommended behavior management.

101.03 In-Service Training. Ongoing in-service training shall be provided to all staff who may be in direct contact with residents of the A/D Unit. Staff training shall be provided at least quarterly. The licensed facility will keep records of all staff training provided and the qualifications of the trainer(s). The licensed facility shall provide hands on training on at least three (3) of the following topics each quarter:

1. The nature of Alzheimer's Disease, including the definition, the need for careful diagnosis, and knowledge of the stages of Alzheimer's Disease;
2. Common behavioral problems and recommended behavior management techniques;
3. Communication skills that facilitate better resident-staff relations;
4. Positive therapeutic interventions and activities, such as exercise, sensory stimulation, activities of daily living skills, etc.;
5. The role of the family in caring for residents with Alzheimer's Disease, as well as the support needed by the family of these residents;
6. Environmental modifications to avoid problems and create a therapeutic environment;
7. Development of comprehensive and individual care plans and how to update and implement them consistently across shifts, establishing a baseline and concrete treatment goals and outcomes; and
8. New developments in diagnosis and therapy.

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19 CSR 30-81.010 General Certification Requirements
...(2) An operator of an SNF or ICF licensed by the department electing to be certified as a provider of skilled nursing services under the Title XVIII (Medicare) or NF services under the Title XIX (Medicaid) program of the Social Security Act; or an operator of a facility electing to be certified as an ICF/MR facility under Title XIX shall submit application materials to the department as required by federal law and shall comply with standards set forth in the Code of Federal Regulations (CFR) of the United States Department of Health and Human Services in 42 CFR chapter IV, part 483, subpart B for nursing homes and 42 CFR chapter IV, part 483, subpart I for ICF/MR facilities, as appropriate.
...(8) A facility, in its application, shall designate the number of beds to be certified and their location in the facility. A facility can be wholly or partially certified. If partially certified, the beds shall be in a distinct part of the facility and all beds shall be contiguous.
...(10) If a facility certified to participate in the Title XIX (Medicaid) or Title XVIII (Medicare) program undergoes a change of operator, the new operator shall submit an application as specified in section (2) of this rule. The application shall be submitted within five (5) working days of the
change of operator. For applications made for the Title XIX (Medicaid) program, the department shall provide the application to the Division of Medical Services of the Department of Social Services so that a provider agreement can be negotiated and signed. For applications made for the Title XVIII (Medicare) program, the department shall provide the application to the CMS. Certification status will be retained unless or until formally denied.

...(13) If a change in the administrator or the director of nursing of a facility occurs, the facility shall provide written notice to the department's SLTC central office licensure unit within ten (10) calendar days of the change. The notice shall show the effective date of the change, the identity of the new director of nursing or administrator and a copy of his or her license or the license number. Change of administrator information shall be submitted as a notarized statement by the operator in accordance with section 198.018, RSMo.

19 CSR 30-82.010 General Licensure Requirements
(A) The applicant shall submit the following documents and information as listed in the application:
...8. A document disclosing the name, address, title, and percentage of ownership of each affiliate of any general partnership, limited partnership, general business corporation, nonprofit corporation, limited liability company, or governmental entity which owns or operates the facility or is an affiliate of an entity which owns or operates the facility. If an affiliate is a corporation, partnership, or LLC, a list of the affiliate's affiliates must also be submitted. As used in this rule, the word "affiliate" means:
A. With respect to a partnership, each partner thereof;
B. With respect to a limited partnership, the general partner and each limited partner with an interest of five percent (5%) or more in the limited partnership;
C. With respect to a corporation, each person who owns, holds, or has the power to vote five percent (5%) or more of any class of securities issued by the corporation, and each officer and director;
D. With respect to an LLC, the LLC managers and members with an interest of five percent (5%) or more;
1. If applicable, a document stating the name and nature of any additional businesses in operation on the facility premises and the document issued by the division giving its prior written approval for each business;
2. A list of all principals in the operation of the facility and their addresses and titles and, so that the department may verify the information disclosed pursuant to paragraphs (1)(A)11. and (1)(A)12. of this rule, the Social Security numbers or employer identification numbers of the operator and all principals in the operation of the facility. As used in this rule, "principal" means officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities;
3. Disclosure concerning whether the operator or any principals in the operation of the facility are excluded from participation in the Title XVIII (Medicare) or Title XIX (Medicaid) program of any state or territory;
4. Disclosure concerning whether the operator or any principals in the operation of the facility have ever been convicted of a felony in any state or federal court concerning conduct involving either management of a long-term care facility or the provision or receipt of health care services;
5. Emergency telephone, fax, and email contact information for the facility administrator, director of nursing, and the operator's corporate office; and
6. Disclosure concerning whether the facility has a Department of Mental Health (DMH) license.
(B) Every facility that provides specialized Alzheimer's or dementia care services, as defined in sections 198.500 to 198.515, RSMo, by means of an Alzheimer's special care unit or program shall submit to the department with the licensure application or renewal, the following:
1. Form MO 580-2637, Alzheimer’s Special Care Services Disclosure (2-07).... The form shall be completed showing how the care provided by the special care unit or program differs from care provided in the rest of the facility in the following areas:
A. The Alzheimer’s special care unit’s or program’s written statement of its overall philosophy and mission which reflects the needs of residents afflicted with dementia;
B. The process and criteria for placement in, or transfer or discharge from, the unit or program;
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 responsive 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;
H. The costs of care and any additional fees; and
I. Safety and security measures; and
2. Form Guide to Selecting an Alzheimer’s Special Care Unit (6/06) #455
(G) If, during the license’s effective period, an operator which is a partnership, limited partnership or corporation undergoes any of the changes described in section 198.015.4, RSMo, or a new corporation, partnership, limited partnership, limited liability company or other entity assumes facility operation, within ten (10) working days of the effective date of that change, the operator shall submit an application for a new license.
(K) The department shall issue a separate license for each level of care located on the same premises, whether applied for by one (1) application or more than one (1). If the operator uses one (1) application for two (2) or more levels of care on the same premises, the department shall issue licenses with one (1) expiration date. If two (2) or more levels of care have existing licenses with different expiration dates and the operator elects to apply for licenses for the levels of care by submitting one (1) relicensure application, the expiration dates of the licenses issued shall be two (2) years subsequent to the expiration date of the license of the level of care expiring earliest following receipt of the application by the department. Fees for unused portions of licenses resulting from the submission of one (1) application for two (2) or more levels of care are nonrefundable.

19 CSR 30-82.060 Hiring Restrictions— Good Cause Waiver
...(2) Any person who is not eligible for employment by a provider due to the hiring restrictions found in section 660.317, RSMo, may apply to the director for a good cause waiver. If the director, or the director’s designee, determines that the applicant has demonstrated good cause, such restrictions prohibiting such persons from being hired by a provider shall be waived and such persons may be so employed unless rejected for employment on other grounds. Hiring restrictions based on the Department of Health and Senior Services’ employee disqualification list established pursuant to section 660.315, RSMo, are not subject to a waiver.

19 CSR 30-82.070 Alzheimer’s Demonstration Projects
...(9) All facilities selected to participate in the demonstration projects shall demonstrate the ability to comply with the following minimum requirements set forth in section 198.086, RSMo Supp.
1999:
(A) Each health care facility for persons with Alzheimer’s disease or other related dementias shall maintain substantial compliance with all regulations under which they are licensed or certified. A
facility may request an exception to a state licensure regulation in accordance with 13 CSR 15-10.010(4);

(B) Facilities shall design and implement self-care, productive and leisure activity programs for individuals with Alzheimer's or other related dementias. These programs shall continually strive to promote the highest practicable physical and mental abilities and functioning of each resident;

(C) The facility may admit to the demonstration project facility only persons who have been diagnosed with Alzheimer's disease or other related dementia and for whom it has been determined that the facility is able to meet their needs. The determination of whether a facility is able to meet a resident's needs shall be made in consultation between the resident's physician, family members or health care advocates;

(D) Facilities shall designate a contiguous portion of the facility as the demonstration project site, unless such facility exclusively admits individuals with Alzheimer's or other related dementias as part of the demonstration project. All designated demonstration project beds shall be located within this designated contiguous portion of the facility;

(E) Facilities shall design and implement a resident environment which promotes the maintenance of the residents' social abilities through daily and frequent opportunities for socialization and appropriate activities. The residential environment shall be designed and utilized in such a way as to reflect the individual preferences of residents and to provide as much independence and opportunities for choices throughout a day as possible;

(F) A Minimum Data Set (MDS) assessment shall be completed for any resident who occupies a bed designated for demonstration project participants. The MDS must be completed within fourteen (14) days of admission and an MDS quarterly review assessment must be completed every ninety (90) days thereafter. The MDS must also be completed whenever a significant change in condition occurs. For the purposes of this rule, "significant change" means a change in medical condition or in cognitive or psychosocial functioning which requires a change or modification in services or treatments provided in order to maintain the individual at the highest practicable level of functioning.

(G) Facilities shall be staffed twenty-four (24) hours a day by the number and type of licensed and unlicensed personnel sufficient to insure that all the needs of residents are met throughout the day. Facilities must remain in compliance with the staffing regulations in effect for the licensure category of the facility and as established by statute and must provide any additional staffing required to insure that residents' needs are met. Facilities shall determine appropriate staffing levels by utilizing current and updated Minimum Data Set information to identify residents' needs and shall make a determination on a daily and as-needed basis regarding the number of staff required to meet these needs;

(H) Facilities shall conduct a total of at least twenty-four (24) hours of staff training for all employees providing direct care to demonstration project residents within the first thirty (30) days of employment. This training shall consist of at least six (6) hours of classroom training and two (2) hours of on-the-job training in the special needs, care and safety of individuals with Alzheimer's disease or related dementias;

(I) Additional training provided shall address the needs, preferences and choices of the individual demonstration project residents, the degree of and the provision of assistance required with activities of daily living, the initiation of appropriate activities for residents and the promotion of each resident's rights, dignity and independence;

(J) Facilities shall utilize personal electronic monitoring devices for any resident whose physician recommends and orders the use of the device. Such orders shall be documented in the resident's health care record;

(K) The facility shall be equipped with a complete automated sprinkler system installed and maintained in accordance with the 1996 edition of the National Fire Protection Association (NFPA) 13, Standard for the Installation of Sprinkler Systems, or the 1996 edition of NFPA 13R, Sprinkler
Systems in Residential Occupancies Up to and Including Four Stories in Height, which are hereby incorporated by reference in this rule. The facility shall also be equipped with a complete electrically supervised fire alarm system and smoke barriers in accordance with the provisions of the 1997 Life Safety Code for Existing Health Care Occupancy, which code is hereby incorporated by reference in this rule; and

(L) Buildings and furnishings shall be designed to provide for residents’ safety. Facilities shall have indoor and outdoor activity areas, and electronically controlled exits from the buildings and grounds to allow residents the ability to explore while preventing them from exiting the facility's grounds unattended.

19 CSR 30-82.080 Nursing Facility Quality of Care Improvement Program

PURPOSE: This rule explains the requirements for receiving funding from the Nursing Facility Quality of Care (NFQC) Fund to improve the quality of service the facility provides to its residents.

(1) Definitions.

(A) Qualified Facility—Any facility licensed pursuant to Chapter 198, RSMo, that has received a Class I or Uncorrected Class II Notice of Noncompliance within the past twelve (12) months in one of the following areas:

2. For Skilled Nursing Facility (SNF) and Intermediate Care Facility (ICF):
   A. Administration and Resident Care (19 CSR 30-85.042)
   B. Dietary (19 CSR 30-85.052); or
   C. Resident Rights (19 CSR 3088.010).

(B) Quality Improvement Project for Missouri (QIPMO) consultation—Provides technical assistance and support to nursing facility staff throughout the state in order to improve the quality of care in nursing facilities using the Minimum Data Set (MDS) and on-site clinical consultation.

(2) Selection of Qualified Facilities.

(A) Qualified facilities may submit a written request to the department for funds from the Nursing Facility Quality of Care (NFQC) Fund to pay for QIPMO assistance and support. The department will provide a written response to the qualified facility's request approving or disapproving the use of NFQC funding for QIPMO assistance. In the absence of extraordinary circumstances, a qualified facility shall receive no more than one thousand dollars ($1,000) per request. A qualified facility which wishes to receive more than one thousand dollars ($1,000) per request must separately justify reimbursement in excess of one thousand dollars ($1,000) by setting forth the extraordinary circumstances justifying reimbursement in excess of one thousand dollars ($1,000). The department may, in its sole discretion, approve reimbursement in excess of one thousand dollars ($1,000).

(B) Qualified facilities may also submit to the department proposals describing implementation of a quality improvement program, in lieu of the QIPMO Program. Such proposals shall address areas of noncompliance that have been cited in the notice of noncompliance issued in the past twelve (12) months. Upon approval of the proposal by the department, the department may use funds in the NFQC Fund that have been collected from state civil money penalties to fund the qualified facility's proposal. In the absence of extraordinary circumstances, a qualified facility shall receive no more than one thousand dollars ($1,000) per proposal. A qualified facility which wishes to receive more than one thousand dollars ($1,000) per proposal must separately justify reimbursement in excess of one thousand dollars ($1,000) by setting forth the extraordinary circumstances justifying reimbursement in excess of one thousand dollars ($1,000). The department may, in its sole discretion, approve reimbursement in excess of one thousand dollars ($1,000).

(C) The department may impose upon a qualified facility a directed plan of correction, as set forth in section 198.066, RSMo, which includes QIPMO consultation. Funding for the QIPMO consultation may be taken from the NFQC Fund, not to exceed one thousand dollars ($1,000), unless the depart-
(3) The qualified facility will submit to the department the paid invoice(s) for the QIPMO consultation or other quality improvement program. The department will reimburse the qualified facility for the amount granted.

Chapter 84—Training Program for Nursing Assistants 19 CSR 30-84

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES Division 30—Division of Regulation and Licensure Chapter 84—Training Program for Nursing Assistants
19 CSR 30-84.010 Nurse Assistant Training Program
PURPOSE: The Omnibus Nursing Home Act mandates in section 198.082, RSMo that nursing assistants employed in skilled nursing and intermediate care facilities complete an approved training program. This rule gives information regarding the purpose of the training program, required objectives and curriculum content, designates what is the approved course curriculum and indicates the training locations and testing which are required for a program to be considered approved.

(1) Definitions.
(A) Basic course shall mean the seventy-five (75) hours of classroom training, the one hundred (100) hours of on-the-job supervised training and the final examination of the approved Nurse Assistant Training course.
(B) Certifying agency shall mean a long-term care (LTC) association or other entity approved by the division under subsection (11)(B) to issue certificates to nursing assistants.
(C) Challenge the final examination shall mean taking the final examination of the basic course without taking the entire basic course.
(D) Division shall mean the Missouri Division of Aging.
(E) Long-term care association shall mean the Missouri Health Care Association, the Missouri Association of Homes for the Aged, the League of Nursing Home Administrators or the Missouri Assisted Living Association.
(F) Nursing service shall mean an agency or organization, such as a Nursing Pool Agency or Hospice, which employs nurses and nursing assistants for temporary or intermittent placement in LTC facilities.
(G) Training agency shall mean the organization which sponsors the approved training program. An approved training agency is approved by the Division of Aging under section (7) of this rule.
(H) Program shall mean the Nurse Assistance Training Program as required by the Omnibus Nursing Home Act and section 198.082, RSMo 1994.

(2) The purpose of the Nurse Assistant Training Program shall be to prepare individuals for employment in a LTC facility. The program shall be designed to teach skills in resident care which will qualify students to perform uncomplicated nursing procedures and to assist licensed practical nurses or registered professional nurses in direct resident care.

(3) All aspects of the Nurse Assistant Training Program included in this rule (that is, qualified instructor, clinical supervisor, examiner, approved course curriculum, approved training agency, supervised on-the-job training, testing and student qualifications) shall be met in order for a program to be considered as approved.

(4) The program shall consist of a basic course consisting of a minimum of seventy-five (75) classroom hours of training on basic nursing skills, fire safety and disaster training, resident safety and rights, social and psychological problems of residents, and the methods of handling and caring for mentally confused residents such as those with Alzheimer’s disease and related disorders; one hundred (100) hours of supervised on-the-job training (clinical practice); a final examination; and,
following the basic course, continuing in-service training as provided for in 13 CSR 15-14.042(19) through (24).

(5) Curriculum content of the program shall include procedures and instructions on basic nursing skills in the following areas: basic hygiene techniques; bedmaking; personal care of residents; food service; charting; safety measures (including fire/safety and disaster preparedness, and infection control); basic preventative and restorative care and procedures; basic observation procedures, such as weighing and measuring; communication skills; methods of handling and caring for mentally confused residents; residents’ rights; ethical and legal responsibilities; death and dying; and mental health and social needs.

(A) The course curriculum as outlined in the manual entitled The Nurse Assistant in a Long-Term Care Facility, produced by the Instructional Materials Laboratory, University of Missouri-Columbia, 1987, catalogue number 50-5061-S shall be considered an approved course curriculum. Other manuals and course material may be used to supplement the curriculum. Instructors shall use the companion instructor's guide, catalogue number 50-5061-I.

(B) An orientation module consisting of certain topics identified as such in the approved course curriculum shall be the first material covered in the course unless the course is taught in its entirety before nursing assistants have resident contact. All students must complete the nurse assistant orientation module prior to providing direct care to any resident. For those students already employed by an intermediate care or skilled nursing facility, the orientation module shall be taught at the beginning of the course and before the nursing assistant is allowed to provide direct care to residents independently.

1. The orientation module shall include, as a minimum, the following topics: hand-washing, gloving and infection control; emergency procedures and Heimlich Maneuver; residents’ rights; abuse and neglect reporting; safety (fire and accident); lifting; moving and ambulation; answering signal lights; bedpan, urinary, commode and toilet; preparing residents for and serving meals; feeding the helpless; bathing; dressing and grooming; mouth care; bedmaking (occupied and unoccupied); promoting residents’ independence; communication and interpersonal skills.

2. Students shall complete the orientation module taught by a qualified instructor even though they may be employed in a facility that uses the approved course material for orientation as required by 13 CSR 1514.042(20). The instructor, in that instance, may adjust the time required to cover the material or may integrate the material into the basic course content.

(C) The suggested time schedule included for each curriculum topic in the approved course cited in subsection (5)(A) may be adjusted by the instructor to meet the particular learning abilities of the students providing that the orientation module shall be taught in at least sixteen (16) hours for Medicare-or Medicaid-certified facilities. Licensed-only facilities shall provide at least twelve (12) hours of basic orientation approved by the division.

(D) The on-the-job supervised component of one hundred (100) hours shall start after the student has enrolled and started the course curriculum and shall precede the final examination.

(E) Continuing in-service education shall be offered in the intermediate care or skilled-nursing facility (ICF/SNF) to nursing assistants on a regular basis following their successful completion of the basic course as required in 13 CSR 15-14.042(20) through (23).

(6) Student Enrollment and Qualifications.

(A) Any individual who is employable by an ICF/SNF to be involved in direct resident care shall be eligible to enroll in an approved training agency course if—

1. The individual is at least eighteen (18) years of age and employable. Employable shall mean that the individual is not listed on the Missouri Division of Aging Employee Disqualified List; who has not been found guilty of, pled guilty to, been convicted of, or nolo contendere to, a Class A or B felony under Chapters 565, 566 or 569, a Class D felony under section 568.020, RSMo 1994 or any violation of section 198.070.3, RSMo 1994, unless a good cause waiver has been granted by the division; and who meets requirements under 13 CSR 15-14.042(32); or
2. The individual is at least sixteen (16) years of age providing he or she is—
A. Currently enrolled in a secondary school health services occupation program or a cooperative
work education program of an area vocational-technical school or comprehensive high school;
B. Placed for work experience in an ICF/SNF by that program; and
C. Under the direct supervision of the instructor or licensed nursing staff of the facility, or both,
while completing the clinical portion of the course. A certified facility may not employ a student in
the facility who is not certified within four (4) months of date of hire. A licensed-only facility may
only employ a student in that facility for up to one (1) year from the date of hire prior to certifi-
cation.

(B) All full or part-time employees of an ICF/SNF who are involved with direct resident care, and
hired in that capacity after January 1, 1980, shall have completed the approved Nurse Assistant
Training Program or shall enroll in and begin study in the approved training program within ninety
(90) days of employment, except that the following persons shall be permitted to challenge the final
examination:
1. Persons who were enrolled in a professional (RN) or practical (LPN) nursing education program
for at least four (4) months or who are enrolled in this program and who have successfully
completed the Fundamentals of Nursing Course, including clinical hours within the last five (5)
years, may challenge the final examination of the course, as this training is deemed equivalent to
the required classroom hours and on-the-job training;
2. Professional nursing or practical nursing licensure candidates who have failed state licensure
examinations may challenge the final examination, as their training is deemed equivalent to
the required classroom hours and on-the-job training;
3. Persons from other states who are approved to work as a nurse assistance in the other states
may challenge the final examination, as their training is deemed equivalent to the required
classroom hours and on-the-job training;
4. Students who have completed a nursing program
outside the United States and who are awaiting the licensure examination in this country shall be
required to apply to the division to take the challenge examination. In addition to a completed
application, the student must also include: a copy of the out of country license or certificate; a copy
of the school transcript translated to English; a copy of the out of country criminal background
check translated to English. Students shall be required to complete the orientation module of the
course as given in subsection (5)(B) of this rule and then may challenge the final examination, as
their training is deemed equivalent to the other required classroom hours and on-the-job training;
5. Persons trained in acute care sections of hospitals as nursing assistants or persons trained as
psychiatric aides shall complete the orientation module with special emphasis on the geriatric
residents’ needs, residents’ rights and orientation to the facility and shall complete the one hundred
(100) hours of on-the-job training in an LTC facility or LTC unit of a hospital and then they may
challenge the final examination, as their training is deemed equivalent to the other required
classroom hours and on-the-job training;
6. Persons trained in an LTC unit of a hospital and who have been employed in the LTC unit of the
hospital for at least twelve (12) months and who submit a letter of recommendation from the
administrator or director of nursing documenting their training may challenge the final
examination after completing the units on residents’ rights and care of the confused resident. Such
training shall be deemed equivalent to the other required classroom hours and on-the-job training;
and
7. Any other persons whose background, education and training in gerontology and health
occupations includes the components of the approved training curriculum may be allowed to
challenge the final examination after taking those portions of the course as determined to be
necessary based on evaluation of their credentials by the supervisor of health education of the
Division of Aging.
(C) Those persons designated in paragraphs (6)(B)1.–7., who want to challenge the final examination shall submit a request in writing to the division enclosing any applicable documentation. The division will respond, in writing, either approving or denying the request to challenge the final examination and, if approved, the letter from the division may be presented to an approved training agency to challenge the examination or complete the course or portions of the course as required and then challenge the examination.

(D) Those persons permitted to challenge the final examination shall have made arrangements to do so within sixty (60) days of employment as a nursing assistant and shall have successfully challenged the final examination prior to or within one hundred twenty (120) days of employment. Permission letters not utilized within the one hundred twenty (120)-day period shall be considered invalid and reapplication for permission to challenge shall be made to the division.

(E) Nursing assistants who are employed by a nursing service, or who are working on a private duty basis providing direct resident care shall have completed the approved basic course, shall have a current certificate from an approved certifying agency and shall be listed on the Division of Aging Certified Nurse Assistant Registry prior to functioning in an ICF/SNF.

(F) Allied health care personnel, such as emergency medical technicians, medical laboratory technicians, surgical technicians, central supply technicians and dental auxiliaries, shall not be considered qualified and shall not be allowed to challenge the final examination. Individuals, if employed by an ICF/SNF to provide direct patient care shall enroll in and successfully complete an approved program.

(G) If a student drops the course due to illness or incapacity, the student may reenroll in a course within six (6) months and make up the course material missed without retaking the entire course upon presenting proof of attendance and materials covered in the original class.

(H) A student shall complete the entire basic course (including passing the final examination) within one (1) year of employment as a nursing assistant in an SNF/ICF, except that a nursing assistant employed by a facility certified under Title XVIII or Title XIX shall complete the course and be certified within four (4) months.

(I) A full or part-time employee of an ICF/SNF who is employed as a nursing assistant after January 1, 1989 who has not completed at least the classroom portion of the basic course shall not provide direct resident care until he or she has completed the sixteen (16)-hour orientation module and the twelve (12) hours of supervised practical orientation required in 13 CSR 15-14.042(20).

(J) All nursing assistants trained prior to January 1, 1989 who were not trained using the course curriculum referenced in subsection (5)(A) of this rule with at least seventy-five (75) hours of classroom instruction shall have attended a special four (4)-hour retraining program which used the manual entitled Long-Term Care Nurse Assistant Update produced by the Instructional Materials Laboratory, University of Missouri-Columbia, 1989, catalogue number 50-5062l or 50-5062-S. Any nursing assistant who did not attend this retraining program by August 31, 1989 shall no longer be considered a trained nursing assistant and all previous credentials issued by any source shall be considered invalid. To be certified as required by the provisions of this rule, a person shall successfully complete the entire Nursing Assistant Training Program.

(7) Training Agencies.

(A) The following entities are eligible to apply to the division to be an approved training agency:

1. Area vocational technical schools and comprehensive high schools offering health service occupation programs which have a practice classroom and equipment used in delivering health care and a written agreement of cooperation with one (1) or more SNFs/ICFs or an LTC unit of a hospital in their vicinity for the one hundred (100)-hour on-the-job training component of the course;

2. Community junior colleges or private agencies approved by the Missouri Department of Elementary and Secondary Education or accredited by a nationally recognized accrediting agency.
or association on the list published by the secretary of the Department of Education, pursuant to
the Higher Education Act (20 USC Sections 2954(2)(D), 42 USC Section 298(b)(6)) and the
Veterans’ Readjustment Assistance Act (38 USC Section 1775(a)) which have a practice laboratory
with one (1) or more bed units and equipment used in delivering health care and have a written
agreement of cooperation with one (1) or more SNFs/ICFs, or LTC units of a hospital in their
vicinity for the on-the-job training component of the course; or
3. A licensed hospital, licensed SNF/ICF which has designated space sufficient to accommodate the
classroom teaching portion of the course, and if the one hundred (100) hours of on-the-job training
is not provided on-site, has a written agreement of cooperation with an LTC unit of a hospital or
SNF/ICF to provide that portion.
(B) A school, agency, hospital or nursing facility which wants to be approved by the division to
teach the Nursing Assistant Training Program shall file an application with the division giving the
name(s) of the instructor(s) and clinical supervisor(s); and, if clinical training is not being done on-
site, a copy of an agreement with a nursing facility for the clinical portion of the course.
(C) In order to be approved, the applicant shall have an area which will be designated during
training sessions as a classroom with sufficient space to allow fifteen (15) students to be seated
with room for note-taking, appropriate equipment as needed for teaching the course, approved
instructors and clinical supervisors, and shall assure that the instructor and each student has a
manual for the state-approved course. Any ICF/SNF which has received a Notice of Noncompliance
related to administration and resident care from the division in the two (2)-year period prior to
application for approval shall not be eligible for approval and if this Notice is issued after approval,
approval shall be withdrawn by the division within ninety (90) days and the certifying agencies
shall be notified of the withdrawal of approval. Students already enrolled in a class in this facility,
however, may complete their course if a Notice is issued after a course has begun. However, a
noncompliant facility where an extended or partially extended survey has been completed may
apply in writing to the division requesting permission for approval to train and test nurse assistants
for certification. The approval for each separate class may be granted to teach and test in the facility
but not by the facility staff. If approval is granted for a waiver for a certified facility or exception for
a licensed-only facility, the division shall require certain criteria to be met, depending on the issues
such as time and distance to other training agencies in the area.
(D) The division shall make an on-site inspection of each approved training agency’s premises
within two (2) years of approval to determine the adequacy of space; equipment and supplies; and,
if clinical training is not done on-site, verify that there is a current copy of an agreement with a
nursing facility for the clinical portion of the course.
(E) Upon receipt of a fully completed application form, the division shall notify the applicant in
writing within ninety (90) days of approval or disapproval. If disapproved, the reasons why shall be
given.
(F) Training agencies shall be approved for a two (2)-year period and shall submit a new
application for approval thirty (30) days prior to the expiration of approval.
(G) Instructor/student ratio shall be a maximum of one to fifteen (1:15) and it is recommended that
the ratio be one to ten (1:10) or less.
(9) Qualifications of Instructors, Clinical Supervisors and Examiners.
(A) Instructor.
1. An instructor shall be a registered professional nurse currently licensed in Missouri or shall have
a temporary permit from the Missouri State Board of Nursing. The licensee shall not be subject of
current disciplinary action, such as censure, probation, suspension or revocation.
2. An instructor shall have had, at a minimum, two (2) years of nursing experience and at least one
(1) year of experience in the provision of LTC facility services in the last five (5) years. Other
personnel from the health professions may assist the instructor; however, they must have at least
one (1) year of experience in their field.
3. An applicant to be an instructor, shall submit credentials (resume) and a copy of his/her current license renewal card or temporary permit to the Division of Aging. A letter shall be provided by the division to the applicant indicating the status of the applicant’s qualifications and, if not qualified, the reasons and what additional requirements are needed.

4. An applicant to be an instructor shall attend a seminar approved by the Division of Aging to learn the methodology of teaching the course but only after his/her credentials have been reviewed and approved by the Division of Aging. The Division of Aging shall issue a final letter of approval to be a qualified instructor after the person has satisfactorily completed the seminar. The seminar shall be conducted either by an LTC association or the Missouri Department of Elementary and Secondary Education using qualified teacher educators approved by the Missouri Department of Elementary and Secondary Education and the Division of Aging.

5. Any registered nurse approved by the division or the Department of Elementary and Secondary Education as an instructor or examiner prior to January 1, 1990, except those involved in nurse assistant curriculum development with the division or who are employed by a certifying agency, shall attend a training seminar on teaching the nurse assistant course conducted by a LTC association or the Department of Elementary and Secondary Education by July 1, 1993 in order to maintain status as an approved instructor. Instructors approved prior to January 1, 1990 who are exempt from attending the training seminar shall write the Division of Aging submitting documentation of classes and students taught. The division will issue those instructors letters of approval so they will not have to attend the new training seminar. After July 1, 1993 all credentials issued prior to January 1, 1990 shall be void. Nurses who attend the approved seminar shall be issued new certificates and the division shall maintain a list of all approved instructors, including those issued letters of approval.

(B) Clinical Supervisor (On-the-Job Supervisor). The clinical supervisor shall be a currently licensed registered professional nurse or licensed practical nurse, whose license is not currently subject to disciplinary action such as censure, probation, suspension or revocation. The clinical supervisor shall be licensed in Missouri or shall have a temporary permit from the Missouri State Board of Nursing. The clinical supervisor shall be currently employed by the facility where the students are performing their duties or by the agency conducting the course and shall have attended a seminar approved by the Division of Aging to learn methodology of supervising the on-the-job training. Upon successful completion of the training seminar, the clinical supervisor shall be issued a certificate and the division shall maintain a list of approved clinical supervisors. The clinical supervisor shall be on the facility premises in which the students are performing their duties while the students are completing the on-the-job component of their training and shall directly assist the students in their training and observe their skills when checking their competencies. The clinical supervisor shall have at least one (1) year of experience in LTC if not currently employed by an LTC facility.

(C) Examiner.

1. The examiner shall be a registered professional nurse currently licensed in Missouri or shall have a temporary permit from the Missouri State Board of Nursing, and shall not be currently subject of disciplinary action such as censure, probation, suspension or revocation.

2. The examiner shall have taught a similar course or shall be qualified to teach a similar course; but shall not have been the instructor of the students being examined; and shall not be employed by the operator whose students are being examined. The examiner shall be specifically approved by the Division of Aging to administer final examinations of the state-approved nurse assistant training curriculum and shall have signed an agreement with the division to protect and keep secure the final examinations.

3. The examiner shall have attended an examiner’s seminar given by the Division of Aging to learn the methodology and sign an agreement.
(D) Causes for Disqualification. A person shall not be allowed to be an instructor, clinical supervisor or examiner if it is found that he or she—
1. Knowingly acted or omitted any duty in a manner which would materially or adversely affect the health, safety, welfare or property of a resident;
2. Defrauded a training agency or student by taking payment and not completing a course, not administering the final examination as required, or not being on-site while students are being trained;
3. Failed to teach, examine or clinically supervise in accordance with 13 CSR 15-13.010, or taught students from the state test, changed answers on the state test, lost test booklets, or recorded false information on test materials or test booklets of the program; or
4. Failed to send documentation of a completed course to a certifying agency within thirty (30) days.

(E) Notification of Disqualification.
1. The division shall notify the individual that he or she is no longer eligible to be an instructor, clinical supervisor or examiner.
2. The division shall notify all approved training and certifying agencies if it has been determined that an individual is no longer considered an approved instructor, clinical supervisor or examiner and that person’s name shall be removed from the lists maintained by the division of approved instructors, clinical supervisors or examiners.
3. To be reinstated as a state-approved instructor, clinical supervisor or examiner the individual shall submit a request in writing to the division director stating the reasons why reinstatement is warranted. The division director or the director’s designee shall respond in writing to the request.

(10) Testing.
(A) In order to be eligible for testing, a student shall have either completed the state-approved training curriculum offered by an approved training agency or shall have a letter from the Division of Aging granting approval to challenge the final examination.
(B) A student shall pass a minimum of three (3) written or oral tests throughout the course with an eighty (80) score or better on each test in order to be eligible to take the final examination.
(C) The final examination shall be conducted by an approved examiner who may be assisted by the instructor using the following procedures:

1. The instructor will select an LTC resident to participate in the testing process and obtain approval for this activity from the resident;
2. The examiner shall verify the eligibility of the students by reviewing records to establish that the student has completed the approved training program or possesses an approval letter from the division granting approval to challenge the final examination. In the event that a qualified instructor for the nurse assistant LTC program did not sign records of a student who successfully completed the program, without justification or due to resignation from his/her position, the administrator of the approved training agency may validate the training by signature. Evidence of successful completion of the basic course (that is, test scores, class schedules and the like) shall be documented prior to a student taking the final examination;
3. The student shall successfully complete at least nine (9) procedures under the observation of the instructor or a facility licensed nurse and examiner.
   A. The nine (9) procedures shall always include a type of bath, vital signs (temperature, pulse, respirations and blood pressure), transfer techniques, feeding techniques, dressing and grooming, skin care, active or passive, range of motion to upper and lower extremities (unless contraindicated by a physician’s order) and handwashing and gloving from the standardized curriculum.
   B. The remainder shall be selected according to the resident’s care needs at the time of day that testing occurs.
C. The evaluation of the student shall include communication and interaction with the resident, provision of privacy, work habits, appearance, conduct and reporting and recording skills;
1. The student shall successfully answer forty (40) out of fifty (50) oral or written questions presented by the examiner based on the standardized curriculum and selected from a specific test pool of questions which are safeguarded by the Division of Aging;
2. Any person who fails the final examination, except those who have been permitted to challenge the examination, shall have the opportunity to retake the examination twice within ninety (90) days. The examiner shall notify the division and obtain different examinations to be administered each time. If it is failed a third time, the entire course or selected sections, as determined by the examiner, must be retaken before another examination can be given; and
3. Any person who is required by section 198.082, RSMo to enroll in the Nurse Assistant Program, but who has been permitted to challenge the final examination and who fails the examination, must immediately reenroll in and begin study in the next available course and shall complete the basic course within one (1) year of employment.
(11) Records and Certification.
(A) Records.
1. The examiner shall complete and sign the competency record sheet and the final examination score sheet which shall include scores and comments. The examiner shall advise the individual that successful completion of the evaluation will result in the addition of his/her name to the State Nursing Assistant Register.
2. After scoring, the examiner shall return all test materials, test booklets, answer sheets, and any appendices to the division. The examiner shall also provide the training agency with documentation of the student’s test scores.
3. A copy of the student’s final record sheets shall be provided to the student (except for the answer sheets). If the course is not completed, records and documentation regarding the portions completed shall be provided to the student, if requested, and to the training agency.
4. The training agency shall maintain the records of students trained. Records shall be maintained for at least two (2) years.
(B) Certification and Entry of Names on State Register.
1. The training agency shall submit within thirty (30) days, the student’s final record sheets to any one of the long-term care associations or any other agency which is specifically approved by the division to issue nursing assistant certificates and provide names to the division for entry on the nurse assistant register.
2. Each student shall obtain a certificate from a state-approved association or agency validating successful completion of the training program.
3. The Division of Aging shall maintain a list of long-term care associations or other agencies approved to handle the issuance of certificates for the Nurse Assistant Training Program. In order for a long-term care association or agency to be approved by the Division of Aging, it shall enter into an agreement of cooperation with the Missouri Division of Aging which shall be renewable annually and shall effectively carry out the following responsibilities:
A. Issue certificates to individuals who have successfully completed the course;
B. Provide the Division of Aging with the names and other identifying data of those receiving certificates on at least a monthly basis; and
C. Maintain accurate and complete records for a period of at least two (2) years.
4. The certificate of any nurse assistant who has not performed nursing services for monetary compensation for at least one (1) day in a twenty-four (24)-consecutive month period shall be invalid and the person’s name shall be removed from the Missouri nursing assistant register. This individual, however, may submit his/her credentials to the Division of Aging at any time and if unemployed for less than five (5) years, s/he may be authorized to challenge the final examination. If s/he passes the examination, the examiner shall submit the individual’s records to a training
agency so that s/he can be issued a new certificate and his/her name can be placed on the nurse assistant register again. If unemployed longer than five (5) years, the individual must successfully complete the entire course before s/he can be recertified and s/he is not eligible to challenge the final examination.

**19 CSR 30-85.022 Fire Safety Standards for New and Existing Intermediate Care and Skilled Nursing Facilities**

...(2) General Requirements.

...(F) All facilities shall notify the department immediately after the emergency is addressed if there is a fire in the facility or premises and shall submit a complete written fire report to the department within seven (7) days of the fire, regardless of the size of the fire or the loss involved.

(G) Following the discovery of any fire, the facility shall monitor the area and/or the source of the fire for a twenty-four (24)-hour period. This monitoring shall include, at a minimum, hourly visual checks of the area. These hourly visual checks shall be documented.


...(B) All facilities shall test and maintain the complete fire alarm system in accordance with NFPA 72, 1999 edition.

...(E) Facilities shall test by activating the complete fire alarm system at least once a month.

(F) Facilities shall maintain a record of the complete fire alarm system tests, inspections and certifications required by subsections (10)(B), (10)(C), and (10)(E) of this rule.

(G) Upon discovery of a fault with the complete fire alarm system, the facility shall promptly correct the fault.

(33) Fire Drills and Evacuation Plans.

(A) All facilities shall develop a written plan for fire drills and other emergencies and evacuation and shall request consultation and assistance annually from a local fire unit. If the consultation cannot be obtained, the facility shall inform the state fire marshal immediately in writing and request assistance in review of the plan.

(B) The plan shall include, but is not limited to—

1. A phased response ranging from relocation of residents within the facility to relocation to an area of refuge, if applicable, to total evacuation. This phased response part of the plan shall be consistent with the direction of the local fire unit or state fire marshal and shall be appropriate for the fire or emergency;

2. Written instructions for evacuation of each floor including evacuation to areas of refuge, if applicable, and floor plan showing the location of exits, fire alarm pull stations, fire extinguishers, and any areas of refuge;

3. Evacuating residents, if necessary, from an area of refuge to a point of safety outside the building;

4. The location of any additional water sources on the property such as cisterns, wells, lagoons, ponds, or creeks;

5. Procedures for the safety and comfort of residents evacuated;

6. Staffing assignments;

7. Instructions for staff to call the fire department or other outside emergency services;

8. Instructions for staff to call alternative resource(s) for housing residents, if necessary;

9. Administrative staff responsibilities; and

10. Designation of a staff member to be responsible for accounting for all residents’ whereabouts.

(C) The written plan shall be accessible at all times and an evacuation diagram shall be posted on each floor in a conspicuous place so that employees and residents can become familiar with the plan and routes to safety.

(D) A minimum of twelve (12) fire drills shall be conducted annually with at least one (1) every three (3) months on each shift. At least four (4) of the required fire drills must be unannounced to
residents and staff, excluding staff who are assigned to evaluate staff and resident response to the
fire drill. The fire drills shall include a simulated resident evacuation that involves the local fire
department or emergency service at least once a year.
(E) The fire alarm shall be activated during all fire drills unless the drill is conducted between 9
p.m. and 6 a.m., when a facility-generated predetermined message is acceptable in lieu of the
audible and visual components of the fire alarm.
(F) The facility shall keep a record of all fire drills including the simulated resident evacuation. The
record shall include the time, date, personnel participating, length of time to complete the fire drill,
and a narrative notation of any special problems.
(34) Fire Safety Training Requirements.
(A) The facility shall ensure that fire safety training is provided to all employees:
1. During employee orientation;
2. At least every six (6) months; and
3. When training needs are identified as a result of fire drill evaluations.
(B) The training shall include, but is not limited to, the following:
1. Prevention of fire ignition, detection of fire, and control of fire development;
2. Confinement of the effects of fire;
3. Procedures for moving residents to an area of refuge, if applicable;
4. Use of alarms;
5. Transmission of alarms to the fire department;
6. Response to alarms;
7. Isolation of fire;
8. Evacuation of the immediate area and building;
9. Preparation of floors and facility for evacuation; and
10. Use of the evacuation plan required by section (33) of this rule.

CSR 30-85.042 Administration and Resident Care Requirements for New and Existing
Intermediate Care and Skilled Nursing Facilities
(1) The operator shall designate a person as administrator who holds a current license as a nursing
home administrator in Missouri.
(2) The facility shall post the administrator’s license.
(3) The operator shall be responsible to assure compliance with all applicable laws and rules. The
administrator shall be fully authorized and empowered to make decisions regarding the operation
of the facility and shall be held responsible for the actions of all employees. The administrator’s
responsibilities shall include the oversight of residents to assure that they receive appropriate
nursing and medical care.
(4) The administrator shall be employed in the facility and serve in that capacity on a full-time
basis. An administrator cannot be listed or function as an administrator in more than one (1)
licensed facility at the same time, except that one (1) administrator may serve as the administrator
of more than one (1) licensed facility if all facilities are on the same premises.
(5) The licensed administrator shall not leave the premises without delegating the necessary
authority in writing to a responsible individual. If the administrator is absent from the facility for
more than thirty (30) consecutive days, the person designated to be in administrative charge shall
be a currently licensed nursing home administrator. Such thirty (30) consecutive-day absences may
only occur once within any consecutive twelve (12) month period.
(7) When outside resources are used to provide services to the resident, the facility shall enter into
a written agreement with each resource.
(8) Persons under seventeen (17) years of age shall not be admitted as residents to the facility
unless the facility cares primarily for residents under seventeen (17) years of age.
(9) The facility shall not care for more residents than the number for which the facility is licensed.
(10) The facility's current license shall be readily visible in a public area within the facility. Notices provided to the facility by the Division of Aging granting exceptions to regulatory requirements shall be posted with the facility’s license.
(12) A supervising physician shall be available to assist the facility in coordinating the overall program of medical care offered in the facility.
(13) The facility shall develop policies and procedures applicable to its operation to insure the residents’ health and safety and to meet the residents’ needs. At a minimum, there shall be policies covering personnel practices, admission, discharge, payment, medical emergency treatment procedures, nursing practices, pharmaceutical services, social services, activities, dietary, housekeeping, infection control, disaster and accident prevention, residents’ rights and handling residents’ property.
(15) All personnel shall be fully informed of the policies of the facility and of their duties.
(16) All persons who have any contact with the residents in the facility shall not knowingly act or omit any duty in a manner which would materially and adversely affect the health, safety, welfare or property of a resident.
(17) Effective August 28, 1997, each facility shall, not later than two (2) working days of the date an applicant for a position to have contact with residents is hired, request a criminal background check, as provided in sections 43.530, 43.540 and 610.120, RSMo. Each facility must maintain in its record documents verifying that the background checks were requested and the nature of the response received for each such request. The facility must ensure that any applicant who discloses prior to the check of his/her criminal records that he/she has been convicted of, pled guilty or nolo contendere to, or has been found guilty of any A or B felony violation of Chapter 565, 566 or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or of section 568.020, RSMo, will not be allowed to work in contact with patients or residents until and unless a check of the applicant’s criminal record shows that no such conviction occurred.
(18) The facility must develop and implement written policies and procedures which require that persons hired for any position which is to have contact with any patient or resident have been informed of their responsibility to disclose their prior criminal history to the facility as required by section 660.317.5, RSMo. The facility—
(A) Shall also develop and implement policies and procedures which ensure that the facility does not knowingly hire, after August 28, 1997, any person who has or may have contact with a patient or resident, who has been convicted of, pled guilty or nolo contendere to, in this state or any other state, or has been found guilty of any A or B felony violation of Chapter 565, 566 or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or of section 568.020, RSMo, unless the person has been granted a good cause waiver by the division;
(B) May consider for employment, in positions which have contact with resident or patients, any person who has been granted a good cause waiver by the division in accordance with the provisions of section 660.317, RSMo Supp. 1999 and 13 CSR 15-10.060; and;
(C) Shall contact the division to confirm the validity of an applicant’s good cause waiver prior to hiring the applicant.
(19) No person who is listed on the employee disqualification list maintained by the division as required by section 198.070, RSMo shall work or volunteer in the facility in any capacity whether or not employed by the operator. II
(20) The facility shall develop and offer an in-service orientation and continuing educational program for the development and improvement of skills of all the facility’s personnel, appropriate for their job function. Facilities shall begin providing orientation on the first day of employment for all personnel including licensed nurses and other professionals. At a minimum, this shall cover prevention and control of infection, facility policies and procedures including emergency protocol, job responsibilities and lines of authority, confidentiality of resident information and preservation of
resident dignity including protection of the resident’s privacy and instruction regarding the property rights of residents. Nursing assistants who have not successfully completed the classroom portion of the state-approved training program prior to employment shall not provide direct resident care until they have completed the sixteen (16)-hour, orientation module and at least twelve (12) hours of supervised practical orientation. This shall include, in addition to the topics covered in the general orientation for all personnel, special focus on facility protocols as well as practical instruction on the care of the elderly and disabled. This orientation shall be supervised by a licensed nurse who is on duty in the facility at the time orientation is provided.

(21) Nursing assistants who have not successfully completed the state-approved training program shall complete a comprehensive orientation program within sixty (60) days of employment. This may be part of a nursing assistant training program taught by an approved instructor in the facility. It shall include, at a minimum, information on communicable disease, handwashing and infection control procedures, resident rights, emergency protocols, job responsibilities and lines of authority.

(22) The facility must ensure there is a system of in-service training for nursing personnel which identifies training needs related to problems, needs, care of residents and infection control and is sufficient to ensure staff’s continuing competency.

(23) Facilities shall conduct at least annual in-service education for nursing personnel including training in restorative nursing. This training by a registered nurse or qualified therapist shall include: turning and positioning for the bedridden resident, range of motion (ROM) exercises, ambulation assistance, transfer procedures, bowel and bladder retraining and self-care activities of daily living.

(24) A registered nurse shall be responsible for the planning and then assuring the implementation of the in-service education program for nursing personnel.

(25) Facilities shall maintain records which indicate the subject of, and attendance at, all in-service sessions.

(28) The administrator shall maintain on the premises an individual personnel record on each employee of the facility which shall include: the employee’s name and address; Social Security number; date of birth; date of employment; experience and education; references, if available; the result of background checks required by section 660.317, RSMo; a copy of any good cause waiver, granted by the division, if applicable; position in the facility; record that the employee was instructed on resident’s rights; basic orientation received; and reason for termination, if applicable. Documentation shall be on file of all training received within the facility in addition to current copies of licenses, transcripts, certificates or statements evidencing competency for the position held. Facilities shall retain personnel records for at least one (1) year following termination of employment.

(29) Facilities shall maintain written documentation on the premises showing actual hours worked by each employee.

(30) All persons who have or may have contact with residents shall at all times when on duty or delivering services wear an identification badge. The badge shall give their name, title and, if applicable the status of their license or certification as any kind of health care professional. This rule shall apply to all personnel who provide services to any resident directly or indirectly.

(31) Employees other than nursing personnel shall be at least sixteen (16) years of age.

(32) Nursing personnel shall be at least eighteen (18) years of age except that a person between the ages of seventeen (17) years of age and eighteen (18) years of age may provide direct resident care if he/she has successfully completed the state-approved nursing assistant course and has been certified with his/her name on the state nursing assistant register. He/she must work under the direct supervision of a licensed nurse and will never be left responsible for a nursing unit.

(33) All nurses employed by the facility shall be currently licensed in Missouri.

(34) All facilities shall employ a director of nursing on a full-time basis who shall be responsible for the quality of patient care and supervision of personnel rendering patient care.
(35) Licensed Nursing Requirements; Skilled Nursing Facility.
(A) The director of nursing shall be a registered nurse.

(36) Licensed Nursing Requirements; Intermediate Care Facilities.
(A) The director of nursing shall be either an RN or an LPN. II

(39) Nursing assistants employed after January 1, 1980, shall have completed mandatory training as required by section 198.082, RSMo, or be enrolled in the course and functioning under the supervision of a state approved instructor of clinical supervisor as part of the one hundred (100) hours of on-the-job training. The person enrolled shall have successfully completed the course and become certified within one (1) year of employment with a licensed-only facility or within four (4) months of employment with a facility certified under Title XVIII or Title XIX if he or she is to remain employed in the facility as a nursing assistant.

(90) Facilities shall ensure that rehabilitation services are provided by or under the on-site supervision of a qualified therapist or a qualified therapy assistant who works under the general supervision of a qualified therapist.

(97) Facility staff shall include physician entries in the medical record with the following information: admission diagnosis, admission physical and findings of subsequent examinations; progress notes; orders for all medications and treatment; orders for extent of activity; orders for restraints including type and reason for restraint; orders for diet; and discharge diagnosis or cause of death.

(99) Facilities shall ensure that the clinical record contains sufficient information to—
(A) Identify the resident;
(B) Reflect the initial and ongoing assessments and interventions by each discipline involved in the care and treatment of the resident; and
(C) Identify the discharge or transfer destination.

(100) Facilities shall ensure that the resident’s clinical record must contain progress notes that include, but are not limited to:
(A) Response to care and treatment;
(B) Change(s) in physical, mental and psychosocial condition;
(C) Reasons for changes in treatment; and
(D) Reasons for transfer or discharge.

(101) The facility must safeguard clinical record information against loss, destruction or unauthorized use.

(102) The facility must keep all information confidential that is contained in the resident’s records regardless of the form or storage method of the records, including video-, audio- or computer-stored information.

(103) The facility must maintain clinical records on each resident in accordance with accepted professional standards and practices. These records shall be complete, accurately documented, readily accessible on each nursing unit and systematically organized.

(104) Facilities must retain clinical records for the period of time required by state law or five (5) years from the date of discharge when there is no requirement in state law.

(105) Facilities shall retain all financial records related to the facility operation for seven (7) years from the end of the facility’s fiscal year.

MONTANA
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"Health care facility" or "facility" means all or a portion of an institution, building, or agency, private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. The term includes chemical dependency facilities, critical access hospitals, end-stage renal dialysis facilities, home health agencies, home infusion therapy agencies, hospices, hospitals, infirmaries, long-term care facilities, intermediate care facilities for the developmentally disabled, medical assistance facilities, mental health centers, outpatient centers for primary care, outpatient centers for surgical services, rehabilitation facilities, residential care facilities, and residential treatment facilities.

...(5) The department may consider as eligible for licensure during the accreditation period any health care facility located in this state, other than a hospital, that furnishes written evidence, including the recommendation for future compliance statements, of its accreditation by the joint commission on accreditation of healthcare organizations. The department may inspect a health care facility considered eligible for licensure under this section to ensure compliance with state licensure standards.

50-5-105. Discrimination prohibited.
(1) All phases of the operation of a health care facility must be without discrimination against anyone on the basis of race, creed, religion, color, national origin, sex, age, marital status, physical or mental disability, or political ideas.
(2) (a) A health care facility may not refuse to admit a person to the facility solely because the person has an HIV-related condition.

50-5-106. Records and reports required of health care facilities -- confidentiality.
Health care facilities shall keep records and make reports as required by the department. Before February 1 of each year, every licensed health care facility shall submit an annual report for the preceding calendar year to the department. The report must be on forms and contain information specified by the department.

Part 2: Licensing
50-5-201. License requirements.
(1) A facility or licensee considering construction of or alteration or addition to a health care facility shall submit plans and specifications to the department for preliminary inspection and approval prior to commencing construction.
(2) A person may not operate a health care facility unless the facility is licensed by the department. Licenses may be issued for a period of 1 to 3 years in duration. A license is valid only for the person and premises for which it was issued. A license may not be sold, assigned, or transferred.
(3) Upon discontinuance of the operation or upon transfer of ownership of a facility, the license must be returned to the department.
(4) Licenses must be displayed in a conspicuous place near the admitting office of the facility.

37.40.315 STAFFING AND REPORTING REQUIREMENTS
(1) Providers must provide staffing at levels which are adequate to meet federal law, regulations and requirements.
(a) Each provider must submit to the department within 10 days following the end of each calendar month a complete and accurate form DPHHS-SLTC-015, "Monthly Nursing Home Staffing Report" prepared in accordance with all applicable department rules and instructions. Copies of form
DPHHS-SLTC-015 may be obtained from the Department of Public Health and Human Services, Senior and Long Term Care Division, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210.

(b) If complete and accurate copies of form DPHHS-SLTC-015 are not received by the department within 10 days following the end of each calendar month, the department may withhold all payments for nursing facility services until the provider complies with the reporting requirements in (1)(a).

37.40.408 FACILITY POLICY REQUIREMENTS
(1) The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property.
(2) The policies must provide that the facility will:
(a) not use verbal, mental, sexual, or physical abuse, corporal punishment, or involuntary seclusion;
(b) not employ individuals who have been found guilty of abusing, neglecting, or mistreating residents by a court of law, or have had a finding entered into the nurse aide registry concerning abuse, neglect, mistreatment of residents or misappropriation of their property;
(c) report any knowledge it has of actions by a court of law against an employee, which would indicate unfitness for service as a nurse aide or other facility staff to the nurse aide registry maintained by the Department of Public Health and Human Services;
(d) ensure that all alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, and misappropriation of resident property are reported immediately to the administrator of the facility, the long term care ombudsman, and the Department of Public Health and Human Services in accordance with 52-3-811, MCA;
(e) have evidence that all alleged violations are thoroughly investigated, and must prevent further potential abuse while the investigation is in progress;
(f) ensure that the results of all investigations must be reported to the administrator of the facility and to the Department of Public Health and Human Services in accordance with 52-3-811, MCA, within five working days of the incident; and
(g) if the alleged violation is verified, take appropriate corrective action. (History: 53-6-113, MCA; IMP, 53-6-101, 53-6-113, MCA; NEW, 2004 MAR p. 1479, Eff. 7/2/04.)

37.106.139 ANNUAL REPORTS BY LONG-TERM CARE AND PERSONAL CARE FACILITIES
(1) Every long-term care and personal care facility shall submit an annual report to the department on a form provided by the department and no later than the deadline specified on the form. The annual report must be signed by the facility administrator and must include whichever of the following information is requested on the form:
(a) the facility’s reporting period, and whether the facility was in operation for a full 12 months at the end of the reporting period;
(b) a discussion of the organizational aspects of the facility, including the following information:
(i) the type of organization or entity responsible for the day-to-day operation of the facility (e.g., state, county, city, federal, hospital district, church related, nonprofit corporation, individual, partnership, business corporation);
(ii) whether the controlling organization leases the physical plant from another organization. If so, the name and type of organization that owns the plant;
(iii) any changes in the ownership, board of directors or articles of incorporation of the facility during the past year;
(iv) the name of the current chairman of the board of directors of the facility;
(v) if the controlling organization has placed responsibility for the administration of the facility with another organization, the name and type of organization that manages the facility. A copy of the latest management agreement must be provided;
(vi) if the facility is operated as a part of a multifacility system (e.g., medical center, chain of hospitals owned by a religious order, etc.) the name and address of the parent organization;
(c) utilization information, including:
(i) licensed bed capacity (skilled and intermediate);
(ii) whether the facility is certified for medicare or medicaid;
(iii) number of beds currently set up and staffed;
(iv) total patient census on first day of reporting period; total admissions, discharges, patient deaths, and patient-days of service during the reporting period;
(v) patient census on last day of reporting period, broken down by sex and age categories;
(d) financial data, including:
(i) total annual operating expenses (payroll and nonpayroll);
(ii) closing date of financial statement;
(iii) sources of operating revenue, indicating percent received from medicare, medicaid, private pay, insurance, grants, contributions, and other;
(e) staff information, including number and classification of full and part-time medical personnel, as required on the survey form;
(f) patient origin data, including patients' counties of residence, and number of admissions from state institutions and from out-of-state;
(g) name of person to contact should the department have any questions regarding the information on the report.

37.106.314 MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES: MEDICAL RECORDS
(1) A health care facility shall initiate and maintain by storing in a safe manner and in a safe location a medical record for each patient and resident.
(2) A health care facility, excluding a hospital, shall retain a patient's or resident's medical records for no less than five years following the date of the patient's or resident's discharge or death.
(3) A medical record may be microfilmed or preserved via any other electronic medium that yields a true copy of the record if the health care facility has the equipment to reproduce records on the premises.
(4) A signature of a physician may not be stamped on a medical record unless there is a statement in the facility administrator's or manager's file signed by the physician stating that the physician is responsible for the content of any document signed with his rubber stamp.

37.106.322 MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES: DISASTER PLAN
(1) A health care facility shall develop a disaster plan in conjunction with other emergency services in the community which must include a procedure that will be followed in the event of a natural or man-caused disaster.
(2) A health care facility shall conduct a drill of such procedure at least once a year. After a drill, a health care facility shall prepare and retain on file a written report including, but not limited to, the following:
(a) date and time of the drill;
(b) the names of staff involved in the drill;
(c) the names of other health care facilities, if any, which were involved in the drill;
(d) the names of other persons involved in the drill;
(e) a description of all phases of the drill procedure and suggestions for improvement; and
(f) the signature of the person conducting the drill.

37.106.330 MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES: WRITTEN POLICY AND PROCEDURE
(1) A written policy and procedure for all services provided in a health care facility must be available to and followed by all personnel.

Subchapter 29 Restraints, Safety Devices, Assistive Devices, and Postural Supports

STAFF TRAINING

(1) Restraints, safety devices or postural supports may only be applied by staff who have received training in their use, as specified below and appropriate to the services provided by the facility.

(2) Staff training shall include, at a minimum, information and demonstration in:
   (a) the proper techniques for applying and monitoring restraints, safety devices or postural supports;
   (b) skin care appropriate to prevent redness, breakdown and decubiti;
   (c) active and passive assisted range of motion to prevent joint contractures;
   (d) assessment of blood circulation to prevent obstruction of blood flow and promote adequate circulation to all extremities;
   (e) turning and positioning to prevent skin breakdown and keep the lungs clear;
   (f) potential risk for residents to become injured or asphyxiated because the resident is entangled in a bed rail or caught between the bed rail and mattress if the mattress or mattress pad is ill-fitted or is out of position;
   (g) provision of sufficient bed clothing and covering to maintain a normal body temperature;
   (h) provision of additional attention to meet the physical, mental, emotional and social needs of the resident; and
   (i) techniques to identify behavioral symptoms that may trigger a resident’s need for a restraint or safety device and to determine possible alternatives to their use. These include:
      (i) observing the intensity, duration and frequency of the resident’s behavior;
      (ii) identifying patterns over a period of time and factors that may trigger the behavior; and
      (iii) determining if the resident’s behavior is:
         (A) new or if there is a prior history of the behavior;
         (B) the result of mental, emotional, or physical illness;
         (C) or a radical departure from the resident’s normal personality.

(3) Training described in (2) must meet the following criteria:
   (a) training must be provided by a licensed health care professional or a social worker with experience in a health care facility; and
   (b) a written description of the content of this training, a notation of the person, agency, organization or institution providing the training, the names of staff receiving the training, and the date of training must be maintained by the facility for two years.

(4) Refresher training for all direct care staff caring for restrained residents and applying restraints, safety devices or postural supports must be provided at least annually or more often as needed. The facility must:
   (a) ensure that the refresher training encompasses the techniques described in (2) of this rule; and
   (b) for two years after each training session, maintain a record of the refresher training and a description of the content of the training.

STATE PLAN for the NURSE AIDE TRAINING AND COMPETENCY TESTING PROGRAM

State Guidelines

(e) Required training of nurse aides.

(1) Definitions:
Licensed health professional means a physician, physician assistant, nurse practitioner; physical, speech or occupational therapist; licensed occupational therapy assistant; licensed physical therapy
assistant; registered professional nurse; licensed practical nurse; licensed or certified social worker, and licensed nutritionist/registered dietitian. A registered dietitian, to practice as a professional dietitian/nutritionist, must be licensed by the state. Nurse aide (nurse assistant) means any individual providing nursing or nursing related services to residents in a facility who is not a licensed health professional or someone who volunteers to provide such services without pay.

(2) General rule. Full time employees. An individual who has not completed a nurse aide training and/or competency testing program approved by the State Survey and Certification Agency (SA) within four months of the date of hire to a position providing nursing and nursing related services for residents may not perform any such services for residents once the four-month period has expired. Such individuals must complete a SA approved training and/or competency testing program prior to being hired by another facility or rehired/reassigned by the same facility to perform nursing and nursing related functions. [For rules regarding temporary, part-time or pool employees, refer to (3) Nonpermanent employee.] An individual enrolled in a training and competency program may not perform any nursing or nursing related task that is not directly supervised by the licensed nurse instructor until that individual has satisfactorily passed a skills evaluation of the task(s) by the nurse instructor. Documentation of the evaluation(s) is to be made on the official Montana Nurse Aide Skills Competency Checklist (MNASCC). The original of the MNASCC is to be filed in the individual’s personnel or training file once it is complete. A copy of the MNASCC must be given to the individual. Once the individual has satisfactorily passed a skill(s), accompanied by such documentation on the MNASCC, s/he may perform the skill under the general supervision of a licensed nurse until successful completion of the training and competency evaluation program. All skills listed in the MNASCC must be satisfactorily passed prior to eligibility to complete the State Competency Evaluation Program (SCEP). For individuals with limited handicaps which preclude satisfactory completion of all skills listed on the checklist, a waiver may be approved by the SA. Waiver requests are to be in writing and list the skills, and the reasons, the individual is unable to physically perform the skill. (Example: an individual is hearing impaired and not able to accurately take a blood pressure). Nurse aides may not perform any skill which is waived. Waivers will be reviewed, evaluated and approved on an individual basis. Waivers, if any, will be recorded on the individual’s official Certification of Competency notice provided by the SA. Individuals who believe they have sufficient experience or training to pass the SCEP without completing a SA approved training program may request to complete the SCEP without proof of training. Such individuals will be allowed one attempt to successfully complete the SCEP. If the individual fails the SCEP, s/he will be required to complete the SA’s Nurse Aide Training and Competency Evaluation Program (NATCEP) prior to retaking the examination. To insure that individuals who successfully complete only the SCEP are competent to practice all skills required by the state approved curriculum, such individuals will be required to be evaluated for all skills listed on the MNASCC by a licensed nurse for the facility or agency that hires him/her. The individual may not perform unsupervised any skill for which s/he has not received a satisfactory score. An individual who has previously completed a training program in another state may provide, in lieu of the MNASCC, a duplicate of any official skills evaluation that is the equivalent of the MNASCC. The original of the completed MNASCC or duplicate of another official skills evaluation is to be filed in the individual’s personnel or training file, with a copy provided to that individual.

Titles. Because it is common practice, the SA will allow individuals who successfully complete the SCEP to use the title CNA (Certified Nurse Assistant), referencing that the individual has met the SA’s competency requirements to practice as a nurse aide and is entered on the Montana Nurse Aide Registry (State Registry). Individuals who have not successfully completed the SCEP may not use this title or in any way suggest they are certified by the SA as competent to practice as a nurse aide.
(3) Non-permanent employees. Definition: Non-permanent employee: Any individual hired to work for a temporary period that is less than four consecutive months. Non-permanent employees include temporary workers hired from "nursing pools" or other agencies who are not regular employees of the facility; intermittent employees filling in for vacation, holiday or other relief purposes; persons providing other part-time non-skilled nursing or nursing related services for pay. Non-permanent employees must meet all certification of competency requirements, that is, have either successfully completed a NATCEP or a SCEP prior to being hired in any position as defined in the above paragraph.

(4) Competency. (i) Upon hiring an individual who has not met the SA's competency requirements and is not listed in the State Registry, the facility must immediately place that individual in a training and competency testing program. The individual must complete the NATCEP and be listed in the State Registry no later than 4 months from the date of hire.
In-state applicants: (ii) A facility may hire any individual who has completed a SA approved NATCEP or SCEP and is listed in the State Registry. For such an individual, no retraining or retesting is required. The facility should provide appropriate orientation to facility policies and procedures and any other information needed to insure the individual performs assigned duties effectively. The hiree must provide to the facility a copy of a completed MNASCC at the time of hire. If the hiree no longer has a copy of his/her original MNASCC, the hiring facility must reevaluate the individual's skills using the MNASCC, provide a copy to the hiree and maintain a copy in the individual's personnel or training file.
Out-of-state applicants: An individual who has met another state's training and competency evaluation program is eligible for entry to the State Registry only if that individual is currently registered in the other state. A facility wishing to hire a currently registered out-of-state individual is required to:
1. Verify, either in writing or by telephone, with the out of-state registry that the applicant is currently registered in the other state and has no record of resident abuse, neglect or misappropriation of resident property. Document and retain the results of the inquiry with the individual's employment application.
2. Instruct the applicant to complete a Nurse Aide Registry Application form and attach a copy of his/her current registration card, letter or other notice from the other state. (Note: A copy of certification of completion of a program from a facility or other training agency located in another state is not acceptable.) These documents are to be mailed to the SA, who will officially verify the applicant's out-of-state status in writing. The applicant may be hired and allowed to work pending the response from the out-of-state registry if the following is done:
a) obtain from the applicant a copy of the skills evaluation completed by his/her training program instructor to verify competency in the skills required as part of the SA approved curriculum or complete a skills evaluation using the MNASCC. A copy of either skills evaluation must be filed in the applicant's personnel or training file prior to assigning the individual to resident care.
b) provide appropriate orientation to facility policies and procedures. Provide any further training to meet curriculum requirements (example: Montana resident rights and abuse laws or skills that were found to be unsatisfactory during the skills evaluation) prior to assigning the individual to resident care. If an out-of-state applicant is found not to be currently registered in the other state, s/he must complete a State approved NATCEP or SCEP as will any other individual hired by the facility. (Note: If the facility has provided the training and skills evaluation as described in 2, a and b, the clock hours attributed to this training, less facility orientation, may be deducted from the required total of 75 hours.)
(5) Registry verification. (i) and (ii) Prior to or immediately upon hiring an individual who claims to be listed in the State Registry, the facility must verify that the individual has met the competency evaluation requirements by one of the following:

1. Reviewing the original copy of the individual’s unexpired Certification of Competency notice from the SA.
2. Making an inquiry directly to the State Registry through the Montana Nurse Aide Registry web site, in writing, or by telephone. If the inquiry is from the web site or by telephone, documentation of the verification is be entered into the individual's personnel file; if by writing, the original or photocopy of the correspondence from the SA is placed in the individual’s personnel file.
3. Reviewing the original copy of the individual's test results from the SA approved test vendor showing the individual has successfully completed all parts of the test(s). Either a copy of the unexpired certification of competency notice, a hard copy of the web verification, or a copy of test results is to be obtained by the facility and filed in the personnel file of each individual hired, as soon as possible, for any of the above listed verification procedures.

(6) Multi-State registry verification.
A facility must determine, at the time of application, if an applicant has worked as a nurse aide in other states. Prior to hiring or assigning such an individual to perform any nursing or nursing related duties, the facility must inquire of the registries of any and all states the applicant has so indicated, to determine if there is any information contained in the registries about the applicant that is related to resident abuse, neglect or misappropriation of property. Documentation of the results of any and all inquiries to other states is to be maintained in the individual's personnel file.

(7) Required retraining.
An individual must complete anew NATCEP or SCEP if s/he has not been employed to provide nursing or nursing-related services for at least 8 hours within the previous consecutive 24 months (2 years) of the date of expiration of certification of competency. To meet this requirement, the nursing or nursing related services may be provided in any type of health care setting, including private home care and physicians' offices or clinics. Proof of employment is to be submitted with the individual’s certification of competency renewal application.

Recertification
Nurse aide certification is renewed every two years from the last date an individual has worked 8 hours providing nursing and/or nursing related services, as verified in writing by the employer. Renewal notices are mailed to each nurse aide at least 60 days prior to the expiration date of his/her certification. It is the responsibility of the individual to apply for certification renewal in a timely fashion to avoid certification expiration. Nursing facilities are required to ensure each nurse aide employed by them meets certification of competency requirements. They should implement some method of tracking to ensure certifications of nurse aides they employ are current. A nurse aide who does not renew his/her certification on time will no longer be registered and his/her name will be removed from the State Registry. To be reentered in the State Registry, individuals who have allowed certifications to expire will be required to complete either a NATCEP or a SCEP.

(8) Regular in-service education. Performance review. The annual performance review is to be completed no later than 12 months from the date of hire and at least every 12 months thereafter. The review should include ongoing observations during the individual’s daily routine. The evaluation is not an additional competency test. The purpose of the review is to determine if the individual continues to competently practice nursing and nursing related skills and behaviors. Skills and behaviors that should be included in the evaluation are: communication and interaction skills, basic nursing procedures, infection control, safety, and other procedures the individual may practice. The performance areas reviewed are to be documented and include a statement noting whether or not the individual satisfactorily performed each area reviewed. If performance is not satisfactory, the documentation should include any remedy taken.
Facilities may use any format they choose to document this information. It is permissible to use the MNASCC or other skills checklist, if desired.

In-service training. Facility responsibility: (i) The facility must provide each nurse aide with the opportunity to accumulate a minimum of 12 hours of appropriate continuing education (in-service training) each year. (Note: staff meetings and care plan meetings will not be accepted for continuing education credit, unless they meet Parts (ii) and (iii) of this paragraph.)

(ii) and (iii) Continuing education may be provided in any appropriate educational format. Video and audio tape presentations and reading or research assignments are acceptable. Appropriate subjects for continuing education are any that enhance nurse aides' job related knowledge and skills. These include, but are not limited to the following:

1) remedial training in skills not performed satisfactorily as a result of the annual reevaluation.
2) nursing and nursing related information to improve knowledge and/or skills, including skills working with individuals with cognitive impairments.
3) meeting mental, physical and psychological needs of residents.
4) recertification in CPR (4-hour limit).
5) self-growth (management of stress, time management, interpersonal skills etc.)
6) written/oral communication, observation and documentation.
7) promotion of resident rights and dignity, including the prohibition of mistreatment, abuse, neglect and misappropriation of resident property. Each facility/agency is to maintain an individual inservice record for each nurse aide that contains the following information:
   1. Date of in-service
   2. Title of in-service
   3. Length (time) of inservice
   4. Signature of instructor(s)

A copy of this record is to be filed in each nurse aide's personnel or training file to insure the information is easily retrievable.

STATE GUIDELINES for SUBPART D

(a) Program approval.

(1) (i) Only programs which meet the SA's core curriculum requirements will be approved. The SA has designated and approved HEADMASTER, a Montana based non profit educational research and development firm, as vendor for the State's competency evaluation program.

(ii) The SA does not directly provide nurse aide training and/or competency evaluation programs. A SA approved competency evaluation program, developed by HEADMASTER and SA staff, will be administered for the State by HEADMASTER.

(2) Facilities, other agencies or vendors wishing to seek approval of self-developed programs or programs not contained in the approved programs list (Appendix C) must submit a copy of their complete curriculum, teacher guide and student workbook/learning materials to the SA for review. Following review, the SA will notify the facility, agency or vendor of its findings by letter, along with a copy of the SA's written evaluation. Any recommendations for additions and/or changes to the submitted materials will be documented in the Comments section on page 4 of the evaluation form. If any additions or changes are required, the facility, agency or vendor must submit documentation of how these additions and/or changes will be incorporated into their program. Facilities or other agencies must notify the SA of the date of planned implementation prior to final approval. Final approval of any program submitted will be by letter from the SA. Facilities or agencies wishing approval to adopt a program listed in Appendix C must submit a letter to the SA requesting approval to implement the program. This letter must contain the following:
   a. Name of approved curriculum, textbook and/or other training materials;
b. Total program hours (must be a minimum of 75 hours excluding facility orientation);
c. Number of classroom hours (acceptable range is 45-50 hours);
d. Number of clinical hours (acceptable range is 25-30 hours);
e. Training schedule that includes an outline of modules (including clinical practice) to be taught and the number of hours devoted to each module of the program; and
f. Expected date of implementation.
(3) The SA will complete the survey protocols for CFR 483.75(e) for each extended survey as directed by the State Operations Manual, Appendix P, Standard and Extended surveys. Complete NATCEP surveys will be conducted every 2 years.

(b) Requirements for program approval.
(1) (i) Requirements for approval of nurse aide training programs are contained in Section (a)(2) of this plan.
(ii) The SA has provided guidance and assistance in the development of the SA approved competency evaluation program which meets the requirements of 483.154. (See Section(a)(2) of this plan.)
(iii) Initial approval of nurse aide training programs will be conducted as described in (a)(2) of this section. Onsite reviews of all approved programs will be conducted no later than one year after the initial review and approval, and every two years thereafter, to determine compliance to 483.75(e), 483.151 (e)(1) through (3), 483.152, and 483.154 (c)(2). These reviews will be conducted utilizing established survey protocols. Upon approval, the SA will send the entity providing the NATCEP a letter of approval that contains an expiration date. Approximately 60 to 90 days prior to that expiration date, the SA will send a notice and an Application to Renew the NATCEP to the entity to determine if the entity has and will continue to provide a NATCEP. This application must be returned to the SA no later than 30 days from the date of the notice. Failure to return the renewal application will result in the automatic termination of the NATCEP. A termination notice will be sent to any entity which has not provided a NATCEP within the previous two years and to any entity that does not return a completed renewal form within the required timeframe. To reinstate a NATCEP, the entity will be required to follow all steps required in 483.152.

(2) and (3) The SA will not approve any nurse aide training or competency evaluation programs offered in or by a facility which, in the previous two years, has been under a waiver of licensed nurses or has had penalties assessed as described in these sections.
(i) Skilled nursing facilities who have been granted a waiver under this section, (i.e., allowing coverage by a registered nurse for less than 8 consecutive hours a day, 7 days a week), at any time within the two years previous to application for approval of a program, will have their application denied. A facility who already is operating a program will have the program approval withdrawn for a period of two years from the date the waiver expired.
(ii) Nursing facilities who have been granted a waiver under this section, (i.e., allowing coverage by a registered nurse for less than 8 consecutive hours a day, 7 days a week or allowing coverage by a licensed nurse for less than 24 hours a day), at any time within the two years previous to application for approval of a program will have the application denied. For a skilled nursing facility, or a nursing facility, which is operating a program at the time the waiver is approved, the program approval will be withdrawn for a period of two years from the date the waiver expired. Facilities who have been subject to:
(iii) extended or partial extended surveys;
(iv) civil money penalties of not less than $ 5,000;
(v) operation by temporary management appointed to oversee the operation of the facility or closure and transfer of its residents, will:
(3) --in the case of a facility which has an existing program, have the nurse aide training and
competency program withdrawn for a period of 24 consecutive months (2 years) from the date that
any of these penalties were imposed.
--in the case of a facility which applies for program approval, be denied approval of the nurse aide
training and competency evaluation program for 24 consecutive months (2 years) from the date
that any of these penalties were imposed.
--before being allowed to conduct a program, be required to resubmit a request for approval of a
new program or re-approval of a previous program at such time any of these penalties have
expired.
Waiver of prohibition of nurse aide training and competency evaluation programs in nursing
facilities.
Nursing facilities which have been subjected to any remedy described in 483.151(b)(2) may apply
to the SA, in writing, for a waiver of the prohibition of providing nurse aide training and
competency evaluation in a facility if the facility meets the following:
1. There are no other nurse aide training and competency evaluation programs in, or within a
reasonable distance from, the community in which the nursing facility is located.
2. The facility arranges for both classroom and clinical instruction and evaluation to be conducted
by a licensed nurse who is not an employee of the facility.
(c) Time frame for approval.
The SA will, within 90 days of a request for an approval of a NATCEP,--
(1) Advise the requester that approval is or is not granted; or
(2) Request additional information from the requesting entity.
(d) Duration of approval.
The SA may grant NATCEP approvals for any time period deemed appropriate by the SA but not to
exceed two years. Any substantive change in a training program must be submitted to the SA in
writing. Substantive changes include changes in curriculum, textbooks, schedules and coordinator
and instructors. The SA will review the changes submitted and will respond to the provider in
writing.
(e) Withdrawal of approval.
(1) The SA will withdraw approval of, for 24 consecutive months, a NATCEP or SCEP offered by or
in a facility who has operated under a licensed nurse waiver or has been assessed a penalty
described in paragraph (b)(2) of this section.
(2) The SA may withdraw approval of a NATCEP or SCEP offered by or in a facility who does not
meet the SA's Guidelines for meeting the requirements 483.152 or 483.154. The time limits for
withdrawal of approval will be determined by the SA, but will not exceed 24 consecutive months.
(3) The SA will withdraw approval of a NATCEP or SCEP by or in a facility who refuses to permit
unannounced visits by the SA.
(4) If the SA withdraws approval of a NATCEP, the entity will be:
(i) notified in writing, with reasons, for the withdrawal of approval of the program.
(ii) allowed to complete a NATCEP or SCEP that is already in progress at the time the withdrawal is
made. The facility will notify the SA immediately upon receipt of the notice of withdrawal, in
writing, of the following:
1. the date the class began;
2. names of all students in the class;
3. expected date of completion.
State NATCEP curriculum requirements.
a) The SA requires that at a minimum the NATCEP must--
(1) consist of a minimum of 75 clock hours of training, excluding facility orientation(i.e., orientation
to personnel policies and procedures, completing employment papers, building tour and other
facility-specific information);
(2) Include the subjects specified in paragraph (b) of this section.

(3) Include at least 25 hours of directly supervised practical training by an approved licensed nurse instructor. Practical training may be conducted
--in a laboratory setting, utilizing nurse aide trainees or other volunteers as subjects; or
--in a clinical setting, utilizing resident volunteers as subjects. Direct supervision means in the presence of the licensed nurse instructor. [Note: Student nurse aides may not be trained or evaluated by other nurse aides. Student nurse aides may not be assigned to work with experienced nurse aides until the students have demonstrated competence in assigned skills as required by section (4)(i) below and 483.75(e)(2) (State Plan, page 2).

(4) A facility which is approved to provide a NATCEP may--
(i) not assign student nurse aides to perform any services for which they have not demonstrated competence. Direct supervision of a student nurse aide is not required once they have successfully passed a skills evaluation by the nurse instructor that has been dated and signed as "passed" on the MNASCC.
(ii) allow a student nurse aide to perform services under the general supervision of a licensed practical nurse or a registered nurse once the provisions described in the previous paragraph (i) are met. General supervision means on the premises during a trainee's assigned tour of duty.

(5) Any entity which provides training of nurse aides must apply to the SA for approval of a program coordinator (PC), clinical instructor(s) (CI) and supplemental instructor(s) (SI). Only one individual may serve as program coordinator. Applications for approval as PC, CI, or SI are to be made to the SA by completing the SA application form accompanied by a resume. The resume must contain the individual's professional education and experience, any teaching experience or training, and any experience supervising nurse aides.

(i) The training of nurse aides must be performed by or under the general supervision of a registered nurse who coordinates the training program. The program coordinator (PC) and clinical instructors (CI) must have at least 2 years of nursing experience, one of which has been in the provision of long term care services. Long term care services include those provided in nursing homes and geriatric or long term care units of another facility, or other entities that provide services to the aged, chronically ill and/or disabled.

(ii) All instructors must have--
1. experience in teaching adults;
2. experience in supervising nurse aides, with demonstrated competence in teaching; or
3. have equivalent education. Equivalent education includes college/university education courses, a degree in education, or a train-the-trainer course approved by the SA.

(iii) In a facility-based program, the director of nursing also may be the program coordinator. As program coordinator, the director of nurses may provide general supervision of the program and instructors but may not provide direct training.

(iv) Qualified health care personnel, who have at least one year of experience in their respective fields, may provide training in their specialties under the general supervision of the program coordinator. Such personnel include additional registered or licensed practical nurses; occupational, physical and speech/language/hearing therapists; physicians; psychologists; dentists; social workers; recreation therapists; activities specialists; administrators; medical records specialists; dietitians/dietary managers; fire safety experts; ombudspersons; pharmacists; Sanitarians or others as approved by the SA.

(6) Competency evaluation procedures are specified by the test vendor and approved by the SA.
(b) The SA approved curriculum requirements include--
(1) a minimum of 16 hours of training, excluding facility orientation, in the following subjects prior to any direct contact with residents:
   (i) communication and interpersonal skills
   (ii) infection control
(iii) safety and emergency procedures, including Heimlich maneuver;
(iv) promoting residents’ independence, i.e. principles of restorative care; and
(v) respecting residents’ rights.

(2) Basic nursing skills:
(i) taking and recording temperature, pulse, respiration and blood pressure;
(ii) measuring and recording height and weight;
(iii) caring for the resident’s environment;
(iv) recognizing physical and emotional changes of aging; and
(v) caring for residents when death is imminent.

(3) Personal care skills, including--
(i) through (viii). Bathing, grooming, oral care, dressing, toileting, eating/feeding, skin care, transfers, positioning and turning.

(4) Mental health and social service needs:  
(i) care of residents with personality and/or behavior disorders;
(ii) recognizing the physical and emotional changes of aging; understanding of caregiver’s, resident’s and family’s attitudes toward the aging process;
(iii) communicating with residents who have specific problems (sensory and cognitive deficits) and care of residents with personality and/or behavior disorders;
(iv) allowing resident to make personal choices and promoting respect and dignity, basic rights and needs;
(v) promoting support of family, i.e. understanding the family’s attitude toward the aging process and communicating with family.

(5) Care of cognitively impaired residents:
(i) through (v) care of residents who have personality and behavior disorders and meeting the needs of special residents.

(6) Basic restorative services:
(i) promoting independence and self care;
(ii) prevention of injury and falls through proper body mechanics and promotion of safe transfers and ambulation; assistance with eating; assistance with dressing;
(iii) maintenance of range of motion;
(iv) proper turning and positioning;
(v) bowel and bladder retraining; and
(vi) care and use of prosthetic devices and orthotic devices, care of residents’ personal possessions, helping the sensory impaired, and basic restorative.

(7) Residents’ rights:
(i) through (vii) promoting residents’ rights, including Montana Residents’ Rights Act; confidentiality; legal and ethical issues; resident abuse, including the Montana Elder Abuse Act; care of residents’ clothing and personal possessions; and proper use of restraints.

(c) Prohibition of charges.

(1) Nurse aides who are employed, or who have received an offer of employment, at the time he/she begins a NATCEP or SCEP may not be charged any fees, including charges for textbooks or other course materials.

(2) Questions regarding any repayment to qualifying nurse aides are to be directed to the Senior and Long Term Care Division of the Department of Public Health and Human Services, Helena, Montana.

(a) The SA approved test vendor must provide a procedure to notify any individual who applies to complete the approved competency evaluation program that a record of his/her successful completion of the competency evaluation will be forwarded to the SA for placement in the nurse aide registry. To ensure that nurse aides who apply to take the test are eligible under 483.156(c)(5)(iv) (findings of abuse, neglect or misappropriation of property), the test vendor shall
require that each nurse aide must present at least two forms of identification prior to taking the
test. These must include at least one form of photo identification and the aide’s social security card.
The identification information must be checked against the abuse file contained in the State
Registry. Any nurse aide who has been found to have committed abuse, neglect or misappropriation
of property and whose name is found in the abuse file of the State Registry may not take the test
and must be reported immediately to the State Registry.
(b) Content of the competency evaluation program.
(1) The SA approved test vendor must provide--
(i) a choice of a written or oral examination to all SCEP applicants;
(ii) a competency evaluation that addresses all of the core
curriculum requirements;
(iii) a sufficient pool of test questions so that different forms of the examination may be used;
(iv) a system that protects the security of the pool of test questions; and
(v) an oral version of the test which is given from a prepared text in a neutral manner, and provide
appropriate training to test proctors/administrators in proper the administration of oral tests.
Audiotapes prepared for this purpose are acceptable.
(2) The SA approved testing entity must provide a skills demonstration test that evaluates at least 5
randomly selected skills (5 subtests) from a pool of skills. No less than 2 of the randomly selected
skills must be chosen from the list of personal care skills listed in Appendix C, Core Curriculum
Requirements, section 5. The remaining skills must be chosen from skills listed in Appendix C, Core
Curriculum Requirements, sections 4, 6, 8, and 9. Each skill demonstration must incorporate as part
of its task analysis the evaluation of the examinee’s communication and interpersonal skills
(Appendix C, Core Curriculum Requirements, section 1-d and 3 and recognition of resident’s right
to privacy and respect.
(c) Administration of the competency evaluation program.
(1) The competency evaluation program will be administered by-
(ii) a SA approved entity which is neither a skilled facility nor a nursing facility participating in
Medicare and/or Medicaid programs.
(2) Nurse aides who are employed by, or have received an offer of employment from, a skilled
facility or nursing facility participating in the Medicare and/or Medicaid programs on the date the
competency program began may not be personally charged any fees for completion of the
competency evaluation program, including repeating the test due to unsuccessful completion at
previous attempts.
(3) See State Plan for 483.152(c)(2).
(3) Reimbursement is the responsibility of the state Medicaid agency. See 483.152(c)(2).
(4) The test vendor must insure that the skills demonstration part of the SCEP be--
(i) performed in a facility or a laboratory setting which simulates the setting in which the skill(s)
will be routinely practiced; and
(ii) administered and evaluated by a registered nurse with at least one year’s experience providing
care for persons who are elderly and/or chronically ill or disabled of any age. Such experience
includes nursing facilities, long term care units of another facility (swing beds, rehabilitation units,
geriatric units, etc.), and home health/hospice agencies.
(d) Facility proctoring of the SCEP.
(1) The test vendor must provide for testing individuals, at their request, in the facility for which
they work except a facility whose NATCEP or SCEP has been revoked as specified in
483.151(b)(2).
(2) The SA will allow proctoring of the SCEP by a qualified registered nurse employed by a facility
provided the test vendor insures that--
(a) only one registered nurse for each facility is approved to proctor the SCEP, and
(b) each approved proctor receives appropriate training in proctoring both the written and skills portions of the SCEP.

The test also may be administered by registered nurse instructors of units of higher education (vocational-technical schools, colleges, universities) who have at least one year's experience instructing and testing students in nursing and nursing-related subjects. The test vendor must insure that the SCEP--

(i) is secure from tampering;

(ii) is standardized and scored only by the vendor;

(iii) requires no scoring by the facility proctor or other facility personnel.

(3) The SA will revoke approval to proctor the SCEP for any facility whose staff have been found to have engaged in impropriety and/or tampering of the SCEP.

(e) Successful completion of the competency evaluation program.

(1) For a candidate to successfully complete the SCEP, he/she must pass--

- the written (or oral) test with a score of no less than 75% correct responses.

- each skills subtest with a score of no less than 80% correct responses. The skills subtests must incorporate a system to insure that key points (those affecting the overall outcome of a subtest) must be satisfactorily passed in order to pass the skill tested.

(2) No later than 30 days following completion of the SCEP, the test vendor must provide to the State Registry a record for each individual who is successful in passing the SCEP. Information to be provided to the registry must include, at minimum, the information required by the State Plan described in 483.156.

(f) Unsuccessful completion of the competency evaluation program.

(1) The test vendor must inform individuals who have failed the written (or oral) and/or skills portions of the SCEP--

(i) of the general subject area(s) (e.g., resident rights, making an unoccupied bed, post mortem care, etc.) of the test which he/she did not pass;

(ii) that the individual will have three opportunities to repeat part or all of the SCEP. Individuals who fail to score at least 75% correct responses on the written (or oral) test or who fail three or more of the skills subtests are required to repeat the entire test that was not satisfactorily completed. Individuals who fail up to two of the skills subtests are required to repeat only the subtests that he/she failed. For partial retesting of skills, the test vendor will randomly select the same number of skill(s) from the same category(ies) that were failed.

(2) Individuals who have completed an approved nurse aide training program of at least 75 hours will be allowed to repeat the SCEP a maximum of three times. If, after three attempts, the individual does not successfully complete the SCEP, he/she will be required to complete another approved nurse aide training program of at least 75 hours before being eligible to again attempt the SCEP. An individual who has not completed an approved nurse aide training program of at least 75 hours will be allowed one attempt to successfully complete the SCEP. If the individual fails the SCEP, he/she will be required to complete an approved nurse aide training program of at least 75 hours to be eligible to repeat the SCEP. Following completion of the approved training program, the individual will be given three opportunities to successfully complete the SCEP.

Nurse aide registry.

(a) Establishment of registry. The SA will maintain a registry of nurse aides that--

(1) includes the identifying information described in paragraph (c) of this section;

(2) is accessible during the operating hours of the SA;

(3) includes home health aides who meet the NATCEP or SCEP requirements for nurse aide certification of competency and the additional home health training competency evaluation program.

(4) provides information from nurse aides who dispute any finding against them of abuse, neglect, or misappropriation of property, should they choose to provide such information. Should an aide
choose to dispute any finding of abuse, neglect, or misappropriation of funds, he/she must respond to the State’s written request for such information within 30 calendar days from the date of written notification of the SA’s findings. Failure to respond to the SA’s request within 30 days will result in the permanent placement of the findings as public record in the registry.

(b) Registry operation.
(1) The operation of the registry will remain with the SA.
(2) Only the State survey and certification agency will be responsible to place on the registry any findings of abuse, neglect, or misappropriation of property.
(3) Individuals who are placed in the registry are those who have met the SA’s NATCEP and SCEP and include:
   (i) individuals who have successfully completed a NATCEP or SCEP;
   (ii) were deemed as meeting the requirements under 483.150 by March 31, 1990; or
   (iii) have met waiver requirements under 483.150(b)(1). The SA will provide for certification and recertification of nurse aides and home health aides for periods not to exceed 24 consecutive months. Individuals who have not worked at least 8 hours within the 24 consecutive months preceding the expiration date of his/her certification or recertification period will be removed from the State Registry.
(4) The SA will not charge any fees related to the State Registry.
(5) The SA will respond to requests for State Registry information as follows:
   - inquiries to the State Registry by telephone will be answered when State Registry staff is available or within 3 days of the inquiry.
   - inquiries by mail will be answered within 5 working days of the date the inquiry is received.
   - inquiries to the State Registry are available on the SA’s web site [http://161.7.8.64/QAD/nurseaideregistry.jsp] 24 hours a day, 7 days a week.

(c) State Registry content.
(1) The State Registry will contain the following information on all individuals who meet the requirements for nurse aide/home health aide certification of competency:
   (i) the individual's first, middle and last names, including maiden name and any previous names used;
   (ii) identifying information including the individual’s
      - mailing address,
      - social security number,
      - identification number assigned by the State; and
   (iii) the date of certification of competency; date the certification period expires; name of approved NATCEP completed, including hours of training, or SCEP. The SA will maintain an Abuse File as part of the State Registry which contains the following information:
   (iv) substantiated findings, by either the SA or as adjudicated by a court of law, of abuse, neglect, or misappropriation of property, including—
      (A) the SA’s written reports of the investigation to include information about the nature of the allegation and supporting evidence;
      (B) the date and results of hearing, if any; and
      (C) the statement by the individual disputing the allegation(s), if any.
   (D) Information will be entered in the State Registry within 10 working days of a substantiated finding by the SA, either by default or by hearing, or within 10 days of the receipt of written notification of a verdict of guilty by a court of law. State Registry information will remain a permanent SA record unless otherwise found in error or upon notification of the individual’s death.
(2) Individuals who are no longer eligible to remain in the State Registry will,--
- in the case of an individual who has not performed nursing or nursing-related services for a period of 24 consecutive months, have his/her name removed from the active State Registry.
- in the case of substantiated abuse, neglect, or misappropriation of property, be subject to loss of his/her certification of competency by the SA.

(a) Disclosure of information.

The SA will:
(1) Disclose all of the information in 483.156(c)(1)(iii) and (iv) to any requester.
(2) Information in 483.156(c)(1)(iv) will be disclosed to any requester only if a finding of abuse, neglect, or misappropriation of property has been verified and the information has been placed in the Abuse File of the State Registry.

State FFP.

The provisions of this section are administered by the state Medicaid agency at Department of Public Health and Human Services, Senior and Long Term Care Division.

NEBRASKA
Downloaded January 2011

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 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.

NEVADA
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GENERAL REQUIREMENTS FOR LICENSURE
NAC 449.011 Application for license...In addition to the information required by NRS 449.040 and any other information specifically required for a particular license, must include:
(a) Full, complete and accurate information regarding the ownership of the facility or program and all changes to that ownership that occur while the application is pending. The information must include the name of:
   (1) Each natural person who is an owner of the facility or program;
   (2) Each person who has a direct or indirect ownership interest in the facility or program of 10 percent or more and who is the owner, in whole or in part, of any mortgage, deed of trust, note or other obligation secured in whole or in part by the facility or program or any of the property or assets of the facility or program;
   (3) If the applicant is a corporation, each officer and director; and
(4) If the applicant is a partnership, each partner. ...

NAC 449.0114 Display of license; compliance with law; transfer of real property; change in administrator, ownership, location or services. (NRS 449.037, 449.050)
1. Upon receipt of a license, the licensee shall display the license at a conspicuous location within the facility.
2. During the term of the license, the licensee shall continuously maintain the facility in conformance with the provisions of this chapter and chapter 449 of NRS.
3. If there is a transfer of the real property on which the facility is located, but no change in the operator of the facility, the licensee shall, within 10 days, notify the Health Division of the transfer in writing and provide the Health Division with a copy of any lease agreement relating to the transfer.
4. If there is a change in the administrator of the facility, the licensee shall notify the Health Division of the change within 10 days. The notification must provide evidence that the new administrator is currently licensed pursuant to chapter 654 of NRS and the regulations adopted pursuant thereto. If the licensee fails to notify the Health Division and submit an application for a new license within 10 days after the change, the licensee shall pay to the Health Division a fee in an amount equal to 150 percent of the fee required for a new application set forth in subsection 1 of NAC 449.0168.
5. A licensee shall notify the Health Division immediately of any change in the ownership of, the location of, or the services provided at, the facility.

Licensing and Administration of Facility
NAC 449.74413 Change in ownership, use or construction of facility. (NRS 449.037)
1. The owner of a facility for skilled nursing shall, at least 30 days before there is a change of ownership, change of use or change in the construction of the facility, notify the Bureau of that change. If the facility is not in compliance with the Guidelines for Design and Construction of Hospital and Health Care Facilities adopted by reference pursuant to NAC 449.0105, the notice must identify those provisions of the guidelines with which the facility has failed to comply.

NAC 449.74415 Responsibilities of governing body. (NRS 449.037) A facility for skilled nursing must have a governing body that is legally responsible for establishing and carrying out policies regarding the management and operation of the facility.

NAC 449.74417 Administrator of facility. (NRS 449.037)
1. The governing body of a facility for skilled nursing shall appoint a qualified administrator for the facility.
2. The administrator:
   (a) Must be licensed under the provisions of chapter 654 of NRS; and
   (b) Is responsible for the management of the facility.
3. A facility for skilled nursing must be administered in a manner that enables it to use its resources effectively and efficiently in order to attain and maintain the highest practicable physical, mental and psychosocial well-being of each patient.

NAC 449.74419 Committee for quality assurance. (NRS 449.037)
A facility for skilled nursing shall establish a committee for quality assurance. The committee must be composed of:
(a) The chief administrative nurse;
(b) A member of the staff who is a physician and appointed by the administrator; and
(c) At least three other members of the staff who are appointed by the administrator.
3. The committee shall:
(a) Meet at least quarterly to identify problems and concerns related to the care provided to patients for which corrective actions are necessary; and
(b) Adopt and carry out appropriate plans of action to correct the problems and concerns that are identified.

4. The Bureau may not require the disclosure of the records of the committee unless such disclosure is required to ensure compliance with the provisions of this section.

5. Good faith efforts made by a committee to identify problems and concerns related to the care provided to patients and to correct the problems and concerns that are identified may not be used as grounds for imposing administrative sanctions against a facility for skilled nursing.

NAC 449.74421 Procedures for emergency or disaster. (NRS 449.037)
1. A facility for skilled nursing shall adopt written procedures to be followed by the members of the staff and patients in the case of an emergency or disaster, including, without limitation, fires, severe weather and locating missing patients.

2. The facility shall provide training to an employee regarding these procedures upon his employment by the facility and periodically review the procedures with members of the staff.

3. The facility shall periodically conduct unannounced drills to practice carrying out the procedures adopted pursuant to subsection 1.

NAC 449.74427 Agreement with hospital for transfer of patients. (NRS 449.037)
1. A facility for skilled nursing shall have in effect an agreement with at least one licensed hospital that provides for the transfer of patients from the facility to the hospital. The agreement must provide that:
(a) A patient transferred from the facility will be admitted to the hospital in a timely manner if the transfer is medically appropriate as determined by the patient’s attending physician; and
(b) Medical and other information required for the care and treatment of the patient is transferred with the patient. Such information may include information for determining whether the patient may be cared for adequately in a setting that is less expensive than the facility or the hospital.

2. A facility for skilled nursing that does not have such an agreement in effect but has attempted in good faith to enter into such an agreement with a hospital sufficiently close to the facility to make transfers feasible shall be deemed to have such an agreement.

Medical Records
NAC 449.74441 Maintenance. (NRS 449.037)
1. A facility for skilled nursing shall maintain medical records for each patient in the facility in accordance with accepted professional principles.

2. A medical record must be:
(a) Complete;
(b) Accurate;
(c) Organized; and
(d) Readily accessible to those persons who are authorized to review the records.

3. A medical record must include:
(a) Sufficient information to identify the patient;
(b) A record of the assessments of the patient conducted pursuant to NAC 449.74433 and 449.74435;
(c) The patient’s plan of care and the services provided to the patient;
(d) The results of any assessment of the patient conducted by a state agency before his admission to the facility; and
(e) Periodic progress notes prepared by appropriate members of the staff.

4. A facility for skilled nursing shall maintain the medical records of a patient:
(a) For at least 5 years after the discharge of the patient, unless state law requires otherwise; and
(b) For at least 3 years after the patient reaches 18 years of age if the patient is a minor.

5. A facility for skilled nursing shall ensure that:
(a) Information contained in a medical record is not lost, destroyed or used in an unauthorized manner.
(b) No person willfully and knowingly falsifies or causes another person to falsify information contained in a medical record.

6. Information contained in a medical record is confidential and must not be released without the written consent of the patient except:
(a) As required by law;
(b) Under a contract involving a third-party payor; or
(c) As required upon the transfer of the patient to another medical facility.

NAC 449.74455 Discrimination prohibited. (NRS 449.037)
1. A patient in a facility for skilled nursing shall not be segregated or restricted in the enjoyment of an advantage or privilege enjoyed by other patients, or provided with any assistance, service or other benefit which is different or provided in a different manner from that provided to other patients, on the ground of race, color, religion, national origin or disability.

NAC 449.74491 Prohibition of certain practices regarding patients; investigation of certain violations and injuries to patients; unfit employees. (NRS 449.037)
1. A facility for skilled nursing shall adopt and carry out written policies and procedures that prohibit:
(a) The mistreatment and neglect of the patients in the facility;
(b) The verbal, sexual, physical and mental abuse of the patients in the facility;
(c) Corporal punishment and involuntary seclusion; and
(d) The misappropriation of the property of the patients in the facility.

2. A facility for skilled nursing shall adopt procedures which ensure that all alleged violations of the policies adopted pursuant to subsection 1 and injuries to patients of unknown origin are reported immediately to the administrator of the facility, to the Bureau and to other officials in accordance with state law, and are thoroughly investigated. The procedures must ensure that further violations are prevented while the investigation is being conducted.

3. The results of any investigation must be reported:
(a) To the administrator of the facility or his designated representative and to the Bureau within 5 working days after the alleged violation is reported.
(b) In the manner prescribed in NRS 200.5093 and 432B.220 and chapter 433 of NRS. The administrator of the facility shall take appropriate action to correct any violation.

4. A facility for skilled nursing:
(a) Shall not employ a person if:
(1) He has been convicted of abusing, neglecting or mistreating a patient; or
(2) A finding that he has abused, neglected, mistreated or misappropriated the property of a patient has been entered in the state nursing assistants registry maintained by the State Board of Nursing.
(b) Shall report to the State Board of Nursing, the Bureau or another appropriate occupational licensing board any judicial action taken against an employee or former employee of the facility which would indicate that the employee is unfit to be employed as a member of the staff of a facility for skilled nursing.

NAC 449.74511 Personnel policies; personnel records. (NRS 449.037)
1. A facility for skilled nursing shall adopt written policies for the personnel employed at the facility.
2. The written policies must:
   (a) Include the duties and responsibilities of, and the qualifications required for, each position at the facility;
   (b) Include the conditions of employment for each position at the facility;
   (c) Include the policies and objectives of the facility related to training while on the job and requirements for continuing education; and
   (d) Be periodically reviewed and made available to each employee of the facility.
3. A current and accurate personnel record for each employee of the facility must be maintained at the facility. The record must include, without limitation:
   (a) Evidence that the employee has obtained any license, certificate or registration, and possesses the experience and qualifications, required for the position held by the employee;
   (b) Such health records as are required by chapter 441A of NAC which include evidence that the employee has had a skin test for tuberculosis in accordance with NAC 441A.375; and
   (c) Documentation that the facility has not received any information that the employee has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.188.
4. A facility shall make its personnel records available to the Bureau for inspection upon request. (Added to NAC by Bd. of Health by R051-99, eff. 9-27-99)

NAC 449.74513 Medical director. (NRS 449.037)
1. A facility for skilled nursing shall employ a medical director who is licensed to practice medicine in this State.
2. The medical director shall:
   (a) Carry out the policies of the facility related to the medical care of its patients; and
   (b) Coordinate the medical care provided by the facility. (Added to NAC by Bd. of Health by R051-99, eff. 9-27-99)

NAC 449.74517 Nursing staff. (NRS 449.037)
2. A facility for skilled nursing shall employ a full-time registered nurse to act as the chief administrative nurse.

NAC 449.74519 Nursing assistants and nursing assistant trainees. (NRS 449.037)
1. A facility for skilled nursing shall not employ a person as a nursing assistant trainee, full time, temporarily or under contract:
   (a) Until the facility obtains from the training program required for certification as a nursing assistant in which the person is enrolled, verification that the person has completed 16 hours of instruction in the classroom or is awaiting the results of a certification examination.
   (b) For more than 4 months.
2. A facility for skilled nursing shall ensure that each nursing assistant employed by the facility is able to demonstrate competency in skills and techniques that are necessary to care for the patients in the facility in accordance with each patient’s plan of care.
3. A performance review must be completed for each nursing assistant employed by a facility for skilled nursing at least annually. Based on the results of the review, a facility shall provide training to a nursing assistant to ensure his competency. The training must:
   (a) Comply with any requirements for training adopted by the State Board of Nursing pursuant to chapter 632 of NRS;
   (b) Be at least 12 hours per year;
   (c) Address any areas of weakness indicated in the review and may address the special needs of the patients in the facility as determined by the personnel of the facility; and
(d) If the nursing assistant provides services to patients with cognitive impairments, address the care of such patients.

4. A facility for skilled nursing shall not employ a nursing assistant if, for a period of 24 consecutive months after his completion of the training program required for certification as a nursing assistant, he has not provided nursing services or services related to nursing for monetary compensation.

5. As used in this section:
   (a) “Nursing assistant” has the meaning ascribed to it in NRS 632.0166.
   (b) “Nursing assistant trainee” has the meaning ascribed to it in NRS 632.0168.

NAC 449.74521 Other health care professionals. (NRS 449.037)
A facility for skilled nursing shall employ full time, part time or as consultants such health care professionals as are necessary to provide adequate care for each patient in the facility and to carry out the provisions of NAC 449.744 to 449.74549, inclusive.
A health care professional employed by a facility for skilled nursing shall comply with accepted professional standards applicable to the services provided by the health care professional.
If a facility for skilled nursing does not employ a person to furnish a service required by the facility, the facility shall obtain that service from a qualified outside source. An agreement for obtaining such services must specify, in writing, that the facility assumes responsibility for:

(a) Obtaining services that comply with accepted professional standards applicable to the services being obtained; and
(b) The timely delivery of such services.

NAC 449.74522 Employees of facility which provides care to persons with dementia. (NRS 449.0357, 449.037)
1. Except as otherwise provided in subsection 4, each person who is employed by a facility for skilled nursing which provides care to persons with any form of dementia, including, without limitation, dementia caused by Alzheimer’s disease, who has direct contact with and provides care to persons with any form of dementia and who is licensed or certified by an occupational licensing board must complete the following number of hours of continuing education specifically related to dementia:
   (a) In his first year of employment with a facility for skilled nursing, 8 hours which must be completed within the first 30 days after the employee begins employment; and
   (b) For every year after the first year of employment, 3 hours which must be completed on or before the anniversary date of the first day of employment.
2. The hours of continuing education required to be completed pursuant to this section:
   (a) Must be approved by the occupational licensing board which licensed or certified the person completing the continuing education; and
   (b) May be used to satisfy any continuing education requirements of an occupational licensing board and do not constitute additional hours or units of required continuing education.
1. Each facility for skilled nursing shall maintain proof of completion of the hours of continuing education required pursuant to this section in the personnel file of each employee of the facility who is required to complete continuing education pursuant to this section.
2. A person employed by a facility for skilled nursing which provides care to persons with any form of dementia, including, without limitation, dementia caused by Alzheimer’s disease, is not required to complete the hours of continuing education specifically related to dementia required pursuant to subsection 1 if he has completed that training within the previous 12 months.
3. As used in this section, “continuing education specifically related to dementia” includes, without limitation, instruction regarding:
(a) An overview of the disease of dementia, including, without limitation, dementia caused by Alzheimer's disease, which includes instruction on the symptoms, prognosis and treatment of the disease;
(b) Communicating with a person with dementia;
(c) Providing personal care to a person with dementia;
(d) Recreational and social activities for a person with dementia;
(e) Aggressive and other difficult behaviors of a person with dementia; and
(f) Advising family members of a person with dementia concerning interaction with the person with dementia. (Added to NAC by Bd. of Health by R067-04, eff. 8-4-2004)

REVISER’S NOTE.
The regulation of the Board of Health filed with the Secretary of State on August 4, 2004 (LCB File No. R067-04), the source of this section (section 3 of the regulation), contains the following provisions not included in NAC:
1. Each person who on August 4, 2004, is employed by a facility for skilled nursing which provides care to persons with any form of dementia, including, without limitation, dementia caused by Alzheimer's disease, and who is required to complete the hours of continuing education specifically related to dementia required pursuant to section 3 of this regulation [NAC 449.74522], shall complete at least 8 hours of continuing education specifically related to dementia within 12 months after August 4, 2004, unless the person has completed the training within the 12 months before August 4, 2004.
2. Evidence that such a person has completed the training required pursuant to subsection 1 must be included in his personnel file and must be kept at the facility.”

Provision of Services

NAC 449.74533 Laboratory services. (NRS 449.037)
1. A facility for skilled nursing shall provide laboratory services to meet the needs of the patients in the facility or contract with a laboratory to obtain such services.
2. If a facility for skilled nursing has its own laboratory, it must be a licensed clinical laboratory under the provisions of chapter 652 of NRS and comply with the provisions of 42 C.F.R. Part 493. The provisions of this subsection do not prohibit a licensed nurse from performing laboratory tests pursuant to NRS 652.217.
3. If the facility contracts with a laboratory for its services, that laboratory must be:
(a) A licensed clinical laboratory under the provisions of chapter 652 of NRS; and
(b) Certified in the specialties and subspecialties required by the facility in accordance with the provisions of 42 C.F.R. Part 493.
4. A facility for skilled nursing shall:
(a) Provide or obtain only such laboratory tests as are ordered by the attending physician of a patient in the facility;
(b) Promptly notify the attending physician of the results of those tests;
(c) Arrange transportation for a patient to obtain laboratory tests ordered by the patient’s attending physician, if the patient requires such assistance; and
(d) Include in the medical records of a patient all reports of the results of laboratory tests ordered for the patient. The reports must include:
(1) The date on which the tests were performed; and
(2) The name and address of the laboratory performing the tests. (Added to NAC by Bd. of Health by R051-99, eff. 9-27-99)

NAC 449.74535 Radiological and other diagnostic services. (NRS 449.037)
1. A facility for skilled nursing shall provide radiological and other diagnostic services to meet the needs of the patients in the facility or contract with qualified outside sources to obtain such services.

2. If a facility for skilled nursing provides radiological and other diagnostic services, it shall comply with applicable state law related to the provision of such services.

3. A facility for skilled nursing shall:
   (a) Provide or obtain only such radiological and other diagnostic tests as are ordered by the attending physician of a patient in the facility;
   (b) Promptly notify the attending physician of the results of those tests;
   (c) Arrange transportation for a patient to obtain radiological and other diagnostic tests ordered by the patient's attending physician, if the patient requires such assistance; and
   (d) Include in the medical records of a patient all reports of the results of radiological and other diagnostic tests ordered for the patient. The reports must:
       (1) Include the date on which the tests were performed; and
       (2) Be signed by the person performing the tests.

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**NEW HAMPSHIRE**

**He-P 803.08 Nursing Home Requirements for Organizational Changes.**

(a) The nursing home shall provide the department with written notice at least 30 days prior to changes in any of the following:
   (1) Ownership;
   (2) Physical location;
   (3) Address;
   (4) Name;
   (5) Capacity; or
   (6) Affiliated parties or related parties.

(b) When there is a change in the name, the nursing home shall submit to the department a copy of the certificate of amendment from the New Hampshire secretary of state, if applicable.

(c) The nursing home shall complete and submit a new application and obtain a new or revised license, license certificate or both, as applicable, prior to operating, for:
   (1) A change in ownership;
   (2) A change in the physical location; or
   (3) An increase in the number of residents beyond what is authorized under the current license.

(d) When there is a change in address without a change in location the nursing home shall provide the department with a copy of the notification from the local, state or federal agency that requires the change.

(e) The nursing home shall inform the department in writing as soon as possible prior to a change in administrator and provide the department with the following:
   (1) The information specified in He-P 803.04(a)(10) if not currently employed by the facility; and
   (2) Copies of applicable licenses for the new administrator.

(f) An inspection by the department shall be conducted prior to operation when there are changes in the following:
   (1) Ownership, unless the current licensee has no outstanding administrative actions in process and there will be no changes made by the new owner in the scope of services provided;
   (2) The physical location; or
   (3) An increase in the number of residents beyond what is authorized under the current license.
(g) A new license and license certificate shall be issued for a change in ownership or a change in physical location.
(h) A revised license and license certificate shall be issued for changes in the nursing home’s name.
(i) A revised license certificate shall be issued for any of the following:
   (1) A change of administrator;
   (2) A change in the number of residents from what is authorized under the current license; or
   (3) When a waiver has been granted.
(j) Licenses issued under (f)(1) above shall expire on the date the license issued to the previous owner would have expired.
(k) The licensee shall return the previous license to the division within 10 days of the nursing home changing its ownership, physical location, address or name.

**He-P 803.14 Duties and Responsibilities of All Licensees.**

(a) The licensee shall comply with the patients’ bill of rights as set forth in RSA 151:19-21.
(b) The licensee shall define, in writing, the scope and type of services to be provided by the nursing home, which shall include, at a minimum, the core services listed in He-P 803.15(d).
(c) The licensee shall develop and implement written policies and procedures governing the operation and all services provided by the nursing home.
(d) All policies and procedures shall be reviewed per licensee policy.
(e) The licensee shall assess and monitor the quality of care and service provided to residents on an ongoing basis.
(f) The licensee or any employee shall not falsify any documentation or provide false or misleading information to the department.
(g) The licensee shall not:
   (1) Advertise or otherwise represent itself as operating a nursing home, unless it is licensed; and
   (2) Advertise that it provides services that it is not authorized to provide.
(h) The licensee shall comply with all conditions of warnings and administrative remedies issued by the department, and all court orders.
(i) Licensees shall:
   (1) Meet the needs of the residents during those hours that the residents are in the care of the nursing home;
   (2) Initiate action to maintain the nursing home in full compliance at all times with all relevant health and safety requirements contained in applicable federal, state and local laws, rules, regulations, and ordinances;
   (3) Establish, in writing, a chain of command that sets forth the line of authority for the operation of the nursing home;
   (4) Appoint an administrator;
   (5) Appoint a medical director who shall meet the requirements of He-P 803.17(a);
   (6) Verify the qualifications of all personnel;
   (7) Provide sufficient numbers of personnel who are present in the nursing home and are qualified to meet the needs of residents during all hours of operation;
   (8) Provide the nursing home with sufficient supplies, equipment and lighting to meet the needs of the residents;
   (9) Implement any POC that has been accepted by the department; and
   (10) Comply with all conditions of warnings and administrative remedies issued by the department and all court orders.

... (k) The licensee shall not exceed the number of occupants authorized by NFPA 101, as adopted by the commissioner of the department of safety under Saf-C 6000, and identified on the licensing certificate.
(n) The licensee shall implement measures to ensure the safety of residents who are assessed as an elopement risk or danger to self or others.

(o) In addition to the posting requirements specified in RSA 151:29, the licensee shall post the following documents in a public area:

1. The current license certificate issued in accordance with RSA 151:2;
2. All inspection reports issued in accordance with He-P 803.09(b), for the previous 12 months;
3. A copy of the patients’ bill of rights;
4. A copy of the licensee’s policies and procedures relative to the implementation of patient rights and responsibilities as required by RSA 151:20;
5. A copy of the licensee’s complaint procedure, including the address and phone number of the department to which complaints may also be made, which shall also be posted on the nursing home website if available; and
6. The licensee’s floor plan for fire safety, evacuation and emergencies identifying the location of, and access to all fire exits.

(p) All records required for licensing shall be legible, current, accurate and available to the department during an inspection or investigation conducted in accordance with RSA 151:6 and RSA 151:6-a.

(r) Any licensee that maintains electronic records shall develop written policies and procedures designed to protect the privacy of residents and employees that, at a minimum, include:

1. Procedures for backing up files to prevent loss of data;
2. Safeguards for maintaining the confidentiality of information pertaining to residents and personnel; and
3. Systems to prevent tampering with information pertaining to residents and personnel.

(t) Licensees shall:

1. Contact the department within one business day by telephone, fax or e-mail, and in writing within 72 hours if the initial notice was made by telephone or if additional information is available, to report an unusual incident and provide the following information:
   a. The nursing home name;
   b. A description of the incident, including identification of injuries, if applicable;
   c. The name of the licensee(s) or personnel involved in, witnessing or responding to the unusual incident;
   d. The name of resident(s) involved in or witnessing the unusual incident;
   e. The date and time of the unusual incident;
   f. The action taken in direct response to the unusual incident, including any follow-up;
   g. If medical intervention was required, by whom and the date and time;
   h. Whether the resident’s guardian or agent, if any, or personal representative was notified;
   i. The signature of the person reporting the unusual incident; and
   j. The date and time the resident’s licensed practitioner was notified;

2. For incidents where abuse, neglect, mistreatment or misappropriation of property are suspected, the licensee shall meet the requirement of (1) above by faxing the information required by (1)(a)-(j) above to the office of the long-term care ombudsman at (603) 271-5574;

3. Immediately notify the local police department, the department, guardian, agent or personal representative, if any, when a resident, who has been assessed or is known as being a danger to self or others, has an unexplained absence after the licensee has searched the building and the grounds of the nursing home; and

4. Submit additional information if required by the department.

He-P 803.15 Required Services.

(a) The licensee shall provide administrative services that include the appointment of a full-time,
on-site administrator who:
(1) Is responsible for the day-to-day operations of the nursing home;
(2) Meets the requirements of He-P 803.17(b)(1); and
(3) Designates, in writing, an alternate administrator who shall assume the responsibilities of the administrator in his or her absence.

...(p) The nursing home shall have written policies and procedures for implementing physical, chemical and mechanical restraints, including:

... (6) Initial personnel training and subsequent education and training required to demonstrate competence related to the use of physical, chemical and mechanical restraints...

...(8) That the training shall be conducted by individuals who are qualified by education, training, and experience.

**He-P 803.17 Organization and Administration.**

(a) Each nursing home shall have a medical director who is a licensed physician in the state of New Hampshire.

(b) Each nursing home shall have a full time administrator who:
(1) Is licensed pursuant to RSA 151-A:2; and
(2) Shall be responsible for the daily management and operation of the nursing home including:
   a. Management and fiscal matters;
   b. The employment and termination of managers and personnel necessary for the efficient operation of the nursing home;
   c. The designation of an alternate, in writing, who shall be responsible for the daily management and operation of the nursing home in the absence of the administrator;
   d. Ensuring development and implementation of nursing home policies and procedures on:
      1. Patient’s rights as required by RSA 151:20;
      2. Advanced directives and DNR orders as required by RSA 137-J;
      3. Discharge planning as required by RSA 151:26; and
      4. Unusual incident reporting;
   e. Monitoring and evaluating the quality of resident care and resident care services in the nursing home pursuant to He-P 803.24; and
   f. Identifying and making available education programs designed to maintain the personnel’s expertise in areas related to the services provided in the nursing home.

(c) There shall be a full time director of nursing services who is currently licensed in the state of New Hampshire pursuant to RSA 326-B, or licensed pursuant to the multi-state compact, and who is an RN with at least 2 years relevant experience in resident care.

(d) The director of nursing services shall be responsible for:

... (6) Maintaining written personnel schedules, which shall be retained on-site for a period of at least 90 days and which include;

...c. Licensed nursing assistants who have been verified in accordance with the New Hampshire board of registration in nursing.

**He-P 803.18 Personnel.**

(a) The licensee shall develop a job description for each position at the nursing home containing:
(1) Duties of the position;
(2) Physical requirements of the position; and
(3) Education and experience requirements of the position.

(b) All direct care personnel shall be at least 18 years of age unless they are:
(1) A student in a New Hampshire board of nursing approved licensed nursing assistant program; or
(2) A licensed nursing assistant working under the supervision of a nurse in accordance with Nur 700; or
(3) Part of an established educational program working under the supervision of a nurse.
(c) For all new hires, the licensee shall:
(1) Obtain and review a criminal records check from the New Hampshire department of safety in accordance with RSA 151:2-d;
(2) Verify the qualifications and licenses, as applicable, of all applicants prior to employment; and
(3) Verify that the applicant is not on the List of Excluded Individuals and Entities, maintained by the U.S. Department of Health and Human Services Office of Inspector General per 42 USC 1320-a7 or on the BEAS Registry maintained by the department's bureau of elderly and adult services per RSA 161-F:49.
(d) Unless a waiver is granted in accordance with He-P 803.10 and (e) below, the licensee shall not make a final offer of employment for any position if the individual:
(1) Has been convicted of any felony in this or any other state;
(2) Has been convicted for sexual assault, other violent crime, assault, fraud, abuse, neglect or exploitation;
(3) Has had a finding by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect or exploitation or any person; or
(4) Otherwise poses a threat to the health, safety or well-being of residents.
(e) The department shall grant a waiver of (d) above if, after reviewing the underlying circumstances, it determines that the person does not pose a threat to the health, safety or well-being of residents.
(f) The waiver in (e) above shall be permanent unless additional convictions or findings under (d) above occur.
(g) The department shall review the information in (d) above and notify the licensee that the individual can no longer be employed if, after investigation, it determines that the individual poses a threat to the health, safety or well-being of a resident.
(h) All employees shall:
(1) Meet the educational and physical qualifications of the position as listed in their job description;
(2) Not be permitted to maintain their employment if they have been convicted of a felony, sexual assault, other violent crime, assault, fraud, abuse, neglect or exploitation of any person in this or any other state by a court of law or had a complaint investigation for abuse, neglect, or exploitation adjudicated and founded by the department unless a waiver has been granted by the department;
(3) Be licensed, registered or certified as required by state statute and as applicable;
(4) Receive an orientation within the first 3 days of work or prior to the assumption of duties that includes:
   a. The nursing home's policies on patient rights and responsibilities and complaint procedures as required by RSA 151:20;
   b. The duties and responsibilities, policies procedures and guidelines, of the position they were hired for;
   c. The nursing home's infection control program;
   d. The nursing home's fire, evacuation and emergency plans which outline the responsibilities of personnel in an emergency; and
   e. Mandatory reporting requirements for abuse or neglect such as those found in RSA 161F and RSA 169-C:29; and
(5) Complete a mandatory annual in-service education, which includes a review of the nursing home's:
   a. Policies and procedures on patient rights and responsibilities and abuse or neglect;
b. Infection control; and
c. Education program on fire and emergency procedures.

...(k) Current, separate and complete employee files shall be maintained and stored in a secure and confidential manner at the nursing home.
(l) The employee file shall include the following:
1. A completed application for employment or a resume, including:
   a. Identification data; and
   b. The education and work experience of the employee;
2. A signed statement acknowledging the receipt of the nursing home’s policy setting forth the patient’s rights and responsibilities, and acknowledging training and implementation of the policy as required by RSA 151:20;
3. A job description signed by the individual that identifies the:
   a. Position title;
   b. Qualifications and experience; and
   c. Duties required by the position;
4. A record of satisfactory completion of the orientation program required by (h)(4) above and any required annual continuing education, if any;
5. Verification of current New Hampshire license, registration or certification in health care field and CPR certification, if applicable;
6. Documentation that the required physical examination, or health screening, and TB test results or radiology reports of chest x-rays, if required, have been completed by the appropriate health professionals;
7. Documentation of annual in-service education as required by (h)(5) above;
8. A statement, which shall be signed at the time the initial offer of employment is made and then annually thereafter, stating that he or she:
   a. Does not have a felony conviction in this or any other state;
   b. Has not been convicted of a sexual assault, other violent crime, assault, fraud, abuse, neglect or exploitation or pose a threat to the health, safety or well-being of a resident; and
   c. Has not had a finding by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect or exploitation of any person;
9. Documentation of the criminal records check, except for persons licensed by the NH board of nursing pursuant to RSA 326-B as allowed by RSA 151:2-d, VI; and
10. Documentation that the individual or entity is not on the List of Excluded Individuals and Entities, maintained by the U.S. Department of Health and Human Services Office of Inspector General per 42 USC 1320-a7 or on the BEAS registry maintained by the department’s bureau of elderly and adult services per RSA 161-F:49.
(m) An individual need not re-disclose any of the matters in (l)(8) and (l)(9) above if the documentation is available and the department has previously reviewed the material and granted a waiver so that the individual can continue employment.

He-P 803.19 Resident Records.
(a) The licensee shall maintain a legible, current and accurate record for each resident based on services provided at the nursing home.
(b) At a minimum, resident records shall contain the following:
1. A copy of the resident’s admission agreement and all documents required by He-P 803.15(c);
2. Identification data, including:
   a. Vital information including the resident’s name, date of birth, and marital status;
   b. Resident’s religious preference, if known;
   c. Resident’s veteran status if known; and
d. Name, address and telephone number of an emergency contact person;
(3) The name and telephone number of the resident’s licensed practitioner(s);
(4) Resident’s health insurance information;
(5) Copies of any executed legal orders and directives, such as guardianship orders issued under RSA 464-A, a durable power of attorney for healthcare, or a living will;
(6) A record of the health examination(s) in accordance with He-P 803.15(h);
(7) Written, dated and signed orders for the following:
   a. All medications, treatments and special diets; and
   b. Laboratory services and consultations;
(8) Results of any laboratory tests, or consultations;
(9) All assessments and care plans, and documentation that the resident and the guardian or agent, if any, has participated in the development of the care plan;
(10) Documentation of informed consent;
(11) All admission and progress notes;
(12) Documentation of any alteration in the resident’s daily functioning such as:
   a. Signs and symptoms of illness; and
   b. Any action that was taken including practitioner notification;
(13) Documentation of any medical or specialized care;
(14) Documentation of unusual incidents;
(15) The consent for release of information signed by the resident, guardian or agent, if any;
(16) Discharge planning and referrals as applicable;
(17) Transfer or discharge documentation, including notification to the resident, guardian or agent, if any, of transfer or discharge;
(18) Room change documentation, including notification to the resident, guardian or agent, if any, and if applicable;
(19) The medication record as required by He-P 803.16(y) and (ac); and
(20) Documentation of a resident’s refusal of any care or services.
(c) Resident records and resident information shall be kept confidential and only provided in accordance with law.
(d) The licensee shall develop and implement a written policy and procedure document that specifies the method by which release of information from a resident’s record shall occur.
(e) Resident records shall be available to health care workers and any other person authorized by law or rule to review such records.
(f) When not being used by authorized personnel, resident records shall be safeguarded against loss or unauthorized use or access.
(g) Records shall be retained for 4 years after discharge, except for records of Medicaid residents, which shall be retained for 6 years from the date of service or until the resolution of any legal action(s) commenced during the 6-year period, whichever is longer.
(h) The licensee shall arrange for storage of, and access to, resident records as required by (g) above in the event the nursing home ceases operation.

He-P 803.20  Food Services.
(v) Regularly scheduled training programs including sanitation and safety shall be made available to personnel. Information as to the content and length of this training shall be documented and kept in employee records.

He-P 803.23  Infection Control.
...(c) The infection control education program shall:
(1) Be completed by all new and current employees of the facility on an annual basis; and
(2) Address the:
a. Cause of infections;
b. Effect of infections;
c. Transmission of infections; and
d. Prevention and containment of infections.

He-P 803.24 Quality Improvement.
(a) The nursing home shall establish an interdisciplinary quality improvement committee which:
   (1) Shall have a minimum of 3 members, including the medical director, an individual representing
       nursing and an individual representing administration;
   (2) Shall meet at least quarterly to evaluate quality improvement activities; and
   (3) Shall make recommendations to the administrator to improve the quality of care.
(b) The quality improvement committee shall be responsible for:
   (1) Identifying whether actual or potential quality deficiencies are present that require action;
   (2) Developing plans of action to correct the deficiencies identified in (1) above; and
   (3) Monitoring the effect of the corrections to assure that they remediate the deficiencies identified
       in (1) above.

He-P 803.27 Emergency and Fire Safety.
(a) An emergency and fire safety program shall be developed and implemented to provide for the
    safety of residents and personnel covering all matters of safety and fire protection and an
    emergency response plan, including:
    (1) The emergency procedures required by the emergency response plan shall include, but are not
        limited to, evacuation routes, emergency notification numbers, and emergency instructions and
        shall be posted in locations accessible to personnel and visitors;
    (2) The nursing home fire safety plan shall provide for the following:
        a. Use of alarms;
        b. Transmission of alarm to fire department;
        c. Emergency phone call to fire department;
        d. Response to alarms;
        e. Isolation of fire;
        f. Evacuation of immediate area;
        g. Evacuation of smoke compartment;
        h. Preparation of floors and building for evacuation; and
        i. Extinguishment of the fire;
    (3) Ensuring that the fire safety and evacuation plans are available to all supervisory personnel;
    (4) Ensuring that all employees receive in-service annual training to clarify their responsibilities in
        carrying out the emergency plan;
    (5) The required plan shall be readily available at all times;
    (6) Conducting fire drills, including the transmission of a fire alarm signal and simulation of
        emergency fire situation, as follows:
        a. Infirm, bedridden, or cognitively impaired residents shall not be required to be moved during
           drills to safety areas or to the exterior of the building;
        b. Drills shall be conducted quarterly on each shift to familiarize nursing home personnel with the
           signals and emergency action required under varied conditions; and
        c. When drills are conducted between 9:00 p.m./2100 hours and 6:00 A.M./0600 hours, a coded
           announcement may be used instead of audible alarms; and
    (7) Documenting emergency and fire drills shall include:
        a. The names of the personnel involved;
        b. The time, date, month, and year the drill was conducted;
        c. The exits utilized;
d. The total time required to evacuate the building or the time needed to complete the emergency or fire drill or both; and
e. Any problems encountered and corrective actions taken to rectify problems.

(h) Each licensee shall:
(1) Annually review, and revise, as needed, its emergency plan;
(2) Submit its emergency plan to the local emergency management director for review and approval:
   a. When initially written; and
   b. Whenever the plan is revised;
(3) Maintain documentation on-site which establishes that the emergency plan has been approved as required under (2) above; and
(4) Document in each employee's personnel record, that the employee attended an annual in-service education program on the licensee's emergency plan.

(i) Non-ambulatory persons shall not be housed above the first floor unless the building has an automatic sprinkler system or is of type I or type II (222) construction as referenced in NFPA 101 as adopted by the commissioner of the department of safety in Saf-C 6008.03(a).

NEW JERSEY

SUBCHAPTER 3. COMPLIANCE WITH MANDATORY RULES AND ADVISORY STANDARDS
8:39-3.2 Advisory standards
(a) Advisory standards contain benchmarks of excellence or superior attainment in providing care of high quality.
(b) Facilities are strongly encouraged to use advisory standards in striving to provide the highest quality of care possible.

SUBCHAPTER 5. MANDATORY ACCESS TO CARE
8:39-5.1 Mandatory policies and procedures for access to care
(a) The facility shall comply with applicable Federal, State, and local laws, rules, and regulations.

SUBCHAPTER 9. MANDATORY ADMINISTRATION
8:39-9.1 Ownership
(a) The facility shall inform the Department of the ownership and management of the facility and its location, and proof of ownership shall be available at the facility.
1. In the case of group or corporate management of a facility, the facility shall specify:
   i. The name and address of the firm or corporation; and
   ii. The names and addresses of all stockholders who own 10% or greater of the voting shares; members of any limited liability corporation; partners; and directors of the firm or corporation.
2. Any proposed change in ownership shall be approved by the Department in accordance with N.J.A.C. 8:39-2.12.
(b) The facility shall not be owned or operated by any person convicted of a crime relating adversely to the person’s capability of owning or operating the facility.

8:39-9.2 Administrator
(a) The facility shall be directed by an individual who holds a current New Jersey license as a nursing home administrator. The administrator shall be administratively responsible for all aspects of the facility.
1. In a facility with more than 240 beds, in addition to the licensed administrator, there shall be a full-time administrative supervisor who is assigned the evening shift and reports directly to the licensed administrator.

2. In a facility with 100 beds or more, the administrator shall serve full-time in an administrative capacity within the facility.

3. In facilities with fewer than 100 beds, a licensed administrator shall serve at least half-time within the facility.

4. Two facilities may share a common administrator, if such facilities are within a 20-mile radius and if the total number of beds for which both facilities are licensed is no more than 120.

   (b) A facility shall not retain in any administrative, managerial, supervisory, or similar position, a nursing home administrator whose license is either suspended or revoked, pursuant to N.J.S.A. 26:2H-27 and 26:2H-28 and N.J.A.C. 8:34-1.1.

   (c) When a vacancy exists in the position of administrator for 48 hours or more, the facility shall arrange for licensed administrative supervision on a consultant basis, which shall continue until a new licensed administrator shall be appointed, which shall be within 90 days of the appointment of the consultant.

8:39-9.3 Mandatory policies and procedures for staff
(a) There shall be written policies and procedures for personnel that are reviewed annually, revised as needed, and implemented. They shall include at least:
   1. A written job description for each category of personnel in the facility and distribution of a copy to each newly hired employee;
   2. Personnel policies in compliance with Federal and State requirements;
   3. A system to ensure that written, job-relevant criteria are used in making evaluation, hiring, and promotion decisions;
   4. A system to ensure that employees meet ongoing requirements for credentials; and
   5. Written criteria for personnel actions that require disciplinary action.

(b) The facility shall make reasonable efforts to ensure that staff providing direct care to residents in the facility are in good physical and mental health, emotionally stable, of good moral character, and are concerned for the safety and well-being of residents; and have not been convicted of a crime relating adversely to the person’s ability to provide care, such as homicide, assault, kidnapping, sexual offenses, robbery, and crimes against the family, children or incompetents, except where the applicant or employee with a criminal history has demonstrated his rehabilitation in order to qualify for employment at the facility. ("Reasonable efforts" shall include an inquiry on the employment application, reference checks, and/or criminal background checks where indicated or necessary.)

(c) The facility shall ensure that all private duty nursing staff and contract personnel are monitored and those who do not meet the requirements at (b) above or facility policies and procedures are not permitted to perform services in the facility.

(d) The facility shall develop and implement a grievance procedure for all staff. The procedure shall include, at least, a system for receiving grievances, a specified response time, assurance that grievances are referred appropriately for review, development of resolutions, and follow-up action.

(e) Each staff member shall wear clean clothes and shall use good personal hygiene.

8:39-9.4 Mandatory notification
(a) The administrator shall provide to the owner and/or governing body of the facility a copy of the licensing survey report and any additional survey-related data sent by the Department to the administrator of the facility.
(b) Results of the most recent licensure survey, Federal standard certification conducted by the Department and any plan of correction shall be available for inspection by any resident or visitor, in a readily accessible place, at all times. A notice announcing the availability of those results and all other surveys conducted in the past 12 months shall be conspicuously posted in diverse readily accessible areas of the facility.
(c) The facility shall make all policy and procedure manuals available to residents, families, and guardians during normal business hours or by prior arrangement.
(d) A facility shall notify the Department immediately in writing at such time as it becomes financially insolvent and upon the filing of a voluntary or involuntary petition for bankruptcy under Title 11 of the United States Code.
(e) The facility shall notify the Department immediately by telephone (609-633-8981, or 1-800-7929770 after office hours), followed within 72 hours by written confirmation, of any of the following:
   1. Interruption for three or more hours of physical plant services and/or other services essential to the health and safety of residents;
   2. Termination of employment of the administrator or the director of nursing, and the name and qualifications of the proposed replacement;
   3. All alleged or suspected crimes which endanger the life or safety of residents or employees, which are also reportable to the police department, and which result in an immediate on-site investigation by the police.
   i. In addition, the State Office of the Ombudsman for the Institutionalized Elderly (1-877-5826995) shall be immediately notified of any suspected or reported resident abuse, neglect, or exploitation of residents aged 60 or older, pursuant to P.L. 1983 c.43, N.J.S.A. 52:27G-7.1, and the Department shall be immediately notified for residents under the age of 60; and
   4. All fires, disasters, deaths, and imminent dangers to a resident’s life or health resulting from accidents or incidents in the facility.
(f) The facility shall notify the Department of the admission of any resident under 18 years of age.

8:39-9.6 Mandatory policies and procedures for advance directives
(l) At least one education or training program each year shall be held and documented for all administrative and resident care staff regarding the rights and responsibilities of staff under the New Jersey Advance Directives for Health Care Act (P.L. 1991, c.201) and the Federal Patient Self Determination Act (P.L. 101-508), and internal facility policies and procedures to implement these laws.

SUBCHAPTER 10. ADVISORY ADMINISTRATION
8:39-10.1 Advisory policies and procedures for administration
(a) The administrator monitors trends in staff turnover.
(b) Each of at least five service directors participates in facility planning through preparation of annual budgets and annual reports, and participates in annual budget conferences among all service directors and the administrators.

..8:39-10.3 Advisory staff education and training
(a) Personnel who provide direct resident care are offered an opportunity to attend at least one education program each year and receive fee reimbursement or compensatory time off. Records of continuing education programs attended are maintained.
(b) The facility conducts a tuition aid program directed toward the career development and upward mobility of staff, including both professional and ancillary personnel.
(c) The facility is a teaching nursing home, that is, the site of an internship, externship, or residency training program for health professionals, as part of the curriculum of an accredited or State-approved school or training program. The facility has sought input from the residents and/or the resident council concerning teaching programs.

(d) The facility maintains a library of textbooks and/or recent periodicals on long-term care, geriatric care, nursing, and other disciplines that is accessible to staff.

SUBCHAPTER 11. MANDATORY RESIDENT ASSESSMENT AND CARE PLANS

...8:39-11.2 Mandatory policies and procedures for resident assessment and care plans

...[j] The facility shall have a written transfer agreement with one or more hospitals for emergency care and inpatient and outpatient services.

SUBCHAPTER 13. MANDATORY COMMUNICATION

8:39-13.1 Mandatory communication policies and procedures

(a) Each service shall maintain a current manual of policies and procedures for providing services.

(b) The administrative staff shall retain a written current manual of policies and procedures for the facility as a whole and for each individual service.

(c) The facility shall notify any family promptly of an emergency affecting the health or safety of a resident.

(d) The facility shall notify the attending physician or advanced practice nurse promptly of significant changes in the resident’s medical condition.

(e) The facility shall promptly notify a family member, guardian or other designated person about a resident’s death.

1. Notification shall be made at the time of the pronouncement of the resident’s death, and the time between the pronouncement of the resident’s death and notification shall not exceed one hour unless the family member, guardian or other designated person to be contacted provided other instructions as to when the required notification is to occur.

2. The facility shall enter any alternate instructions in the resident’s record alongside the contact information.

3. The facility shall maintain confirmation and written documentation of that notification.

4. The facility shall adopt and maintain in its manual of policies and procedures a delineation of the responsibilities of the facility’s staff in making such prompt notification regarding the death of a resident as required by this paragraph.

8:39-13.3 Mandatory staff communication qualifications

(a) Staff shall always communicate with residents and families in a respectful way, and shall introduce and identify themselves to residents as required and necessary.

(b) The facility shall ensure that all staff, including staff members not fluent in English, are able to communicate effectively with residents and families.

8:39-13.4 Mandatory staff education and training for communication

(a) Each service shall conduct an orientation program for new employees of that service unless the orientation program is conducted by the administrator or a qualified designee.

1. For purposes of complying with this requirement, “new employees” shall be defined to include all permanent and temporary resident care personnel, nurses retained through an outside agency, and persons providing services by contract.

2. The orientation program shall begin on the first day of employment.

3. The orientation program for all staff shall include orientation to the facility and the service in which the individual will be employed, at least a partial tour of the facility, a review of policies and
procedures, identification of individuals to be contacted under specified circumstances, and procedures to be followed in case of emergency.

(b) Each service shall provide education or training for all employees in the service at least four times per year and in response to resident care problems, implementation of new procedures, technological developments, changes in regulatory standards, and staff member suggestions. All staff members shall receive training at least two times per year about the facility’s infection control procedures, including handwashing and personal hygiene requirements.

(c) At least one education training program each year shall be held for all employees on each of the following topics:
   1. Procedures to follow in case of emergency;
   2. Abuse, neglect, or misappropriation of resident property;
      i. Abuse prevention strategies including, but not limited to, identifying, correcting, and intervening in situations where abuse, neglect, or misappropriation of resident property is likely to occur;
      ii. Identifying events, such as suspicious bruising of residents or patterns and trends that may constitute abuse, neglect, or misappropriation of resident property;
      iii. Protecting residents from harm during an investigation of abuse, neglect, or misappropriation of resident property;
      iv. Identification of staff responsible for investigating and reporting results to the proper authorities;
      v. Reporting substantiated incidents to the appropriate local/State/Federal agencies and taking all necessary corrective actions depending on the results of the investigation; and
      vi. Reporting to the State nurse aide registry or licensing authorities any knowledge of any actions of any court of law which would indicate that an employee is unfit for service;
   3. Resident rights;
   4. Training in the specialized care of residents who are diagnosed by a physician as having Alzheimer’s disease. The required training program shall be in conformance with the curriculum developed by the Department in accordance with N.J.S.A. 26:2M-7.2 (for certified nurse aides, licensed practical nurses, registered professional nurses and other healthcare professionals who provide direct care to residents within the facility);
      i. Copies of the mandatory training program may be obtained from the Department by submitting a written request to: Long-Term Care Licensing and Certification Division of Long-Term Care Systems; New Jersey State Department of Health and Senior Services; PO Box 367; Trenton, NJ 08625-0367; and
   5. Pharmacy (for all direct care staff).

SUBCHAPTER 14. ADVISORY COMMUNICATION

8:39-14.1 Advisory resident services
...(d) A facility newsletter is provided to residents and families at least quarterly.
(e) Each staff member wears an easily readable name tag.

8:39-14.2 Advisory staff education and training for communication
(a) Periodic meetings are held with each service to discuss ways to improve care of all residents.
(b) Education and training of staff includes an accredited program in cardiopulmonary resuscitation (CPR) which offers staff an opportunity to be recertified on an annual basis.
(c) Each service establishes and implements education or training programs for members of other services on diverse topics.
(d) Education or training sessions are offered which address new concepts and directions in cultural and interpersonal concepts.
SUBCHAPTER 20. ADVISORY INFECTION CONTROL AND SANITATION
8:39-20.2 Advisory staff qualifications
(c) The infection control coordinator has completed an APIC Basic Training Course or has received at least 25 hours of training in infection control, and receives an additional six hours of training annually.

8:39-20.3 Advisory staff education and training for infection control
At least four education or training programs on infection control are held every year so that all staff members are fully informed about infection control requirements that apply to them.

SUBCHAPTER 21. MANDATORY LAUNDRY SERVICES
8:39-21.4 Mandatory quality assurance for laundry
All facilities, including those that contract with a commercial laundry service, shall evaluate the service as part of the quality assurance program.

SUBCHAPTER 23. MANDATORY MEDICAL SERVICES
8:39-23.1 Mandatory structural organization for medical services
(a) Each facility shall have a medical director who is currently licensed to practice medicine by the New Jersey State Board of Medical Examiners.
1. The medical director shall coordinate medical care and direct the administrative aspects of medical care in the facility.
2. The medical director shall approve all medical care policies and procedures. These policies and procedures shall be followed.
3. The medical director shall participate in the facility’s quality assurance program through attendance at meetings, or interviews, and/or preparation or review of reports.
4. The medical director shall be an active participant on the facility’s infection control committee, pharmacy and therapeutics committee, and a committee that is responsible for developing policies and procedures for resident care.
5. The medical director shall ensure that for each resident there is a designated primary and an alternate physician who can be contacted when necessary.
6. The medical director shall review all reports of incidents that have been documented in accordance with N.J.A.C. 8:39-9.4(e)4.
7. The medical director, or physicians designated by the medical director, shall respond quickly and effectively to medical emergencies that are not handled by another attending physician, including inpatient admissions.
(b) In facilities providing pediatric care services, the medical director/attending physician shall be board certified, or eligible to be board certified, by the American Board of Pediatrics or American Board of Family Practice.
(c) Facilities with fewer than 60 beds may develop an alternate system of medical direction, if the facility can document that medical staff perform the requirements at (a)1 through 4 above.

SUBCHAPTER 24. ADVISORY MEDICAL SERVICES
8:39-24.1 Advisory medical staff qualifications
The medical director is board-certified in a primary care specialty, such as family medicine, gerontology, or general internal medicine.
8:39-24.2 Advisory resident medical services
(b) The facility has a staff or consultant psychiatrist with admitting privileges to the inpatient psychiatric unit at a hospital.
SUBCHAPTER 25. MANDATORY NURSE STAFFING
8:39-25.1 Mandatory policies and procedures for nurse staffing
(a) There shall be a full-time director of nursing or nursing administrator who is a registered professional nurse licensed in the State of New Jersey, who has at least two years of supervisory experience in providing care to long-term care residents, and who supervises all nursing personnel.
...(d) In facilities with 150 licensed beds or more, there shall be an assistant director of nursing who is a registered professional nurse.
...(g) The nurse aide component of the facility’s total hourly nurse staffing requirement, as specified in (b) above, shall be met by nurse aides who have completed a nurse aide training course approved by the New Jersey State Department of Health and Senior Services and have passed the New Jersey Nurse Aide Certification Examination, in accordance with N.J.A.C. 8:39-43 and/or by newly hired individuals who have worked in the facility for less than four months and who are enrolled in a nurse aide training program.

SUBCHAPTER 26. ADVISORY NURSE STAFFING
8:39-26.3 Advisory nurse staffing amounts and availability
...(d) All nurse aides working in the facility have completed a training and orientation program to all services of at least two weeks full-time duration within the facility prior to their permanent assignment in the facility.
8:39-26.4 Advisory qualifications for nurse staffing
...(b) An advanced practice nurse who is Board certified in family, adult, or geriatric practice is available on staff or under contract with the facility to perform assessments and to provide consultation to other staff members.
(c) The facility employs an advanced practice nurse certified in gerontology or psychiatric nursing on at least a half time basis.
(d) A nurse who holds certification in gerontological nursing, rehabilitation nursing, or a related field of nursing from the American Nurses Credentialing Center of the American Nurses Association, is available on staff or under contract with the facility.

SUBCHAPTER 27. MANDATORY QUALITY OF CARE
8:39-27.1 Mandatory policies, procedures and practices for quality of care
...(d) All nursing and professional staff of the facility shall receive orientation and annual training in the use of restraints, including at least:
i. Emergency and non-emergency procedures;
ii. Practice in the application of restraints and alternative methods of intervention; and
iii. Interventions by licensed and non-licensed nursing personnel.

SUBCHAPTER 29. MANDATORY PHARMACY
...8:39-29.4 Mandatory pharmacy control policies and procedures
...(d) The consultant pharmacist shall:
...2. Periodically, as determined by the quality assurance program, observe a medication pass and review the crediting system...

...8:39-29.8 Mandatory pharmacy quality assurance
The pharmacy and therapeutics committee shall review reports of medication errors and suspected adverse drug reactions and shall summarize these reports yearly.

SUBCHAPTER 31. MANDATORY PHYSICAL ENVIRONMENT
...8:39-31.2 Mandatory general maintenance
a) Personnel engaged in general maintenance activities shall receive orientation upon employment and, at least once a year, education or training in principles of asepsis, cross-infection control, and safe practices.

8:39-31.3 Mandatory quality assurance for housekeeping
Facilities that contract with a housekeeping service shall use quality assurance measures to ensure that the housekeeping requirements of this chapter are met.

...8:39-31.6 Mandatory fire and emergency preparedness
(a) Employees shall be trained in procedures to be followed in an emergency operations plan and instructed in the use of fire fighting equipment and resident evacuation of the buildings as part of their initial orientation and at least annually thereafter.

(b) Fire drills shall be conducted a total of 12 times per year, with at least one drill on each shift and one drill on a weekend. The facility shall attempt to have the local fire department participate in at least one drill per year. An actual alarm shall be considered a drill if it is documented.

(c) Fire regulations and procedures shall be posted in each unit and/or department. A written evacuation diagram that includes evacuation procedures and locations of fire exits, alarm boxes, and fire extinguishers shall be posted conspicuously on a wall in each resident care unit and/or department throughout the facility.

(d) There shall be a procedure for investigating and reporting fires. All fires shall be reported to the Department immediately by phone and followed up in writing within 72 hours. In addition, a written report of the investigation by the fire department containing all pertinent information shall be forwarded to the Department as soon as it becomes available.

...(f) The facility shall have a written comprehensive emergency operations plan developed in coordination with the local office of emergency management. This plan shall:
   1. Identify potential hazards that could necessitate an evacuation, including natural disasters, national disasters, industrial and nuclear accidents, and labor work stoppage;
   2. Identify the facility and an alternative facility to which residents would be relocated, and include signed, current agreements with the facilities;
   3. Identify the number, type and source of vehicles available to the facility for relocation and include signed current agreements with transportation providers. Specially configured vehicles shall be included;
   4. Include a mechanism for identifying the number of residents, staff, and family members who would require relocation and procedures for evacuation of non-ambulatory residents from the facility;
   5. List the supplies, equipment, records, and medications that would be transported as part of an evacuation, and identify by title the individuals who would be responsible;
   6. Identify essential personnel who would be required to remain on duty during the period of relocation;
   7. Identify by title and post in a prominent place the name(s) of the persons who will be responsible for the following:
      i. Activating the emergency operations plan, issuing evacuation orders, and notifying of State and municipal authorities;
      ii. Alerting and notifying of staff and residents;
      iii. Facility shutdown and restart;
      iv. In place sheltering of residents and continuity of medical care; and
      v. Emergency services such as security and firefighting; and
   8. Describe procedures for how each item in (f)7 above will be accomplished.

(g) There shall be a written plan for receiving residents who are being relocated from another facility due to a disaster. This plan shall include at least an estimate of the number and type of residents the facility would accommodate and how staffing would be handled at different occupancy levels.
(h) Copies of the emergency operations plan shall be sent to municipal and county emergency management officials for their review.

(i) The administrator shall serve as, or appoint, a disaster planner for the facility.
1. The disaster planner shall meet with county and municipal emergency management coordinators at least once each year to review and update the written comprehensive evacuation plan; or if county or municipal officials are unavailable for this purpose, the facility shall notify the State Office of Emergency Management.
2. While developing the facility's evacuation plan, the disaster planner shall coordinate with the facility or facilities designated to receive relocated residents.

(j) Any staff member who is designated as the acting administrator shall be knowledgeable about and authorized to implement the facility's plans in the event of an emergency.

(k) All staff shall be oriented to the facility's current plans for receiving and evacuating residents in the event of a disaster, including their individual duties.

(l) The facility shall ensure that residents receive nursing care throughout the period of evacuation and return to the original facility.

(m) The facility shall ensure that evacuated residents who are not discharged are returned to the facility after the emergency is over.

(n) The facility shall maintain at least a three-day supply of food and have access to an alternative supply of water in case of an emergency.

(o) The facility shall conduct at least one evacuation drill each year, either simulated or using selected residents. State, county, and municipal emergency management officials shall be invited to attend the drill at least 10 working days in advance.

(p) The facility shall establish a written heat emergency action plan which specifies procedures to be followed in the event that the indoor air temperature is 82 degrees Fahrenheit or higher for a continuous period of four hours or longer.
1. These procedures shall include the immediate notification of the Department of Health and Senior Services.
2. In implementing a heat emergency action plan, a facility shall not prevent a resident from having a room temperature in his or her resident room in excess of 82 degrees Fahrenheit if the resident and the resident's roommate, if applicable, so desire, and if the resident's physician approves.
3. A heat emergency plan need not be implemented if the resident care areas are not affected by an indoor temperature in excess of 82 degrees Fahrenheit.
4. The heat emergency action plan shall include a comprehensive series of measures to be taken to protect residents from the effects of excessively high temperatures.

SUBCHAPTER 32. ADVISORY PHYSICAL ENVIRONMENT
...8:39-32.2 Advisory fire and emergency preparedness
(a) The facility conducts at least two evacuation drills each year, either simulated or using selected residents, at least one of which is conducted on a weekend or during an evening or night work shift. Results of the drills are to be summarized in a written report, which is shared with the county and municipal emergency management coordinators.
(b) A municipal, county, or State emergency management official conducts an education or training program in the facility on disaster planning and emergency preparedness at least once a year.
(c) Fire drills are conducted annually on each weekend shift.

SUBCHAPTER 33. MANDATORY QUALITY ASSESSMENT AND/OR QUALITY IMPROVEMENT
8:39-33.1 Mandatory quality assessment and/or quality improvement structural organization
(a) Quality assessment and/or quality improvement procedures shall be developed and implemented through a written plan that specifies time frames.
(b) Responsibility for the quality assessment and/or quality improvement program shall be assumed by designated individuals, who shall include the director of nursing services, a physician or advanced practice nurse, and at least three other staff members, and who shall report directly to the administrator.

(c) Summary findings of the quality assessment and/or quality improvement program shall be submitted in writing to the administrator and the administrator shall take action that includes staff education or training on the basis of the program's findings.

(d) The quality assessment and/or quality improvement program shall review at least inventory control, maintenance inspections and reports, procedures for reporting incidents and hazards, and procedures for emergency response to incidents and hazards.

(e) Quality assessment and/or quality improvement program findings shall be presented to the administrator with recommendations for corrective actions to address problems.

8:39-33.2 Mandatory quality assessment and/or quality improvement policies and procedures
(a) The quality assessment and/or quality improvement program shall identify problems in the care and services provided to the residents and shall include the audit of medical records.
(b) The quality assessment and/or quality improvement program shall monitor the performance of each service.
(c) The quality assessment and/or quality improvement program shall monitor trends in the following:
   1. The prevalence of pressure sores and skin breakdowns;
   2. Psychoactive drug use;
   3. Transfers to hospitals;
   4. Medication errors;
   5. Catheterization rates and catheterization care;
   6. Weight loss and fluid intake;
   7. Infection rates in all residents;
   8. Resident depression;
   9. Restoration of function following specific types of events, such as hip fractures;
   10. Use of restraints;
   11. Resident falls resulting in injury;
   12. Incidents of abuse, neglect or misappropriation of resident property; and
   13. Other possible indicators of level of quality care not listed in this subchapter.
(d) The quality assessment and/or quality improvement program shall develop and implement a system to measure the effectiveness of the reassessment process with respect to: frequency, comprehensiveness, accuracy, implementation, and interdisciplinary approach.

8:39-33.3 Mandatory quality assessment and/or quality improvement of resident services
The quality assessment and/or quality improvement program shall include the gathering of resident care information from residents and visitors.

8:39-33.4 Mandatory quality assessment and/or quality improvement of staff education and training
The quality assessment and/or quality improvement program shall evaluate staff education programs.

SUBCHAPTER 34. ADVISORY QUALITY ASSESSMENT AND/OR QUALITY IMPROVEMENT
8:39-34.1 Advisory quality assessment and/or quality improvement policies and procedures
(a) The facility develops and maintains an active, continuous quality improvement process that involves staff, residents, families and/or the community in improving the quality of services provided by the facility.
(b) The quality assessment and/or quality improvement program uses a resident classification system, such as acuities or specified diagnostic classifications, as an indicator in measuring resident outcomes.
(c) The quality assessment and/or quality improvement program includes periodic surveys of families to ascertain their satisfaction, suggestions, knowledge of resident’s health conditions and treatments, and/or knowledge of facility policies and staff members’ roles.
(d) There is a system to receive input on resident safety issues.

SUBCHAPTER 35. MANDATORY MEDICAL RECORDS

8:39-35.1 Mandatory organization for medical records
At least 14 days before a facility plans to cease operations, it shall notify the New Jersey State Department of Health and Senior Services in writing of the location and method of retrieval of medical records.

8:39-35.2 Mandatory policies and procedures for medical records
(a) Each active medical record shall be kept at the nurses' station for the resident's unit.
(b) The facility shall maintain for staff use a current list of standard professional abbreviations commonly used in the facility's medical records.
(c) Medical records shall be organized with a uniform format across all records.
(d) A medical record shall be initiated for each resident upon admission. The current medical record shall be readily available and shall include at least the following information, when such information becomes available:
   1. Legible identifying data, such as resident’s name, date of birth, sex, address, and next of kin, and person to notify in an emergency;
   2. The name, address, and telephone number of the resident’s physician, an alternate physician or advanced practice nurse, and dentist;
   3. Complete transfer information from the sending facility, including results of diagnostic, laboratory, and other medical and surgical procedures, and a copy of the resident’s advance directive, if available, or notice that the resident has informed the sending facility of the existence of an advance directive;
   4. A history and results of a physical examination, including weight, performed by the physician or advanced practice nurse on admission, in accordance with N.J.A.C. 8:39-11.2(c) and results of the most recent examination by the physician, or advanced practice nurse, or New Jersey licensed physician assistant;
   5. An assessment and plan of care made by each discipline involved in the resident’s care;
   6. Clinical notes for the past three months incorporating written, signed and dated notations by each member of the health care team who provided services to the resident, including a description of signs and symptoms, treatments and/or drugs given, the resident’s reaction, and any changes in physical or emotional condition entered into the record when the service was provided;
   7. All physician’s or advanced practice nurse’s orders for the last three months;
   8. Telephone orders, each of which shall be countersigned by a physician or advanced practice nurse within seven days, except for orders for non-prescription drugs or treatments, which shall be signed at the physician’s or advanced practice nurse’s next visit to the resident;
   9. Records of all medications and other treatments that have been provided during the last three months;
   10. Consultation reports for the last six months;
   11. Records of all laboratory, radiologic, and other diagnostic tests for the last six months;
12. Records of all admissions, discharges, and transfers to and from the facility that occurred in the last three months;
13. Signed consent and release forms;
14. Documentation of the existence, or nonexistence, of an advance directive and the facility's inquiry of the resident concerning this;
15. A discharge plan for those residents identified by the facility as likely candidates for discharge into the community or a less intensive care setting; and
16. A discharge note written on the day of discharge for residents discharged to the community, a less intensive care setting, another nursing home or hospital, which includes at least the diagnosis, prognosis, and psychosocial and physical condition of the resident.

(e) The medical record shall be completed within 30 days of discharge.

(f) If part of a care plan is not implemented, the record shall explain why.

(g) All entries in the resident's medical record shall be written legibly in ink, dated, and signed by the recording person or, if a computerized medical records system is used, authenticated.
   1. If an identifier such as a master sign-in sheet is used, initials may be used for signing documentation, in accordance with applicable professional standards of practice.
   2. If computer-generated orders with an electronic signature are used, the facility shall develop a procedure to assure the confidentiality of each electronic signature and to prohibit the improper or unauthorized use of computer-generated signatures.
   3. If a facsimile communications system (FAX) is used, entries into the medical record shall be in accordance with the following procedures:
      i. The physician, advanced practice nurse, or New Jersey licensed physician assistant shall sign the original order, history and/or examination at an off-site location;
      ii. The original shall be FAXed to the long-term care facility for inclusion into the medical record;
      iii. The physician, advanced practice nurse, or New Jersey licensed physician assistant shall submit the original for inclusion into the medical record within 72 hours; and
      iv. The FAXed copy shall be replaced by the original. If the facsimile reports are produced by a plain-paper facsimile process that produces a permanent copy, the plain-paper report may be included as a part of the medical record, as an alternate to replacement of the copy by the original report.

(h) If a resident or the resident's legally authorized representative requests, orally or in writing, a copy of his or her medical record, a legible photocopy of the record shall be furnished at a fee based on actual costs, which shall not exceed prevailing community rates for photocopying. ("Legally authorized representative" means spouse, immediate next of kin, legal guardian, resident's attorney, or third party insuror where permitted by law.) A copy of the medical record from an individual admission shall be provided to the resident or the resident's legally authorized representative within two working days of request.

1. The facility shall establish a policy assuring access to copies of medical records for residents who do not have the ability to pay; and
2. The facility shall establish a fee policy providing an incentive for use of abstracts or summaries of medical records. The resident or his or her authorized representative, however, has a right to receive a full or certified copy of the medical record.

(i) Access to the medical record shall be limited only to the extent necessary to protect the resident. A verbal explanation for any denial of access shall be given to the resident or legal guardian by the physician or advanced practice nurse and there shall be documentation of this in the medical record. In the event that direct access to a copy by the resident is medically contraindicated (as documented by a physician or advanced practice nurse in the resident's medical record), the medical record shall be made available to a legally authorized representative of the resident or the resident's physician or advanced practice nurse.
(j) The resident shall have the right to attach a brief comment or statement to his or her medical record after completion of the medical record.
(k) The record shall be protected against loss, destruction, or unauthorized use. Medical records shall be retained for a period of 10 years following the most recent discharge of the resident, or until the resident reaches the age of 23 years, whichever is the longer period of time. A summary sheet of each medical record shall be retained for a period of 20 years, and X-ray films or reproductions thereof shall be retained for a period of five years.

SUBCHAPTER 36. ADVISORY MEDICAL RECORDS
8:39-36.1 Advisory policies and procedures for medical records
(a) The name by which the resident wishes to be called is entered on the cover or first page of the medical record.
(b) There is a comprehensive discharge summary with statistical and narrative information from each service completed for each resident.
(c) The full medical records for all discharged or deceased residents are completed within 15 days.
(d) Telephone orders are countersigned by a physician or advanced practice nurse within 48 hours except for orders for non-prescription drugs or treatments, which are countersigned within seven days.

8:39-36.2 Advisory staff education and training for medical records
The facility requires that staff use only standard professional abbreviations in medical records and maintains a current list of such abbreviations.

8:39-36.3 Advisory staff qualifications for medical records
(a) The facility utilizes the services of a medical record practitioner or consultant who is:
1. Certified or eligible for certification as a registered record administrator (RRA) or an accredited record technician (ART) by the American Medical Record Association (American Medical Record Association, 875 North Michigan Avenue, Suite 1850, John Hancock Center, Chicago, Illinois 60611); or
2. A graduate of a program in medical record science accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association in collaboration with the Council on Education of the American Medical Record Association (American Medical Record Association, 875 North Michigan Avenue, Suite 1850, John Hancock Center, Chicago, Illinois 60611).

SUBCHAPTER 40. ADVISORY SOCIAL WORK
8:39-40.5 Advisory social work staff education and training
The facility encourages the social worker to participate in community agency associations and other professional organizations.

SUBCHAPTER 43. CERTIFICATION OF NURSE AIDES IN LONG-TERM CARE FACILITIES
8:39-43.1 Nurse aide competency
(a) An individual who meets any of the following criteria shall be considered by the Department to be competent to work as a nurse aide in a licensed long-term care facility in New Jersey:
1. Has a currently valid nurse aide in long-term care facilities certificate and is registered in good standing on the New Jersey Nurse Aide Registry; or
2. Has been employed for less than 120 days and is currently enrolled in an approved nurse aide in long term care facilities training course and scheduled to complete the competency evaluation program (skills and written/oral examination) within 120 days of employment; or
3. Has been employed for no more than 120 days, has completed the required training specified in (a) 2, above, and has been granted a conditional certificate by the Department while awaiting clearance from the criminal background investigation conducted in accordance with N.J.A.C. 8:43I.

8:39-43.2 Requirements for nurse aide certification
(a) An applicant for certification as a nurse aide in long-term care facilities shall:
1. Successfully complete a nurse aide in long-term care facilities training program that has been approved by the Department; and
2. Provide evidence that he or she is of good moral character, including, but not limited to, compliance with the requirements of the Criminal Background Investigation Program in accordance with N.J.A.C. 8:43I; and
3. Pass both the Department’s clinical skills competency exam and written/oral exam.
(b) An applicant shall fulfill the requirements in (a) above in order to be listed on the New Jersey Nurse Aide Registry.

8:39-43.3 Exceptions
(a) The following persons may take the Department’s written/oral examination without first completing a nurse aide training course and clinical skills evaluation approved in accordance with N.J.A.C. 8:39-43.10:
1. Students, graduate nurses, or foreign licensed nurses, pending licensure, who submit evidence of successful completion of a course in the fundamentals of nursing;
2. Persons who submit evidence of the successful completion of a course in the fundamentals of nursing within the 12 months immediately preceding application to take the written/oral competency examination, including:
i. Persons certified as a nurse aide in long term care facilities in another state by a state governmental agency and listed on that state’s nurse aide registry, who do not meet the requirements for equivalency specified at N.J.A.C. 8:39-43.3 (a) 1, above; and
ii. Persons who have had training and experience as a nurse aide in a military service, equivalent to that of a nurse aide; and
3. Persons who are certified as homemaker-home health aides by the New Jersey Board of Nursing, in accordance with N.J.A.C. 13:37-14, as amended and supplemented, and who successfully complete the Long-Term Care Module of the Core Curriculum for Unlicensed Assistive Personnel approved by the Department; and
4. Persons who successfully complete the Core Curriculum for Unlicensed Assistive Personnel approved by the Department and the New Jersey Board of Nursing, and the Long-Term Care Module of the Core Curriculum for Unlicensed Assistive Personnel approved by the Department.

8:39-43.4 Certificates
(a) A nurse aide in long term care facilities certificate shall be valid for a period of two years from the date of issue.
(b) A nurse aide certificate shall not be retained by an employer for any reason.
(c) A nurse aide certificate is not transferable by sale, gift, duplication, or other means and shall not be forged or altered.

8:39-43.5 Revocation and suspension of certificates
(a) A certificate issued to a nurse aide in accordance with this subchapter shall be revoked in the following cases:
1. Finding of abuse, neglect or misappropriation of property of a resident of a long-term care facility or assisted living residence, or of a patient, resident, or client of any other facility or agency licensed by the Department;
2. Conviction or guilty plea as specified at N.J.A.C. 8:39-9.3(b) or other crime or offense as specified at N.J.A.C. 8:43I – 2.1 (b); or
3. Sale, purchase, or alteration of a certificate; use of fraudulent means to secure the certificate, including filing false information on the application; or forgery, imposture, dishonesty, or cheating on an examination.

(b) The Commissioner or his or her designee may summarily suspend the certificate of a nurse aide when the continued certification of an individual poses an immediate threat to the health, safety or welfare of the public, including residents and patients of long term care facilities, assisted living facilities and other licensed health care facilities or agencies. An individual whose certificate is summarily suspended shall have the right to appeal to the Commissioner for an expedited hearing at the Office of Administrative Law, which shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and N.J.S.A. 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. If the summary suspension is upheld at the Office of Administrative Law, the individual whose certificate has been summarily suspended shall have the right to apply for injunctive relief in the Superior Court of New Jersey. Nothing in this subsection shall be construed to prevent the Commissioner from thereafter revoking the license in accordance with (a) above.

8:39-43.6 Recertification

(a) The Department shall require the renewal and updating of a nurse aide listing on the registry at least once every two years on a schedule established by the Department.

(b) In order to be recertified, an individual shall have a currently valid nurse aide in long term care facilities certificate and shall have been employed performing nursing or nursing-related services for at least seven hours for pay, in a licensed health care facility or for an agency licensed by the Department, within the past 24 months from the date of expiration as specified on the nurse aide certificate, and shall not have had his or her certificate revoked in accordance with N.J.A.C. 8:39-43.5 (a), and shall not have his or her certificate suspended in accordance with N.J.A.C. 8:39-43.5 (b).

(c) The designated facility representative shall verify such employment by signing the individual’s recertification data mailer upon request of the individual.

(d) Any individual who does not meet the recertification requirement listed in (b) above and who wishes to be recertified, shall repeat the requirements for certification at N.J.A.C. 8:39-43.2, unless the original date of issue of the certificate is within the five years prior to the expiration date listed on the certificate and the nurse aide successfully completes the skills evaluation and written/oral examination.

1. Any individual who has allowed his or her certificate to expire must undergo a criminal background investigation as required by N.J.A.C. 8:43I, regardless of whether the person must complete a training program.

8:39-43.7 Nurse aide registries

(a) The Department shall establish and maintain a nurse aide registry in accordance with 42 CFR 483.156, as supplemented and amended.

(b) The Department shall establish and maintain a nurse aide abuse registry in accordance with 42 CFR 483.156, as supplemented and amended.

1. The nurse aide abuse registry shall include the names of individuals who are found to have abused, neglected or misappropriated the property of any resident while working in a long-term care facility as an uncertified nurse aide.

8:39-43.8 Hearings for resident abuse, resident neglect, or misappropriation of resident property

(a) Prior to entering a finding on the nurse aide abuse registry, the Department shall provide an opportunity of at least 30 days notice to the certified nurse aide or uncertified nurse aide,
identifying the intended action, the factual basis and source of the finding, and the individual’s right to a hearing.

(b) If a hearing is requested, it shall be conducted by the Office of Administrative Law or by a hearing officer of the Department in accordance with hearing procedures established by the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq, and 52:14F-1 et seq, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(c) No further right to an administrative hearing shall be offered to a certified nurse aide or uncertified nurse aide who has been afforded a hearing before a state or local administrative agency or other neutral party, or in a court of law, at which time the nurse aide received adequate notice and an opportunity to testify and to confront witnesses, and where there was an impartial hearing officer who issued a written decision verifying the findings of abuse, neglect, or misappropriation of property of a resident. The individual shall have a right to enter a statement to be included in the registry contesting such findings.

8:39-43.9 Equivalency for nurse aides registered in other states
(a) A nurse aide certificate received in another state or territory of the United States may be entered on the registry, provided that the following conditions are satisfied:
1. The Department receives documentation from the state’s or U.S. territory’s registry that such nurse aide has completed a training and competency evaluation program at least equal to that required in New Jersey;
2. The nurse aide has not been convicted of any crimes and has no documented findings of abuse, neglect, or misappropriation of resident property on the registry; and
3. The nurse aide complies with the requirements for a criminal background investigation as required by N.J.A.C. 8:431.

8:39-43.10 Approval of a nurse aide in long term care facilities training program
(a) Written approval of the Department is required prior to enrollment of students and the commencement of a training program in an educational institution, a facility, or a proprietary program. Training program approval, when granted, shall be granted for a 24-month period.
(b) An approved training program for nurse aides shall consist of 90 hours of training. This shall include 50 hours of classroom instruction and 40 hours of clinical experience in a New Jersey licensed long-term care facility. All training programs shall use the curriculum approved by the Department, in accordance with (c) below.
(c) The New Jersey Curriculum for Nurse Aide Personnel in Long Term Care Facilities ("the curriculum"), which has been approved by the Department, shall be the approved curriculum for a 90 hour training program. The entire content of the curriculum shall be taught. A copy of the curriculum and the form needed to apply for approval of a training course may be obtained by contacting the following office: Certification Program; New Jersey Department of Health and Senior Services; P.O. Box 367; Trenton, NJ 08625-0367
(d) The New Jersey competency evaluation shall consist of both a skills examination and a written/oral examination.
(e) A facility-based approved training program and the New Jersey competency evaluation shall be scheduled so as to be completed within 120 days of the starting date of employment for a nurse aide.
(f) A training program offered in an educational institution to train and test certified nurse aides shall be approved by the Department.
(g) No resident care unit shall serve as the site of clinical instruction for more than one training program at a time.
(h) The training program for nurse aides shall not be used as a substitute for staff orientation or staff education programs.
(i) Classroom and clinical instruction for particular tasks or procedures shall be scheduled concurrently to the extent practicable.

(j) The Department may request submission of additional information or require the redesign and/or revision of the program materials. Redesign or revision of the program application does not ensure that approval will be granted.

(k) Any changes in a training program, such as changes in location, dates, times or instructors, shall be reported in writing, to the Certification Program at least 30 working days prior to the planned change. No change shall be implemented without the written approval of the Certification Program.

(l) The facility or educational institution conducting a training program shall maintain on file a copy of the lesson plans for the course. Each lesson plan shall state, at a minimum, the following:
   1. The objective(s) of the lesson;
   2. The content of the lesson;
   3. A description of clinical activities for each lesson, consistent with the objectives in the curriculum;
   4. The hours of instruction;
   5. Methods of presentation and teacher strategies; and
   6. Methods for evaluation of students with respect to their classroom and clinical performance in the facility.

(m) Each nurse aide training program instructor/evaluator shall:
   1. Be currently licensed in New Jersey as a registered professional nurse;
   2. Possess at least three years of full-time or full-time equivalent experience in a licensed health care facility;
   3. Possess at least one year of full-time or full-time equivalent experience as a registered professional nurse in a licensed long term care facility, within the five years immediately preceding submission of the instructor/evaluator resume to the Certification Program of the Department for approval; and
   4. Have successfully completed a training workshop offered by the Department for instructors/evaluators.

(n) The student-to-instructor ratio for classroom instruction shall not exceed a ratio of 20 students to one instructor.

(o) The student-to-instructor ratio for clinical instruction shall not exceed a ratio of 10 students to one instructor.

(p) Each student shall be under the supervision of the registered professional nurse instructor at all times when providing resident care as part of the student's clinical experience in the facility. The registered professional nurse instructor shall be responsible for evaluating the student's classroom and clinical performance.

(q) The resume of each nurse instructor/evaluator currently teaching the training program shall be available in the facility or educational institution.

8:39-43.11 Evaluation of training programs

(a) The facility or educational institution conducting a training program shall develop, implement, and document a process for evaluating the effectiveness of the training program. The evaluation process shall include, at a minimum, the following:
   1. Assignment of responsibility for the evaluation process;
   2. An annual written evaluation report, including findings, conclusions, and recommendations;
   3. A written evaluation by the facility or educational institution of the performance of instructors/evaluators;
   4. Written evaluations, by students, of the training program; and
   5. Statistical data that shall be maintained on file in the facility or educational institution. The statistical data shall include, at a minimum, the following for each course:
i. The beginning and ending dates;
ii. The number of students enrolled;
iii. The number and percentage of students who satisfactorily completed the course;
iv. The number and percentage of students who failed the course;
v. The number and percentage of students who passed the New Jersey Nurse Aide Competency Evaluation Program, including written/oral examination and skills; and
vi. The number and percentage of students who failed the New Jersey Nurse Aide Competency Evaluation Program, including written/oral examination and skills.
(b) The facility or training program shall retain all evaluation reports for at least three years and shall submit a report to the Department upon request.

8:39-43.12 Student records
(a) Each facility or educational institution that conducts a training program shall establish a student record for each student. The student record shall include, at a minimum, the following:
1. The beginning and ending dates of the training program;
2. An attendance record;
3. A signed skills competency task form; and
4. An evaluation of the student's classroom and clinical performance, completed by the student's instructor.
(b) The facility shall retain the records specified at (a) above for at least four years.
(c) The facility or educational institution conducting a training program shall ensure that a student who is absent receives a reasonable and timely opportunity to obtain the classroom and/or clinical instruction missed, as documented in the student's record.

8:39-43.13 Denial or termination of a nurse aide in long-term care facilities training program
(a) The Department shall conduct unannounced site visits of a nurse aide in long-term care facilities training program.
(b) The Department may deny, suspend, or withdraw approval if it determines that a nurse aide training program fails to follow the application as submitted to, and approved by, the Department.
(c) Approval of a nurse aide training program offered by or in a facility that participates in the Medicare or Medicaid Programs shall be denied in accordance with 42 CFR 483.151 (b).
(d) Suspension or withdrawal of training program approval shall not affect currently enrolled students, who shall be permitted to complete the training program unless the Department determines that continuation of the program would jeopardize the health or safety of residents in any long-term care facility.
(e) If a nurse aide training program is discontinued for any reason, but the facility or educational institution continues to operate, the facility or educational institution shall be responsible for maintaining the records of students and graduates.
(f) If a nurse aide training program is discontinued for any reason and the facility or educational institution ceases to operate, the records of students and graduates shall be transferred to an agency acceptable to the Department. The Department shall be advised, in writing, of the arrangements made to safeguard the records.
(g) If a nurse aide training program is discontinued for any reason, the facility or educational institution shall:
1. Assist in the transfer of students to other approved nurse aide training programs;
2. Provide the Department with a list of the students who have transferred to another training program, and the dates on which the students were transferred; and
3. Notify the Department that the requirements for closing have been fulfilled and provide notice of final closing.

(h) If a facility or educational institution plans to voluntarily discontinue a nurse aide training program, the facility or educational institution shall:
1. Provide the Department with a written statement of the rationale and plan for the intended closing;
2. Continue the program until the class established for currently enrolled students has been completed; and
3. Notify the Department, in writing, of the closing date of the program at least 90 days prior to that date.

8:39-43.14 Responsibilities of Administrator
(a) The licensed nursing home administrator or administrator of the educational institution conducting the training program shall be responsible for implementation of the training program in accordance with the rules in this subchapter. This responsibility shall include, but not be limited to, ensuring that:
1. The curriculum is implemented in accordance with the application as submitted and approved by the Certification Program of the Department;
2. Resident care provided by the student does not exceed the tasks and procedures that the student has satisfactorily demonstrated, as documented by the registered professional nurse on a skills competency task form; and
3. Job descriptions are established indicating the responsibilities of each nurse instructor/evaluator.

8:39-43.15 Employment of a nurse aide
(a) No licensed long term care facility shall employ a person as a nurse aide without making inquiry to the New Jersey nurse aide registry at 1-800-274-8970, and to any other state where the facility believes the nurse aide is registered.
(b) The facility shall have a system in place to document compliance with (a) above.
(c) The facility shall maintain records sufficient to verify the previous employment of nurse aides who are not currently working but whose employment at the facility makes him or her eligible for recertification in accordance with N.J.A.C. 8:39-43.6(c).

8:39-43.16 Nurse aide functions
The nurse aide shall function under the supervision and direction of a registered professional nurse and shall perform tasks that are delegated in accordance with the provisions of N.J.A.C. 13:37-6.2.

8:39-43.17 Mandatory nurse aide education and training
(a) A program of individualized orientation of each nurse aide shall be conducted by a registered professional nurse. The orientation program shall include resident care training and demonstrations in basic nursing skills, followed by an internship of two to five days, depending on experience.
(b) Each nurse aide shall receive, at a minimum, 12 hours of regular in-service education per year, the content of which shall be based on the outcome of performance reviews of every nurse aide, which are completed at least once every 12 months. (The 12 hours may include topics that are covered under OBRA requirements, Pub. L. 100-239 (1989) which overlap or are duplicative of those required at N.J.A.C. 8:39-13.4 (b), up to a maximum of six hours of in-service training per year.)

8:39-43.18 Fees
(a) In accordance with 42 CFR 483.154, as amended and supplemented, fees may be charged by the testing agency for the following:
1. Clinical skills and written examination;
2. Clinical skills and oral examination;
3. Clinical skills and Spanish oral examination;
4. Written examination only;
5. Clinical skills examination only;
6. Oral examination only;
7. Spanish oral examination only;
8. Duplicate or updated certificate, which shall be charged to the individual; and
9. Recertification certificate, which shall be charged to the individual if the individual is neither currently employed nor has been offered employment by a long-term care facility.

(b) The fee charged by the Department for a two-year approval of a training program shall be $75.00.

(c) The Department shall provide timely notice of any changes in fees specified in (a) above in the Public Notices section of the New Jersey Register.

(d) A nurse aide who is employed by, or who has received an offer of employment from, a facility on the date on which the aide begins a nurse aide training and competency evaluation program may not be charged for any portion of the program identified in (a) above, including tuition and testing, and fees for textbooks or other required course materials.

(e) If a nurse aide who is not employed, or does not have an offer to be employed as a nurse aide becomes employed by, or receives an offer of employment from, a licensed long term care facility not later than 12 months after completing a nurse aide training and competency evaluation program, the facility shall provide for the reimbursement of reasonable costs incurred in completing the program. Such costs include, but are not limited to, tuition, testing, and fees for textbooks or other required course materials.

(f) A nurse aide shall be reimbursed the costs of certification within one year of the successful completion of a reasonable probationary period established by the long-term care facility.

(g) No nurse aide shall be required, as a condition of employment, to pay the cost of the training program in the event of voluntary or involuntary termination of employment.

(h) All fees referenced at (a) and (b) above are non-refundable.

SUBCHAPTER 44. MANDATORY STANDARDS FOR RESPITE CARE SERVICES
8:39-44.1 Scope and purpose
(a) Long-term care facilities are authorized by law to accept short-term residents whose regular caregivers are participating in a respite care program. A caregiver is defined as any individual, paid or unpaid, who provides regular in-home care for an elderly, disabled, or cognitively impaired person.

(b) When a caregiver desires respite from this responsibility, continuity of care for the elderly, disabled, or cognitively impaired person is available through temporary placement in a long-term care facility for a period of time specified in advance.

(c) The standards in this subchapter apply only to those long-term care facilities that operate a respite care program.

8:39-44.2 Mandatory policies and procedures
(a) The long-term care facility shall have written respite care policies and procedures that are retained by the administrative staff and available to all staff and to members of the public, including those participating in the program.

(b) The facility shall obtain the following information from the resident's attending physician or advanced practice nurse prior to admission:
1. A summary of the resident's medical history and most recent physical examination;
2. Signed and dated medication and treatment orders for the resident's stay in the facility; and
3. Phone numbers of the attending physician or advanced practice nurse and an alternate physician or advanced practice nurse for consultation or emergency services.

(c) The facility shall choose whether to follow the resident care plan provided by the attending physician or advanced practice nurse or to establish a plan in accordance with N.J.A.C. 8:39-11. The facility is exempt from compliance with N.J.A.C. 8:39-11, if it chooses to follow the care plan provided by the resident’s attending physician.

(d) The facility shall obtain the following information from the resident’s regular caregiver(s):
   1. Nursing care needs, including personal hygiene and restorative maintenance care;
   2. Dietary routine and preferences; and

(e) The facility shall choose whether to follow the dietary, social, and resident activity plan provided by the caregiver(s) or to establish a plan in accordance with N.J.A.C. 8:39-7, 17 and 39. The facility is exempt from compliance with N.J.A.C. 8:39-7, 17 and 39, if it chooses to follow the plan provided by the caregiver(s).

(f) The pharmacy and therapeutics committee shall establish policies and procedures for providing pharmacy services for the respite care program according to the New Jersey State Board of Pharmacy and other applicable rules and regulations. These policies and procedures shall include the following:
   1. Options, if any, for provision of resident medications by sources other than the facility's usual provider(s);
   2. Labeling and packaging of medications;
   3. Self-administration of medications, if applicable; and
   4. Control measures.

(g) The facility shall apply to respite care residents all the standards contained in this chapter, except those exemptions cited in this section, and in the following: N.J.A.C. 8:39-4.1(a)31, 4.1(b), 5.1(a)through(e), 11.3(a), 15.1(b), 29, 35.2(d)3 through 16, and 37.3.

**SUBCHAPTER 45. ALZHEIMER'S/DEMENTIA PROGRAMS**

8:39-45.1 Scope and purpose

(a) Long-term care facilities may establish Department approved programs to meet the needs of residents with Alzheimer's disease or other dementias. In addition to meeting all mandatory requirements specified in this chapter, the program shall provide individualized care based upon assessment of the cognitive and functional abilities of Alzheimer's and dementia residents who have been admitted to the program.

(b) No facility shall advertise or hold itself out as providing an Alzheimer's/dementia program unless it meets the data reporting requirements of N.J.S.A. 8:39-45.2 and is recognized by the Department as meeting at least 65 percent of all current advisory standards in N.J.A.C. 8:39-46.

8:39-45.2 Mandatory data reporting requirements

(a) Each facility qualified pursuant to this subchapter to hold itself out as providing an Alzheimer's/dementia program, shall:

1. Compile and maintain daily records for each shift in the facility and provide to a member of the public, upon request, information that indicates for each shift, as appropriate:
   i. The number of nurses, including the aggregate total of registered nurses and licensed practical nurses and licensed practical nurses providing direct care to residents diagnosed with Alzheimer's disease and related disorders; and
   ii. The number of certified nurse aides providing direct care to residents diagnosed with Alzheimer's disease and related disorders; and
2. Provide a member of the public seeking placement of a person diagnosed with Alzheimer’s disease and related disorders in the facility with a clear and concise written list that indicates:
   i. The activities that are specifically directed towards residents diagnosed with Alzheimer’s disease and related disorders, including, but not limited to, those designed to maintain dignity and personal identity, enhance socialization and success, and accommodate the cognitive and functional ability of a resident;
   ii. The frequency of the activities listed in (a)2 above; and
   iii. The safety policies and procedures and any security monitoring system that is specific to residents diagnosed with Alzheimer’s disease and related disorders.
(b) As used in this section, “Alzheimer’s disease and related disorders” means the conditions defined at N.J.S.A. 26:2M-10(b).

SUBCHAPTER 46. ALZHEIMER’S/DEMENTIA PROGRAMS – ADVISORY STANDARDS

8:39-46.1 Advisory Alzheimer’s/dementia program policies and procedures
(a) The long-term care facility has written policies and procedures for the Alzheimer’s/dementia program that are retained by the administrative staff and available to all staff and to members of the public, including those participating in the program.
(b) The facility has established criteria for admission to the program and criteria for discharge from the program when the resident’s needs can no longer be met, based upon an interdisciplinary assessment of the resident’s cognitive and functional status.

8:39-46.2 Advisory staffing
(b) The facility has established criteria for the determination of each staff member’s abilities and qualifications to provide care to residents in the program.
(c) The facility provides an initial and ongoing educational, training and support program for each staff member which includes at least the causes and progression of dementias, the care and management of residents with dementias, and communication with dementia residents.
(e) A consultant gerontologist is available to residents and to the program, as needed, to address the medical needs of the resident. “Consultant gerontologist” means a physician, psychiatrist, or geriatric advanced practice nurse who has specialized training and/or experience in the care of residents with dementia.

NEW MEXICO

7.9.2.2 SCOPE:
A. Services for residents shall be provided on a continuing twenty-four (24) hour basis and shall maintain or improve physical, mental and psychosocial well-being under plan of care developed by a physician or other licensed health professional and shall be reviewed and revised based on assessment.
B. All facilities licensed as nursing homes pursuant to Section 24-1-5 (A) NMSA 1978, are subject to all provisions of these regulations.

7.9.2.8 LICENSURE:
A. APPLICATION/REQUIREMENTS FOR LICENSURE:
...(2) In every application, the applicant shall provide the following information:
(a) The identities of all persons or business entities having the authority, directly or indirectly, to direct or cause the direction of the management or policies of the facility;
(b) The identities of all persons or business entities having five percent (5%) ownership interest whatsoever in the facility, whether direct or indirect, and whether the interest is in the profits, land or building, including owners of any business entity which owns any part of the land or building, and
(c) The identities of all creditors holding a security interest in the premises, whether land or building; and
(d) In the case of a change of ownership, disclosure of any relationship or connection between the old licensee and the new licensee, and between any owner or operator of the new licensee, whether direct or indirect.

7.9.2.11 SEPARATE LICENSES: Separate licenses shall be required for facilities which are maintained on separate premises even though they are under the same management. Separate licenses shall not be required for separate buildings on the same ground or adjacent ground.

7.9.2.13 POSTING: The license or a certified copy thereof shall be conspicuously posted in a location or accessible to public view within the facility.

7.9.2.14 REPORT OF CHANGES:
A. The licensee shall notify the department in writing of any changes in the information provided, within ten (10) days of such changes. This notification shall include information and documentation regarding such changes.
B. When a change of administrator occurs, the Department shall be notified within ten (10) days in writing by the licensee. Such writing shall include the name and license number of the new administrator.
C. Each licensee shall notify the Department within ten (10) days in writing of any change of the mailing address of the licensee. Such writing shall include the new mailing address of the licensee.
D. When a change in the principal officer of a corporate license (chairman, president, general manager) occurs the Department shall be notified within thirty (30) days in writing by the licensee. Such writing shall include the name and business address of such officer.
E. Any decrease, or increase in licensed bed capacity of the facility shall require notification by letter to the Department and shall result in the issuance of a corrected license.

7.9.2.20 PROGRAM FLEXIBILITY:
A. All facilities shall maintain compliance with the licensee requirements. If the use of alternate concepts, methods, procedures, techniques, equipment, personnel qualifications or the conducting of pilot projects conflicts with requirements, then prior written approval from the Department shall be obtained in order to ensure provisions for safe and adequate care. Such approval shall provide for the terms and conditions under which the exception is granted. A written request and substantiating evidence supporting the request shall be submitted by the applicant or licensee to the department.
B. Any approval of the Department granted under this section, or a certified copy thereof shall be posted immediately adjacent to the facility’s license.

7.9.2.26 ADMINISTRATOR/STATUTORY REFERENCE:
A nursing home shall be supervised by an administrator licensed under the Nursing Home Administrators Act, Sections 61-13-16 through 61-13-16 NMSA 1978. Supervision shall include, but not be limited to, taking all reasonable steps to provide qualified personnel to assure the health, safety, and rights of the residents.
A. FULL-TIME ADMINISTRATOR: Every nursing home shall be supervised full-time by an administrator licensed under the Nursing Home Administrators Act, except multiple facilities. If
more than one nursing home or other licensed health care facility is located on the same or contiguous property, one full-time administrator may serve all the facilities.

B. ABSENCE OF ADMINISTRATOR: A person present in and competent to supervise the facility shall be designated to be in charge whenever there is not an administrator in the facility, and shall be identified to all staff.

C. CHANGE OF ADMINISTRATOR:

(1) Replacement of administrator: If it is necessary immediately to terminate an administrator, or if the licensee loses an administrator for other reasons, a replacement shall be employed or designated as soon as possible within one-hundred twenty (120) days of vacancy.

(2) Temporary replacement: During any vacancy in the position of administrator, the licensee shall employ or designate a person competent to fulfill the functions of an administrator immediately.

(3) Notice of change of administrator: When the licensee loses an administrator, the licensee shall notify the department within two (2) Department working days of such loss and provide written notification to the Department of the name and qualifications of the person in charge of the facility during the vacancy; and the name and qualifications of the replacement administrator, when known.

7.9.2.27 EMPLOYEES:
In this section, “employee” means anyone directly employed by the facility on other than a consulting or contractual basis.

A. QUALIFICATIONS AND RESTRICTIONS: No person under eighteen (18) years of age shall be employed to provide direct care to residents.

...D. VOLUNTEERS: Facilities may use volunteers provided that the volunteers receive the orientation, training, and supervision necessary to assure resident health, safety and welfare.

E. ABUSE OF RESIDENTS:

(1) Orientation for all employees: Except in an emergency, before performing any duties, each new employee, including temporary help, shall receive appropriate orientation to the facility and its policies, including, but not limited to, policies relating to fire prevention, accident prevention, and emergency procedures. All employees shall be oriented to resident's rights and to their position and duties by the time they have worked thirty (30) days.

(2) Training: Except for nurses, all employees who provide direct care to residents shall be trained through a program approved by the Department.

(3) Assignments: Employees shall be assigned only to resident care duties consistent with their training.

(4) Reporting: All employees will be instructed in the reporting requirements of the Adult Protective Services Act of abuse, neglect or exploitation of any resident.

F. CONTINUING EDUCATION:

(1) Nursing in-service: The facility shall require employees who provide direct care to residents to attend educational programs desired to develop and improve the skill and knowledge of the employees with respect to the needs of the facility's residents, including rehabilitative therapy, oral health care, wheelchair safety and transportation and special programming for developmentally disabled residents if the facility admits developmentally disabled person. These programs shall be conducted quarterly to enable staff to acquire the skills and techniques necessary to implement the individual program plans for each resident under their care.

(2) Dietary in-service: Educational programs shall be held quarterly for dietary staff, and shall include instruction in the proper handling of food, personal hygiene and grooming, and nutrition and modified diet patterns served by the facility.
(3) All other staff in-service: The facility shall provide in-service designed to improve the skills and knowledge of all other employees.

7.9.2.28 RECORDS - GENERAL:
The administrator or administrator’s designee shall provide the Department with any information required to document compliance with these regulations and shall provide reasonable means for examining records and gathering the information.

7.9.2.29 PERSONNEL RECORDS: A separate record of each employee shall be maintained, be kept current, and contain sufficient information to support assignment to the employee’s current position and duties.

7.9.2.30 MEDICAL RECORDS - STAFF:

A. TIMELINESS: Duties relating to medical records shall be completed in a timely manner.

B. Each facility shall designate an employee of the facility as the person responsible for the medical record service, who:

1. Is a graduate of a school of medical record science that is accredited jointly by the council on medical education of the American Medical Association; or

2. Receives regular consultation but not less than four hours quarterly as appropriate from a person who meets the requirements of Section 30.2.1. Such consultation shall not be substituted for the routine duties of staff maintaining records. The records consultant shall evaluate the records and records service, identify problem areas, and submit written recommendations for change to the administrator.

3. Sufficient time will be allocated to the person who is designated responsible for medical record service to insure that accurate records are maintained.

7.9.2.31 MEDICAL RECORDS - GENERAL:

A. AVAILABILITY OF RECORDS: Medical records of current residents shall be stored in the facility and shall be easily accessible, at all times, to persons authorized by the resident to obtain the release of the medical records.

B. ORGANIZATION: The facility shall maintain a systematically organized records system appropriate to the nature and size of the facility for the collection and release of resident information.

C. UNIT RECORD: A unit record shall be maintained for each resident and day care client.

D. INDEXES: A master resident index shall be maintained.

E. MAINTENANCE: The facility shall safeguard medical records against loss, destruction, or unauthorized use, and shall provide adequate space and equipment to efficiently review, index, file and promptly retrieve the medical records.

F. RETENTION AND DESTRUCTION:

1. The medical record shall be completed and stored within sixty (60) days following a resident’s discharge or death.

2. An original medical record and legible copy or copies of court orders or other documents, if any, authorizing another person to speak or act on behalf of this resident shall be retained for a period of at least ten (10) years following a resident’s discharge or death. All other records required by these regulations shall be retained for the period for which the facility is under review.

3. Medical records no longer required to be retained under this section may be destroyed, provided:

   a. The confidentiality of the information is maintained; and

   b. The facility permanently retains at least identification of the resident, final diagnosis, physician, and dates of admission and discharge.
(4) A facility shall arrange for the storage and safekeeping of records for the periods and under the conditions required by this paragraph in the event the facility closes.

(5) If the ownership of a facility changes, the medical records and indexes shall remain with the facility.

G. RECORDS DOCUMENTATION:

(1) All entries in medical records shall be legible, permanently recorded, dated, and authenticated with the name and title of the person making the entry.

(2) Symbols and abbreviations may be used in medical records if approved by a written facility policy which defines the symbols and abbreviations and which controls their use.

7.9.2.32 MEDICAL RECORDS - CONTENT: Except for persons admitted for short-term care, each resident's medical record shall contain:

A. IDENTIFICATION AND SUMMARY SHEET:

B. PHYSICIAN’S DOCUMENTATION:

(1) An admission medical evaluation by a physician, including:

(a) A summary of prior treatment;
(b) Current medical findings;
(c) Diagnosis at the time of admission to the facility;
(d) The resident’s rehabilitation potential;
(e) The results of the required physical examination;
(f) Level of care;

(2) All physician’s orders including:

(a) Admission to the facility;
(b) Medications and treatments;
(c) Diets;
(d) Rehabilitative services;
(e) Limitations on activities;
(f) Restraint orders;
(g) Discharge or transfer orders.

(3) Physician progress notes following each visit.

(4) Annual physical examination.

(5) Alternate visit schedule, and justification for such alternate visits, not to exceed ninety (90) days.

C. NURSING SERVICE DOCUMENTATION:

(1) An assessment of the resident’s nursing needs.

(2) Initial nursing care plan and any revisions.

(3) Nursing notes are required as follows:

(a) For residents requiring skilled care, a narrative nursing note shall be required as often as needed to document the resident’s condition, but at least weekly; and

(b) For residents not requiring skilled care, a narrative nursing note shall be required as often as needed to document the resident’s condition, but at least monthly;

(4) In addition to the nursing care plan, nursing documentation describing:

(a) The general physical and mental condition of the resident, including any unusual symptoms or actions;

(b) All incidents or accidents including time, place, injuries or potential complications from injury or accident, details of incident or accident, action taken, and follow-up care;

(c) The administration of all medications, the need for PRN medications and the resident’s response, refusal to take medication, omission of medications, errors in the administration of medications, and drug reactions;

(d) Food intake, when the monitoring of intake is necessary;
(e) Fluid Intake when monitoring of intake is necessary;
(f) Any unusual occurrences of appetite or refusal or reluctance to accept diets;
(g) Summary of restorative nursing measures which are provided;
(h) Summary of the use of physical and chemical restraints;
(i) Other non-routine nursing care given;
(j) The condition of a resident upon discharge; and
(k) The time of death, the physician called, and the person to whom the body was released.

D. SOCIAL SERVICES RECORDS:
(1) A social history of the resident; and
(2) Notes regarding pertinent social data and action taken.

E. ACTIVITIES RECORDS: Documentation of activities programming, a history and assessment, a summary of attendance, and quarterly progress notes.

F. REHABILITATIVE SERVICES:
(1) An evaluation of the rehabilitative needs of the resident.
(2) Plan of treatment.
(3) Progress notes detailing treatment given, evaluation, and progress.

G. DIETARY ASSESSMENT: Record of the dietary assessment.

H. DENTAL SERVICES: Summary of all dental services resident has received.

I. DIAGNOSTIC SERVICES: Records of all diagnostic tests performed during the resident's stay in the facility.

J. PLAN OF CARE: Plan of care which includes integrated program activities, therapies and treatments designed to help each resident achieve specific goals as developed by an interdisciplinary team.

K. AUTHORIZATION OR CONSENT: A photocopy of any court order, power of attorney or living will authorizing another person to speak or act on behalf of the resident and any resident consent forms.

L. DISCHARGE OR TRANSFER INFORMATION: Documents, prepared upon a resident's discharge or transfer from the facility, summarizing, when appropriate:
(1) Current medical finding and condition;
(2) Final diagnosis;
(3) Rehabilitation potential;
(4) A summary of the course of treatment;
(5) Nursing and dietary information;
(6) Ambulation status;
(7) Administrative and social information; and
(8) Needed continued care and instructions.

7.9.2.33 OTHER RECORDS: The facility shall retain:
A. DIETARY RECORDS: All menus and therapeutic diets for one year.
B. STAFFING RECORDS: Records of staff work schedules and time worked for one year.
C. SAFETY TESTS: Records of tests of fire detection, alarm, and extinguishment equipment.
D. RESIDENT CENSUS: At least a daily census of all residents, indicating number of residents requiring each level of care.

E. PROFESSIONAL CONSULTATIONS: Documentation of professional consultations by:
(1) A dietician.
(2) A registered nurse.
(3) Others, as may be used by the facility.

F. IN-SERVICE AND ORIENTATION PROGRAMS: Subject matter, instructors and attendance records of all in-service and orientation programs.

G. TRANSFER AGREEMENTS: Transfer agreements.
H. FUNDS AND PROPERTY STATEMENT: The statement prepared upon a resident’s discharge or transfer from the facility that accounts for all funds and receipted property held by the facility for the resident.

I. COURT ORDERS AND CONSENT FORMS: Copies of court orders or other documents, if any, authorizing another person to speak or act on behalf of the resident.

7.9.2.39 TRANSFER AGREEMENTS:
A. REQUIREMENT: Each facility shall have in effect a transfer agreement with one or more hospitals under which in-patient hospital care or other hospital services are available promptly to the facility’s resident’s when needed. Facilities under same management having identified distinct parts are exempt from transfer agreements.

B. TRANSFER OF RESIDENTS: A hospital and a facility shall be considered to have a transfer agreement in effect if there is a written agreement between them or, when the two (2) Institutions are under common control, if there is a written statement by the person or body which controls them, which gives reasonable assurance that:
   (1) Transfer of residents will take place between the hospital and the facility ensuring timely admission, whenever such transfer is medically appropriate as determined by the attending physician; and
   (2) There shall be interchange of medical and other information necessary for the care and treatment of individuals transferred between the institutions or for determining, whether such individuals can be adequately cared for somewhere other than in either of the institutions.

C. EXEMPTION: A facility which does not have a resident transfer agreement in effect, but which is found by the Department to have attempted in good faith to enter into such an agreement with a hospital sufficiently close to the facility to make feasible the transfer between the two facilities and the information referred to in Subsection (B) of 7.9.2.39 NMAC above, shall be considered to have such an agreement in effect if and for so long as the department finds that to do so is in the public interest and essential to ensuring nursing facility services in the community.

7.9.2.45 PHYSICAL AND CHEMICAL RESTRAINTS:
G. RECORDS: Any use of restraints shall be noted, dated, and documented in the resident’s clinical record on each tour of duty during which the restraints are in use.

7.9.2.48 MEDICAL DIRECTION IN SKILLED CARE FACILITIES:
A. MEDICAL DIRECTOR: Every skilled care facility shall retain, pursuant to a written agreement, a physician to serve as medical director on a part-time or full-time basis as is appropriate for the needs of the residents and the facility. If the facility has an organized medical staff, the medical director shall be designated by the medical staff with approval of the licensee.

B. COORDINATION OF MEDICAL CARE: Medical direction and coordination of medical care in the facility shall be provided by the medical director. The medical director shall be responsible for development of written rules and regulations which shall be approved by the licensee and include delineation of the responsibilities of attending physicians. If there is an organized medical staff, by-laws also shall be developed by the medical director and approved by the licensee. Coordination of medical care shall include liaison with attending physician to provide that physicians’ orders are written promptly upon admission of a resident, that periodic evaluations of the adequacy and appropriateness of health professional and supportive staff and services are conducted, and that the medical needs of the residents are met.

C. RESPONSIBILITIES TO THE FACILITY: The medical director shall monitor the health status of the facility’s employees. Incidents and accidents that occur on the premises shall be reviewed by the medical director to identify hazards to health and safety.
7.9.2.50 NURSING SERVICES:
B. DIRECTOR OF NURSING SERVICES IN SKILLED CARE AND INTERMEDIATE CARE FACILITIES:
(1) Staffing requirement: Every skilled care facility and every intermediate care facility shall employ a full-time director of nursing services who may also serve as a charge nurse. The director of nursing services shall work only on the day shift except as in an emergency or required for the proper supervision of nursing personnel.
(2) Qualifications: The director of nursing services shall:
   (a) Be a registered or licensed practical nurse...

7.9.2.58 DIAGNOSTIC SERVICES:
A. REQUIREMENT OF SERVICES: The facility shall provide for promptly obtaining required laboratory, x-ray, and other diagnostic services.
B. FACILITY-PROVIDED SERVICES: Any laboratory and x-ray services provided by the facility shall meet the applicable requirements for hospitals.
C. OUTSIDE SERVICES: If the facility does not provide these services, arrangements shall be made for obtaining the services from a physician's office, hospital, nursing facility, portable x-ray supplier, or independent laboratory.
D. PHYSICIAN'S ORDER: No services under the subsection may be provided without an order of a physician.
E. NOTICE OF FINDINGS: The attending physician shall be notified promptly of the findings of all tests provided under this subsection.
F. TRANSPORTATION: The facility shall assist the resident, if necessary, in arranging for transportation to and from the provider of service.
   (1) Any employee or agent of a regulated facility or agency who is responsible for assisting a resident in boarding or alighting from a motor vehicle must complete a state-approved training program in passenger transportation assistance before assisting any resident. The passenger transportation assistance program shall be comprised of but not limited to the following elements: resident assessment, emergency procedures, supervised practice in the safe operation of equipment, familiarity with state regulations governing the transportation of persons with disabilities, and a method for determining and documenting successful completion of the course. The course requirements above are examples and may be modified as needed.
   (2) Any employee or agent of a regulated facility or agency who drives a motor vehicle provided by the facility or agency for use in the transportation of clients must complete:
      (a) A state approved training program in passenger assistance and
      (b) A state approved training program in the operation of a motor vehicle to transport clients of a regulated facility or agency. The motor vehicle transportation assistance program shall be comprised of but not limited to the following elements: resident assessment, emergency procedures, supervised practice in the safe operation of motor vehicles, familiarity with state regulations governing the transportation of persons with disabilities, maintenance and safety record keeping, training on hazardous driving conditions and a method for determining and documenting successful completion of the course. The course requirements above are examples and may be modified as needed.
      (c) A valid New Mexico drivers license for the type of vehicle being operated consistent with State of New Mexico requirements.
   (3) Each regulated facility and agency shall establish and enforce written polices (including training) and procedures for employees who provide assistance to clients with boarding or alighting from motor vehicles.
   (4) Each regulated facility and agency shall establish and enforce written polices (including training and procedures for employees who operate motor vehicles to transport clients.
7.9.2.61 SOCIAL SERVICES:
...(4) Training: Participation in in-service training for direct care staff on the emotional and social problems and needs of the aged and ill and on methods for fulfilling these needs.

7.9.2.71 PHYSICAL ENVIRONMENT:
...G. RESIDENT SAFETY AND DISASTER PLAN:
(1) Disaster Plan:
(a) Each facility shall have a written procedure which shall be followed in case of fire or other disasters, and which shall specify persons to be notified, locations of alarm signals and fire extinguishers, evacuation routes, procedures for evacuating helpless residents, frequency of fire drills and assignment of specific tasks and responsibilities to the personnel of each shift and each discipline.
(b) The plan developed by the facility shall be submitted to qualified fire and safety experts, including the local fire authority, for review and approval. The facility shall maintain documentation of approval by the reviewing authority.
(c) All employees shall be oriented to this plan and trained to perform assigned tasks.
(d) The plans shall be available at each nursing station.
(e) The plans shall include a diagram of the immediate floor area showing the exits, fire alarm stations, evacuation routes and location of fire extinguishers. The diagram shall be posted in conspicuous locations in the corridor throughout the facility.
(2) Drills: Fire drills shall be held at irregular intervals at least four (4) times a year on each shift and the plan shall be reviewed and modified as necessary. Records of drills and dates of drills shall be maintained.
...(5) Fire Report: All incidents of fire in a facility shall be reported to the department within seventy-two (72) hours.

NEW YORK
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Section 415.1 - Basis and scope
(a) Statement of purpose. New York's residential health care facilities are responsible for the health and wellbeing of more than 100,000 residents ranging from infants with multiple impairments to young adults suffering from the sequelae of traumatic brain injury to the frail elderly with chronic disabilities. For the vast majority of residents, the residential health care facility is their last home. A license to operate a nursing home carries with it a special obligation to the residents who depend upon the facility to meet every basic human need. Each resident comes to the nursing home with unique life experiences, values, attitudes and desires, and a singular combination of clinical and psychosocial needs. In order to assure the highest practicable quality of life, the individuality of the nursing home resident must be recognized, and the exercise of self-determination protected and promoted, by the operator and staff of the facility. The physical environment, care policies and staff behavior must at once acknowledge the dependence of the residents while fostering their highest possible level of independence. In writing a code of minimum operating standards for nursing homes, it is also critical that the regulator recognize the infinite diversity of the nursing home population. A code intended to assure the highest possible quality of care and most meaningful quality of life for all residents must not only accept, but in fact invite variety in nursing home environments, policies and practices, and encourage creativity among nursing home managers and staff. In order to meet obligations to nursing home residents, this set of requirements, to the extent
possible, expresses expectations for facility operation in terms of performance and outcomes rather than by dictating structure and process. It is the intent of these requirements to grant a high degree of latitude and flexibility to administrators and staff while insisting upon conformance to fundamental principles of individual rights and to accepted professional standards. In those areas where a detailed process or procedure is mandated, it is based upon a firm belief that experience has proven the specific practice to be necessary in all cases to assure the high quality of care we expect nursing homes to provide. In addition to the emphasis on individuality and self-determination, the code reflects certain precepts: that nursing homes should be viewed as homes as much as medical institutions, with the resident’s psychosocial needs deserving a prominence at least equal to medical condition; that clinical interventions for the nursing home resident must be part of a comprehensive approach planned and provided by an interdisciplinary care team, with the participation of the resident, rather than through a physician-directed acute care orientation; and that quality assurance is a work ethic rather than an oversight method or a department.

(b) General Information.
(1) Nursing homes, which shall include all facilities subject to Article 28 of the Public Health Law and providing residential skilled nursing care and services and residential health related care and services, shall provide such care and services in a manner and quality consistent with generally accepted standards of practice.

...(4) Nursing homes shall comply with all pertinent federal, state and local laws, regulations, codes, standards and principles including but not limited to those pertaining to nondiscrimination on the basis of race, color, national origin, handicap, protection of human subjects of research and fraud and abuse and the Public Health Law, Mental Hygiene Law, Social Services Law and Education Law of the State of New York.

Section 415.13-Nursing Services
...(b) Registered professional nurse.
...(2) The facility shall designate a registered professional nurse to serve as the director of nursing on a full time basis.
(c) Nurse aide.
(1) For the purpose of this section and section 415.26(d) of this Part, nurse aide shall mean any person who provides direct personal resident care and services including, but not limited to, safety, comfort, personal hygiene or resident protection services, for compensation, under the supervision of a registered professional nurse or licensed practical nurse in the facility, except for those individuals who furnish services to residents only as feeding assistants as defined in Section 415.13(d) of this Part. Certification of such nurse aide shall be in accordance with the provisions of section 415.26(d) of this Part.
(2) Only individuals who meet the following qualifications may be assigned to perform nurse aide functions, as defined in paragraph (1) of this subdivision:
   (i) a person who, as verified by the facility, is listed in the New York State RHCF Nurse Aide Registry developed and maintained as set forth in Section 2803-j of the Public Health Law and as described in Section 415.31 of this Part;
   (ii) a graduate of a nursing program approved by the New York State Commissioner of Education or by the licensing authority in another state, territory or possession of the United States as preparation for practice as a licensed nurse who has taken and passed the New York State competency examination.
(iii) a nurse aide trainee who has successfully completed a State approved RHCF nurse aide training program as described in subdivision (d) of section 415.26 of this Part or a program designed for such purpose and approved by the State Commissioner of Education and who is waiting to take the RHCF clinical skills and written or oral nurse aide competency examinations at the next scheduled opportunity, such competency examination to be passed within three consecutive attempts within 4 months of the date of the initial RHCF nurse aide trainee employment or of the completion of the State approved RHCF nurse aide training program, whichever occurs first;
(iv) a nurse aide trainee who has taken the competency examinations and is waiting for the official results of the examination;
(v) a certified nurse aide who is currently listed in another state's nursing home nurse aide registry, as verified by the facility, and who has applied to the Department to obtain State certification and has not been denied; and
(vi) a nurse aide trainee provided the individual is concurrently enrolled in a State approved residential health care facility nurse aide training program which meets all requirements set forth in this section and completes such training program and competency examinations within one hundred twenty (120) days of employment, in accordance with the following:
(a) the nurse aide trainee may assume specific duties involving direct resident care and services as training and successful demonstration of competencies in the specific duties/skills are completed, but not before completing at least sixteen (16) hours of classroom instructions in the following areas:
(1) communication and interpersonal skills; (2) infection control;
(3) safety/emergency procedures, including the Heimlich maneuver;
(4) promoting residents' independence;
(5) respecting residents' rights; and
(6) resident abuse, mistreatment and neglect reporting requirements as set forth in Section 2803-d of the Public Health Law; and
(b) the nurse aide trainee shall be under the direct supervision of a nurse when the trainee is providing direct resident care or services and identifiable as a nurse aide trainee.
(vii) If the facility has reason to believe that the individual has worked as a nurse aide in any state(s) other than New York, the facility must request information from the nurse aide registry of such other state(s) before permitting the individual to serve as a nurse aide.

Section 415.15 - Medical services
415.15 Medical services. The nursing home shall develop and implement medical services to meet the needs of its residents.
(a) Medical director. The facility shall designate a full-time or part-time physician to serve as medical director. The medical director shall be responsible for:
(1) implementation of resident medical care policies;
(2) the coordination of physician services and medical care in the facility;
(3) coordinating the review, prior to granting or renewing professional privileges or association, of any physician, dentist or podiatrist as required by Public Health Law Section 2805-k. Hospital-based nursing homes may utilize the hospital's medical staff membership review system to facilitate this review. Such review shall be coordinated with the activities of the Quality Assessment and Assurance Committee established in section 415.27 of this Part and shall:
(i) provide for the maintenance and continuous collection of information concerning the facility's experience with negative health care outcomes and incidents injurious to residents, resident grievances, professional liability premiums, settlements, awards, costs incurred by the facility for resident injury prevention and safety improvement activities;
(ii) periodically reconsider the credentials, physical and mental capacity and competency in
delivery of health care services of all physicians, dentists or podiatrists who are employed or associated with the facility;
(iii) gather information concerning individual physicians, dentists and podiatrists within the individual physician's, dentist's or podiatrist's personnel file maintained by the facility; and
(iv) prior to renewal of privileges of physicians dentists, or podiatrists, solicit and consider information provided by the Resident Council about each such practitioner; and
(4) assuring that each resident's responsible physician attends to the resident's medical needs, participates in care planning, follows the schedule of visits maintained in accordance with subdivision (b) of this section, and complies with facility policies. When a physician fails to provide services which meet generally accepted standards of practice, the medical director shall take necessary corrective measures and refer the matter to the Office of Professional Medical Conduct of the Department as appropriate.

Section 415.18 – Pharmacy services
(a) ... The facility shall be licensed under Article 33 of the Public Health Law and Part 80 of this Title.
...(c) Drug regimen review. (1) The drug regimen of each resident shall be reviewed at least once a month by a registered pharmacist.
(2) The pharmacist shall report any irregularities to the attending physician and the director of nursing, and these reports shall be acted upon promptly. The findings and corrective actions shall be regularly reviewed by the quality assessment and assurance committee established pursuant to section 415.27 of this Part.

Section 415.20-Laboratory and blood bank.
(a) Approved laboratory or blood bank. The facility shall provide for blood and laboratory services to meet the needs of its residents, pursuant to orders by authorized licensed practitioners, and shall be responsible for the quality and timeliness of such services:

(1) by promptly performing such services as the facility is licensed to provide directly under Subparts 58-1 and 58-2 of this Title, as appropriate, and, is certified to perform by the Medicare program; and
(2) by promptly arranging for an approved blood bank or laboratory service to perform such services as the facility may require, but not provide. Such services shall be obtained from entities approved under Subparts 58-1 and 58-2 of this Title, as appropriate, which are certified by the Medicare program to provide such services.
(b) Transportation. The facility shall assist the resident in making transportation arrangements to and from the source of laboratory or blood bank service, if the resident needs assistance.
(c) Records. The facility shall ensure that authenticated and dated reports of clinical laboratory and blood bank services are placed in the resident’s clinical record.

Section 415.21 Radiology and other diagnostic services.
(a) The facility shall provide or obtain radiology and other diagnostic services to meet the needs of its residents pursuant to an order by an appropriate practitioner. The facility shall be responsible for the quality and timeliness of such services.
(1) The facility shall promptly perform such services as the facility is licensed to provide directly under Part 16 of this Title. The services shall be provided in accordance with generally recognized standards of care and services.
(i) The diagnostic radiology and other diagnostic services shall be free from hazards for residents
and staff.

(ii) Personnel. A qualified full-time, part-time, or consulting physician, who is qualified by education and experience in radiology, shall supervise the ionizing radiology services and shall interpret those tests that are determined by the governing body, and the medical director, to require such physician’s specialized knowledge. Upon recommendation of such qualified physician, the medical director shall designate the practitioners and staff, in accordance with Part 89 of this Title, who may use the radiologic equipment, administer procedures and interpret test results.

(iii) Records. Records of diagnostic radiologic services shall be maintained.

(a) The practitioner who performs radiology services shall prepare and authenticate reports of his or her interpretations.

(b) The facility shall maintain for at least six years or three years after a resident who is a minor reaches the age of majority (18) films, scans, and other image records which have not been incorporated into the resident’s clinical record.

(2) The facility shall promptly arrange for ordered radiology and other diagnostic services which the facility is not licensed to provide. Such services shall be obtained from entities approved under Part 16 of this Title and which are certified by the Medicare program.

(b) The facility shall:

(1) promptly notify the ordering practitioner of the results of radiologic and other diagnostic services.

(2) assist the resident, if needed, with transportation arrangements to and from the source of services.

(3) file in the resident’s clinical record authenticated and dated reports of diagnostic radiology and other diagnostic services.

Section 415.22- Clinical records.

(a) The facility shall maintain clinical records for each resident in accordance with accepted professional standards and practice. The records shall be:

(1) complete;

(2) accurately documented;

(3) readily accessible; and

(4) systematically organized.

(b) Clinical records shall be retained for six years from the date of discharge or death or for residents who are minors, for three years after the resident reaches the age of majority (18).

(c) The facility shall safeguard clinical record information against loss, destruction, or unauthorized use;

(d) The facility shall keep confidential all information contained in the resident’s records, regardless of the form or storage method of the records, except when release is required by:

(1) transfer to another health care institution;

(2) law; or

(3) the resident.

(e) The facility shall permit each resident to inspect his or her records and obtain copies of such records in accordance with the provisions of subparagraph (iv) of paragraph (1) of subdivision (c) of section 415.3 of this Part.

(f) The clinical record shall contain:

(1) sufficient information to identify the resident;

(2) a record of the resident’s comprehensive assessments;

(3) the plan of care and services provided;

(4) the results of any preadmission screening conducted by the State;

(5) progress notes by all practitioners and professional staff caring for the resident; and
(6) reports of all diagnostic tests and results of treatments and procedures ordered for the resident.

Section 415.26 Organization and administration.

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.

(a) Administration.

(1) No nursing home shall operate unless it is under the supervision of an administrator who holds a currently valid nursing home administrator's license and registration, or temporary license, issued pursuant to Article 28-D of the Public Health Law. The administrator shall set an example for all staff members, consultants and others affiliated with the facility which recognizes that the institution exists to serve the interests of and the needs of the residents, which emphasizes the importance of a resident’s right to independence regarding all aspects of institutional life and encourages residents to participate together with staff in resolving conflicts and problems which frequently arise in a group residential setting. The administrator shall:

(i) be readily accessible to residents and staff for consultations;
(ii) involve the Resident Council in addressing the need to seek compromises between conflicting resident and staff interests and needs;
(iii) encourage professional and respectful behavior on the part of the staff toward residents; and
(iv) seek to involve staff at all levels in developing and implementing an interdisciplinary approach to resident services, in order to better serve the individual and group interests of residents.

(2) Administrator coverage.

(i) Nursing homes with 41 or more beds shall employ a full-time administrator.
(ii) Nursing homes with 40 beds or fewer shall designate in writing a licensed and registered administrator for an amount of time in accordance with the following:
(a) In no event shall an administrator be employed for fewer than twelve hours per week; such hours to be served during normal business hours of 7:00 a.m. to 5:30 p.m. Monday thru Friday.
(b) The Department may require employment greater than 12 hours per week based on:
(1) the size of the facility;
(2) the history and nature of any operating deficiencies; and
(3) any investigations or other problems brought to the attention of the Commissioner.
(iii) The governing body shall designate in writing a staff member to serve as alternate administrator for all hours that the administrator of record is absent from duty to ensure that all shifts, 24 hours-a-day, 7 days-a-week are covered by administrative supervision.
(iv) No person whose license to practice nursing home administration has been forfeited, revoked, annulled, or placed on inactive status or suspended shall be involved in the administration and direction of a nursing home either on a full-time, part-time or acting basis.

(3) When, by reason of death, resignation, incapacity, illness or other reason, the nursing home does not have a licensed and currently registered nursing home administrator capable of carrying out such functions, the governing body shall immediately notify the commissioner, assign such duties to a named individual acceptable to the commissioner in accordance with that individual’s training, experience and prior record of work performance at a nursing home, and provide for supervision of the nursing home by a licensed and currently registered nursing home administrator in accordance with the following:

(i) A plan for the supervision of the unlicensed acting nursing home administrator shall be submitted to the Department which provides that:
(a) The nursing home is making a bonafide effort to recruit a licensed and registered nursing home administrator;
(b) There is no other licensed and registered person in the facility available, capable and willing to
accept the position;
(c) The supervising administrator will provide a minimum of four hours of on-site supervision weekly during normal business hours unless the Department determines that more hours are necessary based on:
(1) the quality of care in the facility;
(2) the qualifications of the unlicensed acting administrator; and
(3) the on-site presence of qualified administrative staff.
(ii) the unlicensed acting administrator shall serve for a maximum of three months except that the nursing home may request and receive from the Department one additional three month extension upon a finding that the unlicensed acting administrator has performed his or her duties effectively and that the quality of resident care and services has not deteriorated.
(4) In addition to the other responsibilities delineated herein, the administrator shall:
(i) report to the governing body at regular intervals;
(ii) implement the policies of the nursing home by making operating decisions, including but not limited to general supervision, employing and discharging of staff, programming and, where appropriate, integrating the services of the nursing home with the community’s health resources;
(iii) assure that the residents’ council:
(a) meets as often as the membership deems necessary;
(b) is directed by the residents and is chaired by a resident or another person elected by the membership; and
(c) may meet with any member of the supervisory staff provided that reasonable notice of the council’s request is given to such staff;
(iv) agree to assign a staff person in consultation with the Resident Council, acceptable to such Council, to act as advisor or coordinator, to facilitate the Council in holding regular meetings and to assist members in carrying out Council activities, including obtaining necessary information to become informed of facility policies, exploring the solutions to problems and conveying to the administrator issues and suggestions which require administrative action;
(v) assure that any complaints, problems or issues reported by the council to the designated staff person or administration are addressed; and that a written report addressing the problem, issues or suggestions is sent to the council when requested; and
(vi) assure that except in extraordinary circumstances such as health emergencies, the facility has visiting hours encompassing at least 10 hours within a 24 hour period, including at least two meal periods, and that a statement as to the visiting hours is posted in a public place such as the main lobby or the residents’ dining room.
(5) The facility shall provide such secretarial, accounting, receptionist and other supportive personnel, and such office equipment and supplies, as are needed for satisfactory administration of the nursing home.
(b) Governing Body. The nursing home shall have a governing body, or designated persons functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operation of the facility. The governing body shall:
(1) appoint an administrator who is eligible for such appointment and who functions in accordance with subdivision (a) of this section;
(2) determine and establish written policies consistent with the stated purposes of the facility, the program of services provided, its physical structure and equipment, the number and qualifications of staff members, and their job classifications and descriptions;
(3) be responsible for the operation of the facility;
(4) be responsible for providing or arranging services for residents as required in this Subchapter;
(5) employ or otherwise arrange for the services of such personnel as are required in this Subchapter;
(6) assure that a method is implemented to promptly deal with complaints and recommendations
made by residents or designated representatives which:
(i) enables complaints and recommendations to be made orally or put in writing;

(ii) brings complaints and recommendations promptly to the attention of the administration for
review and resolution;
(iii) responds to all residents or designated representatives as to action taken or the reason why no
action was taken, as soon as possible and except under extraordinary circumstances such as health
or administrative emergencies, within 21 days after the complaint or recommendation was made;
and
(iv) provides for review and evaluation of the effectiveness of the complaint process;

(7) assure that the complaint and recommendation method is made known to:
(i) all residents upon admission and their designated representatives; and
(ii) all nursing, social service and other appropriate personnel, in order to assist residents who
want to make a complaint or recommendation;

(8) assure that the facility establishes a residents' council;

(9) be responsible for compliance with all provisions of this Subchapter; (10)(i) post in a public
place a notice supplied by the New York State Department of Health containing:
(a) the time and date the facility shall assess residents to determine case mix intensity, pursuant to
section 86-2.30 of this Title; and
(b) department auditors will be in the facility to review the data submitted by the facility in the
patient review instrument for the current assessment period; and
(c) a statement that each resident and/or the resident's designated representative has the right to
know the specific assignment to a patient classification category; and
(d) the person within the facility to contact for this information.

(ii) notify the resident and/or the resident's designated representative according to the following
procedures, that a process exists for reimbursement purposes to assign residents to a patient
classification category as contained in Appendix 13-A of this Title entitled "Patient Categories and
Case Mix Indices Under Resource Utilization Group (RUG-II) Classification System":
(a) upon admission to the facility, at the initial resident assessment required pursuant to section
415.11 of this Part a designated professional staff member shall inform the resident and/or
resident's designated representative of this process and that further information on the
classification system is available upon request; and
(b) the process by which residents are classified for reimbursement purposes into the RUG-II
classification system shall be, at least annually, an item for discussion on the agenda at a resident
council as required by paragraph (8) of this subdivision;

(11) furnish for the staff telephone services consisting of at least one operational, unlocked,
noncoin telephone installation on each floor of the facility, for the use of professional staff in the
performance of their duties;

(12) permit activities related only to the operation of the facility except that the operator, subject to
prior written approval of the commissioner, may, where such arrangement will not result in any
diminishment of resident care or services, or adversely affect the cost of delivering nursing home
services;

(i) enter into a written contract for the purpose of leasing unneeded space and equipment on the
premises of the facility to a health care practitioner licensed by the State Education Department, or
to a provider licensed under the Public Health Law, Mental Hygiene Law, or Social Services Law to
provide health care services to residents or nonresidents, where such arrangements will also
promote needed health care services for residents; or

(ii) prepare food for consumption off-site as part of a nutrition program or make available service
of meals, nutrition education, and nutrition counseling for nonresidents on-site;

(13) notify the department immediately of anticipated or actual termination of any service vital to
the continued safe operation of the facility or to the health and safety of its residents and personnel, including but not limited to the anticipated or actual termination of telephone, electric, gas, fuel, water, heat, air conditioning, rodent or pest control, contract food, or contract laundry services, and the services of key full- or part-time personnel such as the administrator, director of nurses, consultant physician, consultant dietitian or others; and apply remedial measures promptly and notify the department immediately regarding the nature of results of such measures; 

(14) transfer residents to another appropriate facility only after consultation, as appropriate, with the resident, his or her physician, and designated representative except in an emergency situation, in which case the operator shall notify the physician and designated representative immediately and record the reason for the transfer; and

(15) ensure that members of the governing body make themselves available to hold meetings with representatives of the Resident Council at least 3 times a year to discuss matters contained in a jointly developed agenda.

(c) Staff qualifications and personnel management. The nursing home shall employ on a full time, part time or consultant basis a sufficient number of professional staff members who are educated, oriented and qualified to carry out the provisions of this Part and to assure the health, safety, proper care and treatment of the residents.

(1) With regard to personnel management, the facility shall:

(i) provide personnel in accordance with paragraph (2) of this subdivision, with a planned orientation to nursing home operation and resident care and such on-the-job training as is necessary for each properly to perform his or her individual job assignments:

(ii) have on file and furnish each employee with a copy of written policies governing conditions of employment, including the job description for his or her position;

(iii) assure that each part-time, full-time or private duty employee, consultant, volunteer, or other person serving in any other capacity in the nursing home shall:

(a) receive an orientation which shall include but not be limited to the following:

(1) a review and explanation of relevant personnel policies and procedures, including his or her job description;

(2) an orientation to the facility's organization, its long-term care philosophy, the roles of all personnel in the organization;

(3) an orientation to the physical plant, infection control, quality assessment and assurance and the environmental aspects of the facility;

(4) the facility safety program, including fire safety, accident prevention, resident emergency procedures, and facility operation during disruption of services;

(5) resident's rights; and

(6) resident abuse and neglect reporting requirements as set forth in section 2803-d of the Public Health Law.

(b) be on duty, alert and appropriately dressed during the entire tour of duty, part-time assignment, consultation visit, volunteer work, private duty or other employment in the nursing home;

(c) maintain personal cleanliness and hygiene; and

(d) conduct himself or herself in a professionally acceptable manner with all residents, employees and guests, including refraining from abusive, immoral or other unacceptable conduct, behavior or language and demonstrating respect for each resident's dignity in full recognition of his or her individuality;

(iv) assign each employee duties consistent with his or her job description and with his or her level of competence, education, preparation and experience...

(2) For all personnel, the facility shall provide planned orientation and staff development programs, including but not limited to:

(i) an orientation for each new employee prior to or within one week of employment;

(ii) on-the-job skill training as is necessary for each to properly perform his or her job;
(iii) continuous staff development programs to increase knowledge, skills and understanding of problems and ways of dealing with problems associated with residents needing nursing home care including knowledge of the Quality Assurance and Assessment program in the facility; and
(iv) maintenance of records of these activities, including the methods used and an evaluation on their effectiveness.
(3) For all personnel who provide services in the nursing home, for whom licensure, registration or certification is required, the facility shall obtain and retain verification of license number or certification with expiration date of same.
(4) For all services and departments, the facility shall maintain:
(i) an organization chart;
(ii) a master plan for staffing; and
(iii) policies and procedure manuals.
(4) Nurse aide certification and training.
(1) Definitions. The following terms used in this section shall be defined as follows:
(i) Nurse aide training program coordinator shall mean a person who is assigned the administrative responsibility and accountability for the RHCF nurse aide training program. The program coordinator (PC) shall be a registered professional nurse with at least two years experience in a nursing home and demonstrated competency to teach adult learners as evidenced and documented by at least one of the following:
(a) completion of a professionally recognized course in teaching adult learners or New York State Education Department teacher certification;
(b) two years of experience teaching nursing or nursing related programs to adults in an academic setting approved by the State Education Department or other recognized accrediting body; or
(c) two years of experience teaching nurse aides in a residential health care facility.
(ii) Instructor shall mean the person who is assigned the educational responsibility for the nursing home nurse aide training program. This person shall have the day to day responsibility for implementing the facility's training program in accordance with the facility’s policies and procedures and State and federal requirements. The instructor shall be a registered professional nurse with at least one year of experience in a nursing home who has demonstrated ability to teach adult learners as evidenced and documented by at least one of the following:
(a) completion of a professionally recognized course in teaching adult learners or New York State Education Department teacher certification;
(b) two years of experience teaching nursing or nursing related programs to adults in an academic setting approved by the State Education Department or other recognized accrediting body; or
(c) two years of experience teaching nurse aides in a residential health care facility.
(iii) Clinical skills evaluator or Nurse Aide Evaluator shall mean a person who administers part or all of the state authorized residential health care facility nurse aide competency examinations. This person shall be a registered professional nurse who has one year of nursing home experience and has successfully completed the State approved clinical evaluator or nurse aide evaluator program. Effective July 1, 1992, only individuals possessing nurse aide evaluator designation may administer the State RHCF nurse aide competency examinations.
(2) Nurse aide certification. In order to obtain nurse aide certification and be listed in the New York State RHCF Nurse Aide Registry as described in Section 415.31 of this Part, an individual must successfully complete a State approved residential health care facility nurse aide training program as described in paragraph (2) of this subdivision and pass the State authorized clinical skills competency examination and written or oral competency examination as described in paragraph (3) of this subdivision.
(i) The residential health care facility nurse aide training program shall be reviewed and approved
by the Department prior to implementation as to the requirements contained in this section.
(ii) The facility shall be notified by the Department within 90 days of the submission of the program whether the program has been approved, disapproved or additional information is required.
(iii) Program approval will be granted for a term not to exceed 2 years and is subject to on-site review for the purpose of determining compliance with applicable State and federal requirements during the course of all facility surveys.
(iv) Approved programs must notify the Department, in the form and manner described by the Department, and may be subject to review, whenever substantive changes are made to the program.
(v) Approval to provide training by or in the facility will be withdrawn by the Department for up to two years each time the facility:
(a) fails to permit unannounced visits;
(b) fails to meet all of the applicable federal and State requirements for nurse aide training and competency evaluation;
(c) is subjected to an extended or partial extended survey;
(d) is assessed a civil monetary penalty of $5,000.00 or more;
(e) has a temporary manager, receiver or caretaker appointed;
(f) is subjected to a ban on admissions or a denial of payment under either the Title XVIII or Title XIX programs.
(3) Nurse aide training program. The training program shall be supervised by a Program Coordinator who meets the definition specified in subparagraph (i) of paragraph (1) of this subdivision and conducted by the Primary Instructor who meets the definition specified in subparagraph (ii) of paragraph (1) of this subdivision. The program coordinator may be the director of nursing services provided that the director of nursing services does not perform the actual training. Additional health care personnel may supplement the instructor to provide specialized training provided that such supplemental trainers have at least one year of experience in their field of expertise.
(i) The nurse aide training program shall include classroom and clinical training which enhances both skills and knowledge and, when combined, shall be of at least 100 hours’ duration. The clinical training shall as a minimum include at least 30 hours of supervised practical experience in a nursing home. The nurse aide training program shall include stated goals, objectives, and measurable performance criteria specific to the curriculum subject material, the resident population and the purpose of the facility, and shall be consistent with the curriculum outlined below. This curriculum shall be taught at a fourth (4th) to sixth (6th) grade English literacy level. Facilities with special populations shall supplement the curriculum to address the needs of such populations accordingly. The curriculum shall otherwise include but not be limited to the following:
(a) Normal aging:
(1) anatomical changes;
(2) physiological changes;
(3) psychosocial aspects:
(i) role changes;
(ii) cultural changes;
(iii) spiritual needs; and
(iv) psychological and cognitive changes; and
(4) concept of wellness and rehabilitation.
(b) Psychological needs of the resident:
(1) adjustment to institutional living;
(2) working with resident and family during admission/transfer/discharge;
(3) residents’ rights:
(i) respect and dignity;
(ii) confidentiality;
(iii) privacy; and
(iv) self-determination; and
(4) sexual adjustments in relation to illness, physical handicaps and institutional living.
(c) Communication in health care facilities:
(1) relating to residents, families, visitors, and staff;
(2) methods of communication in overcoming the barriers of language and cultural differences; and
(3) communicating with residents who have sensory loss, memory, cognitive or perceptual impairment.
(d) Personal care needs:
(1) care of the skin, mouth, hair, ears and nails; and
(2) dressing and grooming.
(e) Resident unit and equipment:
(1) bed-making; and
(2) care of personal belongings such as clothing, dentures, eyeglasses, hearing aids and prostheses.
(f) Nutritional needs:
(1) basic nutritional requirements for foods and fluids;
(2) special diets;
(3) meal services;
(4) assistance with eating:
  (i) use of adaptive equipment; and
  (ii) feeding the resident who needs assistance; and
(5) measuring and recording fluid and food intake.
(g) Elimination needs:
(1) physiology of bowel and bladder continence:
  (i) maintaining bowel regularity; and
  (ii) physical, psychosocial and environmental causes of incontinence;
(2) nursing care for the resident with urinary and/or bowel incontinence:
  (i) toileting programs;
  (ii) care of urinary drainage equipment;
  (iii) use of protective clothing; and
  (iv) enemas;
(3) measuring urinary output;
(4) bowel and bladder training programs; and
(5) care of ostomies, including but not limited to colostomy and ileostomy.
(h) Mobility needs:
(1) effects of immobility; and
(2) ambulation and transfer techniques:
  (i) use of assistive devices;
  (ii) use of wheelchairs; and
  (iii) use of mechanical lifters.
(i) Sleep and rest needs:
(1) activity, exercise and rest; and
(2) sleep patterns and disturbances.
(j) Nursing care programs for the prevention of contractures and decubitus ulcers (pressure sores):
(1) body alignment, turning and positioning;
(2) individualized exercise programs;
(3) special skin care procedures;
(4) use of special aids; and
(5) maintenance of individualized range of motion.
(k) Observing and reporting signs and symptoms of disability and illness:
   (1) physical signs and symptoms:
      (i) determination of temperature, pulse, respiration;
      (ii) testing urine;
      (iii) measuring height and weight;
   (2) behavioral changes; and
   (3) recognizing and reporting abnormal signs and symptoms of common diseases and conditions, including but not limited to:
      (i) shortness of breath;
      (ii) rapid respirations;
      (iii) coughs;
      (iv) chills;
   (v) pain and pains in chest or abdomen;
   (vi) blue color to lips;
   (vii) nausea;
   (viii) vomiting;
   (ix) drowsiness;
   (x) excessive thirst;
   (xi) sweating;
   (xii) pus;
   (xiii) blood or sediment in urine;
   (xiv) difficult or painful urination;
   (xv) foul-smelling or concentrated urine; and
   (xvi) urinary frequency.
(l) Infection control:
   (1) medical asepsis;
   (2) handwashing; and
   (3) care of residents in isolation.
(m) Resident safety:
   (1) environmental hazards;
   (2) smoking;
   (3) oxygen safety; and
   (4) use of restraints.
(n) Nursing care needs of resident with special needs due to medical conditions such as but not limited to:
   (1) stroke;
   (2) respiratory problems;
   (3) seizure disorders;
   (4) cardiovascular disorders;
   (5) sensory loss and deficits;
   (6) pain management;
   (7) mentally impairing conditions:
      (i) associated behavior disorders; and
      (ii) characteristics of residents such as wandering, agitation, physical and verbal abuse, sleep disorders, and appetite changes.
(o) Mental health and social service needs:
   (1) self care according to the resident’s capabilities;
   (2) modifying behavior in response to the behavior of others;
   (3) developmental tasks associated with the aging process; and
   (4) utilizing the resident’s family as a source of emotional support.
(p) Resident rights;
(q) Care of the dying resident including care of the body and personal effects after death; and
(r) Care of cognitively impaired residents:
(1) techniques for addressing the unique needs and behaviors of individuals with dementia;
(2) communicating with cognitively impaired residents;
(3) understanding the behaviors of cognitively impaired residents;
(4) appropriate responses to the behaviors of cognitively impaired residents; and
(5) methods of reducing the effects of cognitive impairments.
(ii) The training program shall maintain a performance record of the major duties and skills taught each nurse aide trainee. At the end of the training program, a copy of the performance record shall be given to the trainee and the trainee’s employer, if different from the training facility. As a minimum, the performance record shall include the following:
(a) a listing of the measurable performance criteria for each duty and skill expected to be learned in the program;
(b) an entry showing satisfactory or unsatisfactory performance;
(c) the date of the performance; and
(d) the name of the instructor supervising the performance.
(4) Nurse aide competency evaluation. Subsequent to the completion of the nurse aide training program including the satisfactory performance of all duties and skills listed in the performance record, the facility shall arrange for the nurse aide trainee to take and pass the State authorized residential health care facility nurse aide clinical skills competency examination and the written or oral competency examination as follows:
(i) The clinical skills competency examination shall be given by a licensed registered nurse, who meets the definition of the Clinical Skills Evaluator until June 30, 1992 and effective July 1, 1992 the Nurse Aide Evaluator specified in subparagraph (iii) of paragraph (1) of this subdivision and who is not otherwise associated with the facility employing and/or training the nurse aide trainee. The trainee shall have three opportunities to pass the clinical skills examination; and
(ii) After passing the clinical skills examination, the trainee shall have three opportunities to pass the written or oral competency examination. The nurse aide trainee will obtain certification and be listed in the Registry upon passing the written or oral examination.
(5) The operator shall not charge a fee to any individual for the costs of training, including textbooks and materials, or for the costs of the competency examinations.
(i) If within 12 months of completing a State approved RHCF nurse aide training program, an individual is employed or is given an offer of employment by a facility, the facility must arrange, in a form and manner indicated by the Department, for the individual to receive reimbursement from the State for the amount of the costs, up to the CAP established by the State, incurred by the individual for the training. Such reimbursement shall be on a pro rata basis based on the length of subsequent employment as an RHCF nurse aide in the RHCF.
(ii) If within 12 months of completing the State approved RHCF nurse aide competency evaluation program, an individual is employed or is given an offer of employment by a facility, the facility must arrange, in a form and manner indicated by the Department, for the individual to receive reimbursement from the State for the acceptable amount of the costs, up to the CAP established by the State, incurred by the individual for the examinations. Such reimbursement shall be on a pro rata basis based on the length of subsequent employment as an RHCF nurse aide in the RHCF.
(6) Nurse aide recertification. The certified nurse aide shall be recertified every two years no later than the last day of the month in which certification was received. To obtain recertification the certified nurse aide shall demonstrate in the form indicated by the Department that he/she has worked at least 7 hours for compensation as a health care nurse aide during the previous 24 month period. The operator shall implement nurse aide recertification in accordance with the following:
(i) The required documentation shall be provided in the form indicated by the Department to each
nurse aide who either currently works for or last worked for compensation as a nurse aide in the facility;

(ii) A fee shall not be charged by the operator to any nurse aide for any cost associated with recertification;
(iii) The recertification fee for each nurse aide who either currently works for or last worked for compensation as a nurse aide in the facility shall be paid by the operator except that the nurse aide staffing agency or employment organization which currently employs the nurse aide may pay this fee; and
(iv) After any period of 24 consecutive months during which the certified nurse aide did not provide nurse aide care for compensation in a residential health care facility, such nurse aide shall be required to requalify as specified in the following subparagraphs (a) or (b) to be listed in the New York State RHCF Nurse Aide Registry:
(a) Nurse aides who, on or after July 1, 1989, successfully completed a State approved nurse aide training program in accordance with applicable federal and State requirements, must pass the State authorized residential health care facility nurse aide clinical skills competency examination and the written or oral competency examination;
(b) All other nurse aides must successfully complete a State approved nurse aide training program and pass the State authorized residential health care facility nurse aide clinical skills competency examination and the written or oral competency examination.

(7) The operator shall complete a performance review of each nurse aide at least once every 12 months.

(8) The operator shall ensure that the certified nurse aide regularly attends inservice education programs provided for all personnel and that the programs shall include the following:
(i) A portion of each individual’s annual inservice education as required by subparagraph (iv) of this paragraph shall be based upon the outcome of the individual’s annual performance review as specified in paragraph (7) of this section, and address the areas of weakness in the individual’s performance;
(ii) Inservice education must also address the special needs of the residents in the facility, including the care of the cognitively impaired;
(iii) Written records shall be maintained which indicate the content of and attendance at each inservice training program and the outcomes of the performance review; and
(iv) Each certified nurse aide shall attend and be compensated for inservice education sufficient to ensure the continuing competence of the nurse aide of not less than six hours of inservice education in every six month period.

(e) Use of outside resources. If the nursing home does not employ a qualified professional person to furnish a specific service to be provided by the facility, the nursing home shall have that service furnished to residents by a qualified person or agency outside the facility in accordance with the following:
(1) The operator shall enter into written agreement with the outside resource which shall comply with the provisions of this section and section 400.4 of this Title and shall:
(i) specify that the operator retains professional and administrative responsibility for obtaining services that meet professional standards and principles that apply to professionals providing services in such a facility;
(ii) require that such services are provided on a timely basis;
(iii) set forth the responsibilities, function, objectives and terms of the agreement, including financial arrangements and charges of each such outside resource; and
(iv) be signed by an authorized representative of the facility and the person or the agency providing
the service; and
(2) The outside resource, when acting as a consultant, shall apprise the administrator of
recommendations, plans for implementation and continuing assessment in his or her areas of
responsibility through dated, signed reports which shall be retained by the administrator for
follow-up action and evaluation of performance.

(f) Disaster and Emergency Preparedness.
(1) The nursing home shall have a written plan, updated at least twice a year, with procedures to be
followed for the proper care of residents and personnel, and for the reception and treatment of
mass casualty victims, in the event of an internal or external emergency resulting from natural or
man-made causes including but not limited to earthquake, severe weather, flood, bomb threat,
chemical spills, strike, interruption of utility services, nuclear accidents, fire or similar occurrences.
(2) The nursing home shall develop and implement written policies concerning missing residents.
(3) The nursing home shall:
   (i) train all employees in emergency procedures when they begin to work for the facility;
   (ii) periodically, but at least annually review the written plan with existing staff; and
   (iii) carry out staff drills in accordance with the written plan at least twice a year.

(g) Transfer Agreements. Nursing homes shall have in effect a written transfer agreement with one
or more general hospitals as required to meet the medical care needs of residents. Such transfer
agreements shall:
   (1) comply with the provisions of section 400.9 of this Title;
   (2) ensure that residents are admitted to the general hospital on a timely basis when such transfer
is medically appropriate as determined by the attending physician or other approved practitioner;
and
   (3) provide for the transfer of medical and other information needed for care and treatment of
residents, when the transferring facility deems it appropriate.

Section 415.27 Quality assessment & assurance.
The facility shall establish and maintain a coordinated quality assessment and assurance program
which integrates the review activities of all nursing home programs and services to enhance the
quality of life and resident care and treatment.
(a) Facility-wide quality assurance. Quality assurance shall be the responsibility of all staff, at every
level, at all times. Supervisory personnel alone cannot ensure quality of care and services. Such
quality must be a part of each individual's approach to his or her daily responsibilities.
(b) Quality assessment and assurance committee. The facility shall maintain a quality assessment
and assurance committee consisting of at least the following:
   (1) the administrator or his or her designee;
   (2) the director of nursing services;
   (3) a physician designated by the facility;
   (4) at least one member of the governing body who is not otherwise affiliated with the nursing
home in an employment or contractual capacity; and
   (5) at least 3 other members of the facility’s staff.
(c) Committee functions. The quality assessment and assurance committee shall:
   (1) meet at least quarterly to identify issues with respect to which quality assessment and
assurance activities are necessary;
   (2) have a written plan for the quality assessment and assurance program which describes the
program's objectives, organization, responsibilities of all participants, scope of the program and
procedures for overseeing the effectiveness of monitoring, assessing and problem-solving activities.
Such plan shall also provide for the development and implementation of quality improvement initiatives designed to advance the quality of life, care and services in the facility.

(3) define methods for identification and selection of clinical and administrative problems to be reviewed. The process shall include but not be limited to:

(i) the establishment of review criteria developed in accordance with current standards of professional practice for monitoring and assessing resident care and clinical performance;
(ii) regularly scheduled reviews of clinical records, resident complaints and suggestions, reported incidents and other documents pertinent to problem identification;
(iii) consultation on at least a quarterly basis with the Resident Council to seek recommendations on quality improvements;
(iv) documentation of all quality assessment and assurance activities, including but not limited to the findings, recommendations and actions taken to resolve identified problems; and
(v) the timely implementation of corrective actions and periodic assessments of the results of such actions.

(4) ensure that the outcomes of quality assurance reviews are shared with appropriate staff to be used for the revision or development of facility policies and practices and in granting or renewing staff privileges, as appropriate;

(5) facilitate participation in the program by administrative staff and health-care professionals representing each professional service provided;

(6) report its activities, findings and recommendations to the governing body as often as necessary, but no less often than 4 times a year; and

(7) participate with the medical director in implementing Public Health Law 2805-k.

Section 415.28-Disclosure of ownership. The nursing home shall make available pertinent information concerning the identity of the owner and/or governing body and in addition shall:

(a) comply with the provisions of subdivision (b) of section 401.3 of this Title regarding any proposed changes in the name of a business, corporation, partnership or governmental subdivision and any proposed initial use of, or change in, an assumed name of a business corporation, not-for-profit corporation, partnership, governmental subdivision or sole proprietor, operating a medical facility or fundraiser under Article 28 of the Public Health Law, or any proposed substitution of the individual or individuals constituting the governing body or owner of a proprietary medical facility or any proposed change in the rights, privileges or obligations of any such person;
(b) comply with the provisions of section 600.11 of this Title regarding Name Changes of Operators and Medical Facilities;
(c) provide written notice to the Department, at the time of change, if a change occurs in the nursing home's administrator or director of nursing; and
(d) ensure that the notice provided in accordance with subdivision (c) of this section includes the identity of each new individual.

Section 415.30-General records.
The nursing home shall maintain information necessary to permit the production of the following records immediately upon request and any other records required by the provisions of this Chapter:

(a) a chronological listing of residents admitted, by name, with identifying information and the place from which the resident is admitted or transferred;
(b) a chronological listing of residents discharged, by name, including the reason for discharge, adequate identifying information and the place to which the resident is discharged or transferred;
(c) a daily census record consisting of a summary report of the daily resident census with cumulative figures for each month and each year;
(d) a resident personal nonmedical record consisting of an appropriate record for each resident, including identification of next of kin, family and sponsor, all details of the referral and admission and nonmedical correspondence and papers concerning the resident;

(e) a general fiscal record for each resident, including copies of all agreements or contracts, account records, and a current inventory of personal property held in safekeeping;

(f) an accident and incident record which shall include a clear description of every accident and any other incident involving behavior of a resident or staff member that poses a threat to a resident or staff member, the resident’s version of the accident or incident unless the resident objects or is unable to give a report due to his/her medical condition, names of individuals involved and a description of medical and other services provided, by whom such are provided, and the steps taken to prevent recurrence, with a copy of the resident’s version as reported given to the resident and/or the resident’s designated representative;

(g) personnel records for each employee, including the administrator, containing all available pre-employment information, orientation and full in-service record;

(h) personnel policies, including statements of all policies affecting personnel and a job description for each staff position;

(i) financial records which identify all income by source and describe all expenditures by category;

(j) records for nursing service administration, including:
   (1) a nursing service organization chart;
   (2) a master plan for staffing; and
   (3) a nursing service policies and procedures manual;

(k) records for the dietary service, including:
   (1) a plan for organization, management and day-to-day operation;
   (2) a master plan and weekly work schedules for staffing;
   (3) a current diet manual;
   (4) written and dated menus for normal and therapeutic diets, as served; and
   (5) receipted invoices for food and supplies;

(l) records for activities program, including:
   (1) name and qualifications of the activities director;
   (2) a current roster of residents participating in the program as well as a record of resident attendance and participation at each activity for the preceding twelve months; and
   (3) service policies and procedures;

(m) records for each specialized rehabilitative therapy service, including:
   (1) service policies and procedures;
   (2) a statistical summary, including but not limited to the frequency, type and duration of treatments given, number of residents treated and number of residents admitted and discharged from the service; and
   (3) service budgets and equipment inventory;

(n) a record of staff medical policies, including any bylaws, rules and regulations adopted by the nursing home; and

(o) transfer or affiliation agreements consisting of all contracts, agreements, arrangements, understandings, and records of all efforts to establish same with hospitals, nursing homes, home health agencies, and other health institutions, agencies and services regarding the transfer of residents between the nursing home and such institutions or agencies.

Section 415.31-New York State RHCF nurse aide registry.

(a) Content. The New York State RHCF Nurse Aide Registry shall include but not be limited to the following information concerning each certified nurse aide as applicable/appropriate:

(1) full name of nurse aide, including maiden name and/or other surnames used;
(2) address of nurse aide when certified/recertified;
(3) date of birth;
(4) social security number;
(5) name and date of state approved training and competency program(s) successfully completed;
(6) certification number of nurse aide with a descriptive modifier indicating how the nurse aide obtained certification;
(7) most recent recertification date of nurse aide;
(8) final findings of instances of resident abuse, mistreatment or neglect against a nurse aide with date of hearing or finding;
(9) the nursing home employer at the time of certification/recertification and date of employment by that employer;
(10) a record of criminal conviction for resident abuse, mistreatment, neglect or misappropriation of resident property against a nurse aide and the date of conviction; and
(11) a statement by the nurse aide disputing the findings or conviction that may not exceed 150 words, nor contain information which identifies other persons.

Section 415.4 - Resident behavior and facility practices
(a) Physical and Chemical Restraints. The facility and all medical, nursing, and other professional staff shall assure that:
....(4) Policies and procedures regarding the ordering and use of physical restraints and the recording, reporting, monitoring and review and modification thereof are:
(i) incorporated into the inservice education programs of the facility, with changes made in such programs when policies and procedures are modified...
(b) Staff treatment of residents. The nursing home shall develop and implement written policies and procedures that prohibit mistreatment, neglect or abuse of residents and misappropriation of resident property.
(1) The facility shall:
(i) not use, or permit verbal, mental, sexual or physical abuse, including corporal punishment, or involuntary seclusion of residents; and
(ii) not employ individuals who have:
(a) been found guilty of abusing, neglecting or mistreating individuals by a court of law; or
(b) had a finding entered into the New York State Nurse Aide Registry concerning abuse, neglect or mistreatment of residents or misappropriation of their property.

(iii) report any knowledge it has of actions by a court of law against an employee which would indicate unfitness for service as a nurse aide or other facility staff to the New York State Nurse Aide Registry or to appropriate licensing authorities.
(2) The facility shall ensure that alleged violations involving mistreatment, neglect or abuse, including injuries of unknown source, are reported immediately to the administrator of the facility and, when required by law or regulation, to the Department of Health in accordance with Section 2803-d of the Public Health Law and Part 81 of this Title through established procedures.
(3) The facility shall document that all alleged violations are thoroughly investigated and shall prevent further potential abuse while the investigation is in progress.
(4) The results of all investigations shall be reported to the administrator or his or her designated representative or to other officials in accordance with State law and if the alleged violation is verified, effective corrective action shall be taken.

NORTH CAROLINA
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SECTION .2100 - LICENSURE
10A NCAC 13D .2101 APPLICATION REQUIREMENTS
...(b) The application shall contain the following:
...(4) ownership disclosure...

10A NCAC 13D .2102 ISSUANCE OF LICENSE
(a) Only one license shall be issued to each facility. The Department shall issue a license to the licensee of the facility following review of operational policies and procedures and verification of compliance with applicable laws and rules.
(b) Licenses are not transferable.
(c) The bed capacity and services provided in a facility shall be in compliance with G.S. 131E, Article 9 regarding Certificate of Need.
(d) The license shall be posted in a prominent location, accessible to public view, within the licensed premises.

10A NCAC 13D .2104 REQUIREMENTS FOR LICENSURE RENEWAL OR CHANGES
...(b) The facility shall notify the Nursing Home Licensure and Certification Section of the Division of Health Service Regulation in writing and make changes in the licensure application at least 30 days prior to the occurrence of the following:
...(2) a change in the legal identity (licensee) which has ownership responsibility and liability (such information shall be submitted by the proposed new owner)...

SECTION .2200 - GENERAL STANDARDS OF ADMINISTRATION
10A NCAC 13D .2201 ADMINISTRATOR
(a) The facility shall be under the direct management control of an administrator. The administrator shall not serve simultaneously as the director of nursing.
(b) If an administrator is not the sole owner of a facility, his or her authority and responsibility shall be clearly defined in a written agreement or in the facility's governing bylaws.
(c) The administrator shall be responsible for the operation of a facility on a full-time basis.
(d) The administrator shall ensure patient services are provided in accordance with all applicable local, state and federal regulations and codes, and with acceptable standards of practice that apply to professionals providing such services in the facility.
(e) The administrator shall be responsible for developing and implementing policies for the management and operation of the facility.
(f) In the temporary absence of the administrator, a person shall be on-site who is designated to be in charge of the overall facility operation.

10A NCAC 13D .2204 RESPITE CARE
(a) Respite care is not required as a condition of licensure. Facilities providing respite care, however, shall meet the requirements of this Subchapter with the following exceptions: Rules .2205, .2301, and .2501(b) and (c) of this Subchapter.
(b) Facilities providing respite care shall meet the following additional requirements:
   (1) A patient's descriptive record of stay shall include the preadmission or admission assessment, interdisciplinary notes as warranted by episodic events, medication administration records and a summary of the stay upon discharge.
   (2) The facility shall complete a preadmission or admission assessment which allows for the development of a short-term plan of care and is based on the patient's customary routine. The assessment shall address needs, including but not limited to identifying information, customary routines, hearing, vision, cognitive ability, functional limitations, continence, special procedures and treatments, skin conditions, behavior and mood, oral and nutritional status and medication regimen. The plan shall be developed to meet the respite care patient's needs.
   (3) The attending physician of the respite care patient will be notified of any acute changes or acute episode which warrant medical involvement. Medical orders and progress notes shall be written following the physician's visits.

10A NCAC 13D .2206 MEDICAL DIRECTOR
(a) The facility shall designate a physician to serve as medical director.
(b) The medical director shall be responsible for implementation of patient care policies and coordination of medical care in the facility.

10A NCAC 13D .2208 SAFETY
(a) The facility shall have detailed written plans and procedures to meet potential emergencies and disasters, including but not limited to fire, severe weather and missing patients or residents.
(b) The plans and procedures shall be made available upon request to local or regional emergency management offices.
(c) The facility shall provide training for all employees in emergency procedures upon employment and annually.
(d) The facility shall conduct unannounced drills using the emergency procedures.

10A NCAC 13D .2210 REPORTING AND INVESTIGATING ABUSE, NEGLECT OR MISAPPROPRIATION
(a) A facility shall take measures to prevent patient abuse, patient neglect, or misappropriation of patient property, including orientation and instruction of facility staff on patients' rights, and the screening of and requesting of references for all prospective employees.
(b) The administrator shall ensure that the Health Care Personnel Registry Section of the Division of Health Service Regulation is notified within 24 hours of the health care facility becoming aware of all allegations against health care personnel as defined in G.S. 131E-256(a)(1), which includes abuse, neglect, misappropriation of resident property, misappropriation of the property of the facility, diversion of drugs belonging to a health care facility or a resident, fraud against a health care facility or a resident, and injuries of unknown source in accordance with 42 CFR subsection 483.13 which is incorporated by reference.

c) The facility shall investigate allegations of patient abuse, patient neglect, or misappropriation of patient property in accordance with 42 CFR subsection 483.13 which is incorporated by reference, including subsequent amendments, and shall document all relevant information pertaining to such investigation and shall take the necessary steps to prevent further incidents of abuse, neglect or misappropriation of patient property while the investigation is in progress. The Code of Federal Regulations, Title 42, Public Health, Part 430 to the end, revised as of October 1, 2005, Description Item 572-B, may be purchased from the U.S. Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000, by a direct telephone call to the G.P.O. at (866) 512-1800 or online at http://bookstore.gpo.gov/ or accessed electronically at http://ecfr.gpoaccess.gov/.

d) The administrator shall ensure that the report of investigation is printed or typed and postmarked to the Health Care Personnel Registry Section of the Division of Health Service Regulation within five working days of the allegation. The report shall include the date and time of the alleged incident of abuse, neglect or misappropriation of property; the patient’s full name and room number; details of the allegation and any injury; names of the accused and any witnesses; names of the facility staff who investigated the allegation; results of the investigation; and any corrective action that may have been taken by the facility.

10A NCAC 13D .2211 PERSONNEL STANDARDS
(a) The facility shall employ the types and numbers of qualified staff, professional and non-professional, necessary to provide for the health, safety and proper care of patients.
(b) Each employee shall be assigned duties consistent with his or her job description and with his or her level of education and training.
(c) Professional staff shall be licensed, certified or registered in accordance with applicable state laws.
(d) The facility shall provide orientation regarding facility policies and procedures for all staff upon employment.
(e) The facility shall train all staff periodically in accordance with their job duties.
(f) The facility shall maintain an individual personnel record for each employee, including verification of credentials.
(g) The facility shall have a written agreement with any nursing personnel agency providing staff to the facility and shall orient agency staff as to facility policies and procedures.

10A NCAC 13D .2212 QUALITY ASSURANCE COMMITTEE
(a) The administrator shall establish a quality assessment and assurance committee that consists of the director of nursing, a physician designated by the facility, a pharmacist and at least three other staff members.
(b) The committee shall meet at least quarterly.
(c) The committee shall develop and implement appropriate plans of action which will correct identified quality care problems.

2300 Patient and Resident Care Services

10A NCAC 13D .2302 NURSING SERVICES
(a) The facility shall designate a registered nurse to serve as the director of nursing on a full-time basis.

... (d) The director of nursing shall not serve as administrator, assistant administrator or acting administrator during an employment vacancy in the administrator position.

10A NCAC 13D .2304 NURSE AIDES
(a) The facility shall employ or contract individuals as nurse aides in compliance with 42 CFR Part 483 which is incorporated by reference, including subsequent amendments. Copies of the Code of Federal Regulations may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15202-7954 for thirty eight dollars ($38.00) and may be purchased with a credit card by a direct telephone call to the G.P.O. at (202) 512-1800.
(b) The facility shall provide to the Department, upon request, verification of in-service training and of past or present employment of any nurse aide employed by the facility.

SECTION .2400 - MEDICAL RECORDS
10A NCAC 13D .2401 MAINTENANCE OF MEDICAL RECORDS
(a) The facility shall establish a medical records service. It shall be directed, staffed and equipped to ensure:
(1) records are processed, indexed and filed accurately;
(2) records are stored in such a manner as to provide protection from loss, damage or unauthorized use;
(3) records contain sufficient information to identify the patient plus a record of all assessments; plan of care; pre-admission screening, if applicable; records of implementation of plan of care; progress notes; and record of discharge, including a discharge summary signed by the physician; and
(4) records are readily accessible by authorized personnel.
(b) The facility shall ensure that a master patient index is maintained, listing patients alphabetically by name, dates of admission, dates of discharge and case number.
(c) The administrator shall designate an employee who works full-time to be the medical records manager. The manager shall advise, administer, supervise and perform work involved in the development, analysis, maintenance and use of medical records and reports. If that employee is not qualified by training or experience in medical record science, he or she shall receive consultation from a registered records administrator or an accredited medical record technician to ensure compliance with rules contained in this Subchapter. The facility shall provide orientation, on-the-job training and in-service programs for all medical records personnel.

10A NCAC 13D .2402 PRESERVATION OF MEDICAL RECORDS
(a) The manager of medical records shall ensure that medical records, whether original, computer media or microfilm, be kept on file for a minimum of five years following the discharge of an adult patient.
(b) The manager of medical records shall ensure that if the patient is a minor when discharged from the nursing facility, records shall be kept on file until his or her 19th birthday and, then, for five years.
(c) If a facility discontinues operation, the licensee shall make known to the Division of Health Service Regulation where its records are stored. Records are to be stored in a business offering retrieval services for at least 11 years after the closure date.
(d) The manager of medical records may authorize the microfilming of medical records. Microfilming may be done on or off the premises. If done off the premises, the facility shall take precautions to ensure the confidentiality and safekeeping of the records. The original of the microfilmed medical records shall not be destroyed until the manager of medical records has had an opportunity to review the processed film for content.

(e) Nothing in this Subchapter shall be construed to prohibit the use of automation of medical records, provided that all of the provisions in this Rule are met and the medical record is readily available for use in patient care.

(f) All medical records are confidential. Only authorized personnel shall have access to the records. Signed authorization forms concerning approval or disapproval of release of medical information outside the facility shall be a part of each patient's medical record. Representatives of the Department shall be notified at the time of inspection of the name and record number of any patient who has denied medical record access to the Department.

(g) Medical records are the property of the facility, and they shall not be removed from the facility except through a court order. Copies shall be made available for authorized purposes such as insurance claims and physician review.

2500 Physician's Services
10A NCAC 13D .2504 LABORATORY AND RADIOLOGY SERVICES
The facility shall provide or obtain clinical laboratory and radiology services to ensure that each patient's needs are met. Such services shall include the following:
1. provision of laboratory and radiology services within the facility or by contractual agreement;
2. diagnostic testing to be done only in accordance with a medical order;
3. reports to be dated once filed in the patient's medical record;
4. notification of the physician, nurse practitioner or physician assistant regarding findings; and
5. assistance in arranging transportation for the patient when testing must be done other than in the facility.

2600 Pharmacy Services
10A NCAC 13D .2602 PHARMACY PERSONNEL
...(c) The facility shall keep, or be able to make available, a copy of the current license of the pharmacists.

SECTION .3000 - SPECIALLY DESIGNATED UNITS
10A NCAC 13D .3002 QUALITY OF SPECIALIZED REHABILITATION SERVICES
...(b) Services provided through outside resources shall be carried out through, and in accordance with, written agreements.

NORTH DAKOTA
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33-07-03.2-02. Conflict with federal requirements.
If any part of this chapter or chapter 33-07-04.2 is found to conflict with federal requirements, the more stringent shall apply.

33-07-03.2-03. Application for and issuance of license.
...4. In the case where two or more buildings operated under the same management are used in the care of residents, a separate license is required for each building.

5. Each license is valid only in the hands of the entity to whom it is issued and is not subject to sale, assignment, or other transfer, voluntary or involuntary, nor is a license valid for any premises other than those for which originally issued. The license must be displayed in a conspicuous place within the facility.

6. The facility shall notify the department in writing thirty days in advance of any of the following changes:
   a. Transfer or change of ownership...

33-07-03.2-07. Governing body.
The governing body is legally responsible for the quality of resident care services; for resident safety and security; for the conduct, operation, and obligations of the facility; and for ensuring compliance with all federal, state, and local laws.

1. The governing body shall establish, cause to implement, maintain, and as necessary, revise its practices, policies, procedures, and bylaws for the ongoing evaluation of the services operated or delivered by the facility and for the identification, assessment, and resolution of problems that may develop in the conduct of the facility. These policies, procedures, and bylaws must be in writing, dated, and made available to all members of the governing body and facility staff.

2. The governing body shall appoint a qualified administrator who is responsible for the management of the facility.
   a. The administrator shall hold a valid North Dakota nursing home administrator’s license.
   b. In the absence of the administrator, an employee must be designated in writing to act on behalf of the administrator.

3. The governing body must ensure sufficient trained and competent staff is employed to meet the residents’ needs. The governing body shall approve and ensure implementation of written personnel policies and procedures including:
   a. Written job descriptions for personnel positions in all service areas. Job descriptions must include definition of title, qualifications, duties, responsibilities, and to whom the position reports.
   b. Provisions for checking state registries and licensing boards for current licensure or registry status and history of disciplinary actions prior to employment.
   c. Procedures to ensure all personnel for whom licensure, certification, or registration is required have a valid and current license, certificate, or registration.
   d. Prohibitions on resident abuse, neglect, and misappropriation of resident property, and procedures for investigation, reporting, and followup action.

4. The governing body shall ensure the development and implementation of written policies and procedures for all services provided by the facility, including emanating services. These policies and procedures must be current and shall be revised when changes in standards of practice occur.

5. The governing body shall ensure the development and implementation of written resident care policies, procedures, and practices including:
   ...c. Arrangements are made in the form of a written contract for specific resident care services to be provided by outside resources if the specific resident care services required are not available by facility staff. Outside resource shall apprise the appropriate facility staff of recommendations, plans for implementation, and continuing assessment through dated, and signed reports.
   ...e. Prohibition of resident abuse, neglect, or misappropriation of resident property.

6. The governing body is responsible for services furnished in the facility whether or not they are furnished directly by the facility or by outside resources. The governing body shall ensure that a contractor of services furnishes such services that permit the facility to comply with all applicable laws, codes, rules, and regulations. The governing body shall:
a. Ensure the services performed under contract are provided in a safe and effective manner.
b. Maintain a copy of current contracts for all contracted services. The contracts must identify the scope and nature of the services provided.

33-07-03.2-09. Emergency plan.
The facility shall have a written procedure to be followed in case of emergencies. The emergency plan must specify persons to be notified, locations of alarm signals and fire extinguishers, evacuation routes, procedures for evacuating residents, and assignment of specific tasks, and responsibilities to the personnel of each shift.

33-07-03.2-10. Quality improvement program.
1. The facility shall develop and implement a quality improvement program, approved by the governing body, for assessing and improving the quality of services and care provided to residents. The written program must describe objectives, organization, scope, and mechanisms for overseeing and reporting the effectiveness of monitoring, evaluation, and improvement activities.
2. The quality improvement program must include a written plan for all services including indicators of care that are important to the health and safety of the residents.
3. The indicators of the written quality improvement plan must relate to quality of services and care provided to residents and must be objective, measurable, and based on current standards of practice.
4. Written documentation of quality improvement activities, including infection control, must be prepared and reported to the governing body.

33-07-03.2-12. Education programs.
The facility shall design, implement, and document educational programs to orient new employees and keep all staff current on new and expanding programs, techniques, equipment, and concepts of quality care. The following topics must be covered with all staff annually:
1. Safety and emergency procedures, including procedures for fire and other disasters.
2. Prevention and control of infections, including universal precautions.
3. Resident rights.
4. Advanced directives.
5. Care of the emotionally disturbed and confused resident.

33-07-03.2-13. Medical services.
1. The facility shall have a licensed physician who is specified as the medical director or a medical staff organized under bylaws and rules approved by and responsible to the governing body. The medical director or medical staff shall be responsible for the quality of all medical care provided to residents and for the ethical and professional practices of its members.
2. The duties and responsibilities of the medical director or medical staff must be delineated in a formal agreement with the governing body.
3. The medical director or medical staff shall be involved in the development of written medical staff policies which are approved by the governing body, which delineate the responsibilities of licensed health care practitioners.
4. The medical director or a member of the medical staff shall participate in the quality improvement and infection control program meetings.

33-07-03.2-14. Nursing services.
1. Nursing services must be under the direction of a nurse executive (director of nursing) who is employed by the facility and is a registered nurse licensed to practice in North Dakota.

33-07-03.2-17. Resident record services.
The governing body of the facility shall establish and implement policies and procedures to ensure the facility has a resident record service with administrative responsibility for resident records.
1. A resident record must be maintained and kept confidential for each resident admitted to the facility. The resident record shall be complete, accurately and legibly documented, and readily accessible.
a. The resident or the resident’s legal representative have the right to view and authorize release of their medical information.
b. The facility shall develop policies which address access to resident records.
c. Resident records may be removed from the facility only upon subpoena, court order, or pursuant to facility policies when a copy of the original record is maintained at the facility.
2. All records of discharged residents must be preserved for a period of ten years from date of discharge. Records of deceased residents must be preserved to seven years.
a. In the case of minors, records must be retained for the period of minority and ten years from the date of live discharge. Records of deceased residents who are minors must be preserved for the period of minority and seven years.
b. It is the governing body’s responsibility to determine which records have research, legal, or medical value and to preserve such records beyond the above-identified timeframes until such time the governing body determines the records no longer have a research, legal, or medical value.
3. If the facility does not employ an accredited record technician or registered record administrator, an employee of the facility must be assigned the responsibility for ensuring that records are maintained, completed, and preserved. The designated employee shall receive consultation at least annually from an accredited record technician or registered record administrator.
4. Each resident record must include:
a. The name of the resident, personal licensed health care practitioner, dentist, and designated representative or other responsible person, admitting diagnosis, final diagnosis, condition on discharge, and disposition.
b. Initial medical evaluation including medical history, physical examination, and diagnosis.
c. A report from the licensed health care practitioner who attended the resident in the hospital or other health care setting, and a transfer form used under a transfer agreement.
d. Licensed health care practitioner’s orders, including all medication, treatments, diet, restorative plan, activities, and special medical procedures.
e. Licensed health care practitioner’s progress notes describing significant changes in the resident’s condition, written at the time of each visit.
f. Current comprehensive resident assessment and plan of care.
g. Quarterly reviews of resident assessments and nurse’s notes containing observations made by nursing personnel for the past year.
h. Medication and treatment records including all medications, treatments, and special procedures performed.
i. Laboratory and x-ray reports.
j. Consultation reports.
k. Dental reports.
l. Social service notes.
m. Activity service notes.
n. Resident care referral reports.
5. All entries into the resident record must be authenticated by the individual who made the written entry, as defined by facility policy and applicable state laws and regulations, and must at a minimum include the following:
   a. All entries the licensed health care practitioner personally makes in writing must be signed and dated by the licensed health care practitioner.
   b. Telephone and verbal orders may be used provided they are given only to qualified licensed personnel and reduced to writing and signed or initialed by a licensed health care practitioner responsible for the care of the patient.
   c. Signature stamps may be used consistent with facility policies as long as the signature stamp is used only by the licensed health care practitioner whose signature the signature stamp represents. Written assurance must be on file from the licensed health care practitioner to indicate the practitioner is the sole user of the signature stamp.
   d. Electronic signatures may be used if the facility’s medical staff and governing body adopt a policy permitting authentication by electronic signature. The policy must include:
      (1) The staff within the facility authorized to authenticate entries in resident records using an electronic signature.
      (2) The safeguards to ensure confidentiality, including:
         (a) Each user must be assigned a unique identifier generated through a confidential access code.
         (b) The facility shall certify in writing each identifier is kept strictly confidential. This certification must include a commitment to terminate the user’s use of that particular identifier if it is found the identifier has been misused. Misused means the user has allowed another individual to use the user’s personally assigned identifier, or the identifier has otherwise been inappropriately used.
         (c) The user must certify in writing the user is the only individual with user access to the identifier and the only individual authorized to use the signature code.
         (d) The facility shall monitor the use of the identifiers periodically and take corrective action as needed. The process by which the facility will conduct the monitoring must be described in policy.
      (3) A process to verify the accuracy of the content of the authenticated entries, including:
         (a) A system that requires completion of certain designated fields for each type of document before the document may be authenticated, with no blanks, gaps, or obvious contradictory statements appearing within those designated fields. The system must require that correction or supplementation of previously authenticated entries must be made by additional entries, separately authenticated and made subsequent in time to the original entry.
         (b) An opportunity for the user to verify the accuracy of the document and to ensure the signature has been properly recorded.
         (c) As part of the quality improvement activities, the facility shall periodically sample records generated by the system to verify accuracy and integrity of the system.
      (4) A user may terminate authorization for use of an electronic signature upon written notice to the staff member in charge of resident records.
      (5) Each report generated by the user must be separately authenticated.
      (6) A list of confidential access codes must be maintained under adequate safeguards by facility administration.

33-07-03.2-23. Diagnostic services.
The facility shall provide or have arrangements for obtaining diagnostic services consistent with the needs of the resident.
1. If the facility provides any clinical laboratory testing services to residents, regardless of the frequency or the complexity of the testing, the governing body is required to obtain and maintain compliance with the applicable parts of the clinical laboratory improvement amendments of 1988, 42 CFR part 493.
2. If the facility provides radiology or other diagnostic services to residents, these services must be provided in accordance with the current standards of practice and state and federal regulations.

CHAPTER 33-07-06
NURSE AIDE TRAINING, COMPETENCY EVALUATION, AND REGISTRY
33-07-06-02. Nurse aide training.
1. Any nurse aide employed by a nursing facility or pursuing nurse aide certification and entry on the nurse aid registry must successfully complete a department-approved training program consisting of a minimum of seventy-five hours and a department-approved competency evaluation or a department-approved competency evaluation.
2. Nurse aides employed by nursing facilities pursuing nurse aide certification must complete a minimum of sixteen hours of classroom training in the following areas from a department-approved nurse aide training program prior to any hands-on contact with residents or patients. The areas are:
   a. Communication and interpersonal skills;
   b. Infection control;
   c. Safety and emergency procedures, including the Heimlich maneuver;
   d. Promoting residents’ independence; and
   e. Respecting residents’ rights.
3. The remainder of the seventy-five hour approved training and competency evaluation program must be completed within four months of the date of first employment in the facility as a nurse aide and must include at least sixteen hours of supervised practical training.
4. Nurse aides may not perform tasks for which competence has not been determined unless under the direct supervision of a licensed nurse.
5. Nurses aides trained and determined proficient by the instructor to provide specific services to residents who have not completed the competency evaluation program shall provide these services under the general supervision of a licensed or registered nurse.
6. The nurse aide training program must ensure that nurse aides employed by or having an offer of employment from a nursing facility are not charged for any portion of the nurse aide training program including fees for textbooks or other required course materials.

33-07-06-03. Nurse aide competency evaluation programs.
1. The department-approved competency evaluation program must allow a nurse aide the option of establishing competency through written or oral and manual skills examination.
2. The written or oral examination must address all areas required in the department-approved training program.
3. The written or oral examination must be developed from a pool of test questions, only a portion of which may be utilized in any one examination.
4. The competency evaluation program must include a demonstration of the randomly selected tasks the individual will be expected to perform as part of the individual’s function as a nurse aide.
5. The competency evaluation program must provide for a system that prevents disclosure of both pool questions and the individual competency evaluations.
6. The competency evaluation program must ensure that nurse aides employed by or having an offer of employment from a facility are not charged for any portion of the competency evaluation program.

33-07-06-04. Administration of competency evaluation.
1. The competency evaluation must be administered and evaluated by the department or a department-approved entity that is neither a skilled nursing facility or a nursing facility licensed by the department.
2. The entity that administers the competency evaluation must advise the nurse aide in advance that a record of the successful completion of the evaluation will be included on the department’s nurse aide registry.
3. The skills demonstration portion of the test must be administered in the facility or laboratory setting comparable to the setting in which the nurse aide will function.
4. The skills demonstration portion of the test must be administered and evaluated by a registered nurse with at least one year of experience in providing care for the elderly or chronically ill of any age.
5. The department may permit the written or oral examination to be proctored by facility personnel if the department determines that the procedure adopted assures the competency evaluation is:
   a. Secure from tampering.
   b. Standardized and scored by a testing, educational, or other organization approved by the department.
   c. Exempt from any scoring by facility personnel.
6. The department shall retract the right to proctor nurse aide competency evaluations from facilities in which the department finds any evidence of impropriety, including tampering by facility personnel.

33-07-06-05. Withdrawal and approval of training program status.
1. The department shall withdraw approval of a facility based program when a determination has been made that the facility has been found to be out of compliance with significant federal certification or state licensure requirements. The facility may apply for reinstatement after providing evidence of remaining in compliance with significant requirements for a period of twenty-four consecutive months.
2. The department shall withdraw approval of a nurse aide training and competency evaluation program if the entity providing the program refuses to permit unannounced visits by the department to ascertain compliance with program requirements.
3. Approval of a nurse aide training and competency evaluation program shall be granted by the department for a period not to exceed two years.
4. The department may approve only nurse aide training and competency evaluation programs meeting at least the following criteria:
   a. Consists of no less than seventy-five hours of training.
   b. Includes training in at least the following subject areas:
      (1) Infection control.
      (2) Safety and emergency procedures.
      (3) Promoting resident or patient independence.
      (4) Respecting resident rights.
      (5) Basic nursing skills.
      (6) Personal care skills.
      (7) Mental health and social service needs.
      (8) Care of cognitively impaired residents or patients.
      (9) Basic restorative services.
      (10) Resident or patient rights.
      (11) Communication and interpersonal skills.

33-07-06-06. Completion of the competency evaluation program.
1. To complete the competency evaluation successfully the individual shall, at a minimum, successfully demonstrate written or oral competence in the areas listed under subdivision b of subsection 4 of section 33-07-06-05 and successfully demonstrate competence in performing a random selection of personal care skills.

2. A record of successful completion of the competency evaluation for nurse aides seeking certification must be included in the nurse aide registry within thirty days of the date the individual was found to be competent.

3. If the individual fails to complete the evaluation satisfactorily, the competency evaluation program must advise the individual of the areas in which the individual was adequate, and that the individual has not more than three opportunities to take the examination.

4. If the individual seeking certification fails the examination on the third attempt, the individual must enroll in and complete a department approved training program prior to taking the competency evaluation again.

33-07-06-09. Registry renewal.
1. Registry status is limited to twenty-four months. Upon receipt of a completed renewal application, and verification of employment within the immediate past twenty-four months, the certified nurse aide will be issued a renewal certificate indicating current status.

2. An individual who has not performed at least eight hours of nursing or nursing-related services for pay within a continuous twenty-four month period, shall complete a department-approved training and competency evaluation program or a department-approved competency evaluation to obtain current registry status.

3701-17-03 License fee; application; issuance; revocation.
...(C) The initial application for a license to operate a nursing home shall be accompanied by:
...(3) A statement of ownership containing the following information:
(a) If the operator is an individual, the individual's name, address, and telephone number. If the operator is an association, corporation, or partnership, the business activity, address, and telephone number of the entity and the name of every person who has an ownership interest of five per cent or more in the entity;
(b) If the operator does not own the building or buildings or if the operator owns only part of the building or buildings in which the nursing home is housed, the name of each person who has an ownership interest of five per cent or more in the buildings;
(c) The name and address of any nursing home and any facility described in divisions (A)(1)(a) and (A)(1)(c) of section 3721.01 of the Revised Code in which the operator or administrator, or both, have an ownership interest of five per cent or more or with which the operator or administrator have been affiliated with through ownership or employment in the five years prior to the date of the application;
...(G) An operator who operates one or more nursing homes in more than one building shall obtain a separate license for each building except if such buildings are on the same lot and constitute a single nursing home, such nursing home may be operated under a single license.
(H) The license shall be posted in a conspicuous place in the nursing home.

3701-17-05 Prohibitions.
(A) No nursing home, except a nursing home that is owned and operated by, and physically part of,
a hospital registered under section 3701.07 of the Revised Code, may use the word "hospital" in its name or letterhead. Any nursing home that is physically part of a hospital shall inform a prospective resident, prior to admission, that the home is licensed as a nursing home and is not part of the acute care service of the hospital.

3701-17-06 Responsibility of operator and nursing home administrator; quality assurance committee.
(A) The operator is responsible for the operation of the nursing home, for payment of the annual license renewal fee to the director, for such reports as may be required, and for compliance with Chapter 3721. of the Revised Code, Chapters 3701-13 and 3701-61, and rule 3701-17-01 to 3701-17-26 of the Administrative Code, and all federal, state, and local laws applicable to the operation of a nursing home.
(B) Each operator shall appoint an administrator. The administrator is responsible for the day-to-day operation of the nursing home in accordance with rules 3701-17-01 to 3701-17-26 of the Administrative Code, for implementing the provisions of section 3721.12 of the Revised Code, and for ensuring that individuals used by the home are competent to perform their job responsibilities and that services are provided in accordance with acceptable standards of practice.
(C) Each nursing home shall establish and maintain a quality assurance committee consisting of the director of nursing, the medical director or physician designee and at least three other members of the home’s staff.
(1) The quality assurance committee shall meet at least quarterly to systematically monitor and evaluate the quality of care and quality of life provided in the home, review and investigate incidents and accidents that have occurred in the home, including, but not limited to, those related to the use of restraints as required by rule paragraph (H) of rule 3701-17-15 of the Administrative Code, identify problems and trends, and develop and implement appropriate plans of action to correct identified problems.
(2) The records of the quality committee meetings are not required to be disclosed to the director. The director shall verify through interviews with committee members and, as necessary, direct care staff that the home has a quality assurance committee which addresses quality concerns, that staff know how to access that process, and that the committee has established a protocol or method for addressing specific quality problems in the nursing home that the home believes to have now been resolved.
(3) Good faith attempts by the committee to identify and correct quality deficiencies will not be used as a basis for sanctions.

3701-17-07 Qualifications and health of personnel.
...(I) All individuals used by the nursing home who function in a professional capacity shall meet the standards applicable to that profession, including but not limited to, possessing a current Ohio license, registration, or certification, if required by law.
(J) The operator or administrator shall ensure that each staff member, consultant and volunteer used by the nursing home receives orientation and training to the extent necessary to perform their job responsibilities prior to commencing such job responsibilities independently. The orientation and training shall include appropriate orientation and training about residents’ rights, the physical layout of the nursing home, the applicable job responsibilities, the home’s policies and procedures applicable to assuring safe and appropriate resident care, emergency assistance procedures, and the disaster preparedness plan.
(K) Except as provided in Chapter 3701-13 of the Administrative Code, no nursing home shall employ a person who applies on or after January 27, 1997, for a position that involves the provision of direct care to an older adult, if the person:
(1) Has been convicted of or pleaded guilty to an offense listed in division (C)(1) of section 3721.121 of the Revised Code; or
(2) Fails to complete the form(s) or provide fingerprint impressions as required by division (B)(3) of section 3721.121 of the Revised Code.

3701-17-07.1 Required training and competency evaluation for nurse aides working in long-term care facilities.
(A) For the purposes of this rule:
(1) "Licensed health professional" means all of the following:
(a) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;
(b) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;
(c) A physician as defined in section 4730.01 of the Revised Code;
(d) A physician's assistant for whom a physician holds a valid certificate of registration issued under section 4730.04 of the Revised Code;
(e) A registered nurse, including those authorized to practice in an advance practice role, or a licensed practical nurse licensed under Chapter 4723. of the Revised Code;
(f) A social worker or independent social worker licensed, or social work assistant certified under Chapter 4757. of the Revised Code;
(g) A speech pathologist or audiologist licensed under Chapter 4753. of the Revised Code;
(h) A dentist or a dental hygienist licensed under Chapter 4715. of the Revised Code;
(i) An optometrist licensed under Chapter 4725. of the Revised Code;
(j) A pharmacist licensed under Chapter 4729. of the Revised Code;
(k) A psychologist licensed under Chapter 4732. of the Revised Code;
(l) A chiropractor licensed under Chapter 4734. of the Revised Code;
(m) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code;
(n) A dietitian licensed under Chapter 4759. of the Revised Code;
(o) A respiratory care professional licensed under Chapter 4761. of the Revised Code; and
(p) A massage therapist licensed under section 4731.17 of the Revised Code.
(2) "Long-term care facility" or "facility" means either of the following:
(a) A nursing home as defined in section 3721.01 of the Revised Code, other than a nursing home or part of a nursing home certified as an intermediate care facility for the mentally retarded under Title XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended; or
(b) A facility or part of a facility that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the Social Security Act.
(3) "Nurse aide" means an individual who provides nursing and nursing-related services to residents in a long-term care facility, other than a licensed health professional practicing within the scope of his or her license or an individual who provides nursing or nursing-related services as a volunteer without monetary compensation.
(4) "Nursing and nursing-related services" when performed by a nurse aide in a long term care facility, means activities including attending to the personal care needs of residents, and providing personal care services and activities delegated by a nurse which may include implementation of portions of the nursing regimen, as defined in section 4723.01 of the Revised Code, for residents whose care does not require nursing assessment or the judgment of a nurse during the performance of the delegated activity. Nursing and nursing-related services does not include activities that are part of the nursing regimen which require the specialized knowledge, judgment, and skill of a registered nurse or the application of the basic knowledge and skill required of a
licensed practical nurse licensed under Chapter 4723. of the Revised Code or any other activities that are required to be performed by a licensed nurse under Chapter 4723. of the Revised Code. Nursing and nursing-related services" does not include assisting residents with feeding when performed by a dining assistant pursuant to rule 3701-17-07.2 of the Administrative Code. (5) To "use an individual as a nurse aide" means to engage the individual to perform nursing and nursing-related services in and on behalf of a long-term care facility.

(B) No long-term care facility shall use an individual as a nurse aide for more than four months unless the individual is competent to provide the services he or she is to provide; the facility has received from the nurse aide registry, established under section 3721.32 of the Revised Code, the information concerning the individual provided through the registry; and one of the following is the case:

(1) The individual was used by a facility as a nurse aide on a full-time, temporary, per diem, or other basis at any time during the period commencing July 1, 1989, and ending January 1, 1990, and successfully completed, not later than October 1, 1990, a competency evaluation program conducted by the director under division (C) of section 3721.31 of the Revised Code, and former rule 3701-18-07 of the Administrative Code, in effect prior to October 1, 1990;

(2) The individual either has successfully completed a training and competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code and Chapter 3701-18 of the Administrative Code or has satisfied the requirements of paragraph (B)(2)(a) and (B)(2)(b) of this rule and, in either case, also has completed successfully the competency evaluation program conducted by the director under division (C) of section 3721.31 of the Revised Code and the applicable rules of Chapter 3701-18 of the Administrative Code. An individual shall be considered to have satisfied the requirement of having successfully completed a training and competency evaluation program approved by the director if the individual meets both of the following:

(a) The individual, as of July 1, 1989, completed at least sixty hours divided between skills training and classroom instruction in the topic areas described in divisions (B)(1) to (B)(8) of section 3721.30 of the Revised Code; and

(b) The individual received, as of that date, at least the difference between seventy-five hours and the number of hours actually spent in training and competency evaluation in supervised practical nurse aide training or regular in-service nurse aide education. For an individual to satisfy the requirements of this paragraph, the combination of skills training, classroom instruction, supervised practical nurse aide training and inservice nurse aide education shall have addressed the topic areas and subject matter components prescribed by former rule 3701-18-07 of the Administrative Code and its appendix in effect at the time of the determination.

(3) Prior to July 1, 1989, if the long-term care facility is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or prior to January 1, 1990, if the facility is not so certified, the individual completed a program that the director determines included a competency evaluation component no less stringent than the competency evaluation program conducted by the director under division (C) of section 3721.31 of the Revised Code and former rule 3701-18-07 of the Administrative Code in effect at the time of the determination and was otherwise comparable to the training and competency evaluation programs being approved by the director under division (A) of section 3721.31 of the Revised Code and Chapter 3701-18 of the Administrative Code;

(4) The individual is listed in a nurse aide registry maintained by another state and that state certifies that its program for training and evaluation of competency of nurse aides complies with Titles XVIII and XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and regulations adopted thereunder;

(5) Prior to July 1, 1989, the individual was found competent to serve as a nurse aide after the completion of a course of nurse aide training of at least one hundred hours’ duration. The
determination of competency shall have been made by the director or by an instructor of the course of
nurse aide training;
(6) The individual is enrolled in a prelicensure program of nursing education approved by the
board of nursing or by an agency of another state that regulates nursing education, has provided
the long-term care facility with a certificate from the program indicating that the individual has
successfully completed the courses that teach basic nursing skills including infection control, safety
and emergency procedures and personal care, and has successfully completed the competency
evaluation program conducted by the director under division (C) of section 3721.31 of the Revised
Code and the applicable rules of Chapter 3701-18 of the Administrative Code; or
(7) The individual has the equivalent of twelve months or more of full-time employment in the
preceeding five years as a hospital aide or orderly and has successfully completed a competency
evaluation program conducted by the director under division (C) of section 3721.31 of the Revised
Code and the applicable rules of Chapter 3701-18 of the Administrative Code. Before allowing an
individual to serve as a nurse aide for more than four months in accordance with this paragraph, a
facility shall receive registry verification that the individual has met the competency requirements
under this paragraph unless the individual can prove that he or she has recently met the
requirements and has not yet been listed on the registry. In the event that an individual has not yet
been listed on the registry, facilities shall follow up by contacting the nurse aide registry to ensure
that such an individual actually becomes listed on the registry. Once the facility receives written
registry verification, it shall maintain such verification on file.
(C) During the four month period provided for in paragraph (B) of this rule, during which a long-
term care facility may, subject to paragraph (H) of this rule, use as a nurse aide an individual who
does not have the qualifications specified in paragraphs (B)(1) to (B)(7) of this rule, a facility shall
require the individual to participate in one of the following:
(1) If the individual has successfully completed a training and competency evaluation program
approved by the director under division (A) of section 3721.31 of the Revised Code and Chapter
3701-18 of the Administrative Code, a competency evaluation program conducted by the director;
(2) If the individual is enrolled in a prelicensure program of nursing education described in
paragraph (B)(6) of this rule, and has completed or is working toward completion of the courses
described in that paragraph, or the individual has the experience described in paragraph (B)(7) of
this rule, a competency evaluation program conducted by the director; or
(3) A training and competency evaluation program approved by the director under division (A) of
section 3721.31 of the Revised Code and, in addition, the competency evaluation program
conducted by the director under division (D) of section 3721.31 of the Revised Code and the
applicable rules of Chapter 3701-18 of the Administrative Code.
(D) No long-term care facility shall continue for longer than four months to use as a nurse aide an
individual who previously met the requirements of paragraph (B) of this rule but since most
recently doing so has not performed nursing and nursing-related services for monetary
compensation for twenty-four consecutive months, unless the individual successfully completes
additional training and competency evaluation by complying with paragraphs (D)(1) and (D)(2) of
this rule:
(1) Doing one of the following:
(a) Successfully completing a training and competency evaluation program approved by the
director under division (A) of section 3721.31 of the Revised Code and Chapter 3701-18 of the
Administrative Code;
(b) Successfully completing a training and competency evaluation program described in paragraph
(B)(4) of this rule; or
(c) Meeting the requirements specified in paragraph (B)(6) or (B)(7) of this rule; and
(2) In the case of an individual who is described in paragraph (D)(1)(a) or (D)(1)(c) of this rule,
successfully completing the competency evaluation program conducted by the director under

division (D) of section 3721.31 of the Revised Code and the applicable rules under Chapter 3701-18 of the Administrative Code.

(E) During the four-month period provided for in paragraph (D) of this rule during which a long-term care facility may, subject to paragraph (H) of this rule, use as a nurse aide an individual who does not have the qualifications specified in paragraphs (D)(1) and (D)(2) of this rule, a facility shall require the individual to participate in one of the following:
(1) If the individual has successfully completed a training and competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code and Chapter 3701-18 of the Administrative Code, a competency evaluation program conducted by the director;
(2) If the individual is enrolled in a prelicensure program of nursing education described in paragraph (B)(6) of this rule and has completed or is working toward completion of the courses described in that paragraph or the individual has the experience described in paragraph (B)(7) of this rule, a competency evaluation program conducted by the director; or
(3) A training and competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code and Chapter 3701-18 of the Administrative Code and, in addition, the competency evaluation program conducted by the director under division (C) of section 3721.31 of the Revised Code and the applicable rules of Chapter 3701-18 of the Administrative Code.

(F) For the purposes of paragraphs (C) and (E) of this rule, an individual shall be considered to be participating in a training and competency evaluation program or a competency evaluation program, as applicable, if, at minimum, the individual has a document signed by a representative of the program attesting that the individual is scheduled to attend the program.

(G) The four month periods provided for in paragraphs (B) and (D) of this rule include any time, on or after June 1, 1990, that an individual is used as a nurse aide on a full time, temporary, per diem or other basis by the facility or any other long-term care facility.

(H) A long-term care facility shall not permit an individual used by the facility as a nurse aide while participating in a training and competency evaluation program to provide nursing and nursing-related services unless both of the following are the case:
(1) The individual has completed the number of hours of training that he or she must complete prior to providing services to residents as prescribed by paragraph (A)(4) of rule 3701-18-05 of the Administrative Code through the program in which the individual is enrolled; and
(2) The individual is under the personal supervision of a registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code. An individual used by a long-term care facility as a nurse aide while participating in a training and competency evaluation program shall wear a name pin at all times that clearly indicates that the individual is a trainee. As used in this paragraph, "personal supervision" means being present physically on the floor where the individual is providing services, being available at all times to respond to requests for assistance from the individual, and being within a distance which allows the nurse periodically to observe the individual providing services.
(I) No long-term care facility shall impose on a nurse aide any charge for participation in any competency evaluation program or training and competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code and Chapter 3701-18 of the Administrative Code or conducted by the director under division (C) of section 3721.31 of the Revised Code and the applicable rules of Chapter 3701-18 of the Administrative Code, including any charge for textbooks, other required course materials or a competency evaluation.
(J) No long-term care facility shall require that an individual used by the facility as a nurse aide or seeking employment as a nurse aide pay or repay, either before or while the individual is employed by the facility or when the individual leaves the facility’s employ, any costs associated with the individual’s participation in a competency evaluation program or training and competency evaluation program.
evaluation program approved or conducted by the director.

(K) In addition to competency evaluation programs and training and competency evaluation programs required by this rule, each long-term care facility shall provide all of the following to each nurse aide it uses:

(1) An orientation program that includes at least an explanation of the organizational structure of the facility, its policies and procedures, its philosophy of care, a description of its resident population, and an enumeration of its employee rules. The orientation program shall be of sufficient duration to cover the topics enumerated in this paragraph adequately in light of the size and nature of the facility, its resident population, and the anticipated length of employment of the nurse aide. The orientation program for nurse aides permanently employed by the long-term care facility shall be at least three hundred and sixty minutes in length to occur during the first forty hours worked, with one hundred and eighty minutes occurring before the nurse aide has any resident contact;

(2) Regular performance review to assure that individuals working in the facility as nurse aides are competent to perform the nursing and nursing-related services they perform. Performance reviews shall be conducted at least ninety days after the nurse aide completes successfully the competency evaluation program conducted by the director under division (C) of section 3721.31 of the Revised Code and the applicable rules of Chapter 3701-18 of the Administrative Code or commences work in the facility and annually thereafter. The performance review shall consist, at minimum, of an evaluation of the nurse aide’s working knowledge and clinical performance and shall be conducted by the aide’s immediate supervisor or a nurse designated by the facility to conduct the performance evaluations. The facility shall maintain a written record of each performance review; and

(3) Regular in-service education, both in groups and, as necessary in specific situations, on a one-to-one basis, based on the outcome of performance reviews required by paragraph (K)(2)(a) of this rule. For the purposes of this provision, "specialty unit" means a discrete part of the nursing home that houses residents who have common specialized care needs, including, but not limited to, dementia care, hospice care, and mental health care units.

(a) Formal in-service education shall include an instructional presentation and may include skills demonstration with return demonstration and inservice training. In-service training may be provided on the unit as long as it is directed toward skills improvement, is provided by trained individuals and is documented.

(b) In-service education shall be sufficient to ensure the continuing competence of nurse aides and address areas of weakness as determined in nurse aides’ performance reviews and shall address the special needs of residents as determined by the facility staff. It also shall include, but is not limited to, training for nurse aides providing nursing and nursing-related services to residents with cognitive impairment. The in-service education for nurse aides working in specialty units shall address the special needs of the residents in the unit.

(c) The facility shall assure that each nurse aide receives at least twelve hours of formal in-service education each year and that each nurse aide who works in a specialty unit receives sufficient additional hours of training each year to meet the special needs of the residents of that specialty unit. In-service education may be obtained through web-based training programs. For purposes of this paragraph, the year within which a nurse aide must receive continuing education is calculated based on the commencement of employment.

(d) The facility shall maintain a written record of each formal in-service session which shall include a description of the subject matter, the identity of the individual or individuals providing the in-service education, a list of the nurse aides and other individuals attending the session that is signed by each attendee and the duration of the session.

3701-17-07.3 Nurse aide registry.

(A) The director shall maintain a nurse aide registry listing all individuals who have met the
competency requirements of division (A) of section 3721.32 of the Revised Code. The registry also shall include both of the following:
(1) The statement required by section 3721.23 of the Revised Code detailing findings by the director under that section regarding alleged abuse or neglect of a resident or misappropriation of resident property;
(2) Any statement provided by an individual under section 3721.23 of the Revised Code disputing the director's findings.
(B) The department may not continue to list an individual on the registry as eligible to work in a long-term care facility unless the department has received verification in accordance with paragraph (C) of this rule that the individual provided at least seven and one-half consecutive hours or eight hours in a forty-eight-hour period of nursing and nursing-related services for compensation during the twenty-four month period immediately following either the date that the individual was placed on the registry or the most recent date of verified work. As used in this rule, "nursing and nursing-related services" means:
(1) Attending to the personal care needs of individuals;
(2) Providing personal care services as defined at divisions (A)(5)(a)(i) to (A)(5)(a)(iii) of section 3721.01 of the Revised Code; and
(3) Performing activities delegated by a nurse which may include implementation of portions of the nursing regimen, as defined by section 4723.01 of the Revised Code, for individuals whose care does not require nursing assessment or the judgment of a nurse during the performance of the delegated activity, but does not include activities that are part of the nursing regimen which require the specialized knowledge, judgment, and skill of a registered nurse or the application of the basic knowledge and skill required of a licensed practical nurse licensed under Chapter 4723. of the Revised Code or any other activities that are required to be performed by a licensed nurse under Chapter 4723. of the Revised Code.
(C) If an individual desires to remain on the registry as eligible to work as a nurse aide but is not eligible because more than twenty-four consecutive months have passed since the last date of verified work, the individual must do one of the following:
(1) Submit documentation showing that he or she has provided at least seven and one-half consecutive hours or eight hours in a forty-eight-hour period of nursing and nursing-related services for compensation during that twenty-four month period; or
(2) Successfully complete additional training and competency evaluation by complying with paragraphs (D)(1) and (D)(2) of rule 3701-17-07.1 of the Administrative Code.
(D) The documentation required in paragraph (C)(1) of this rule shall include either of the following:
(1) In the case of a facility, agency, or any other health care provider that is authorized under applicable law to provide services that include implementation of portions of a nursing regimen, as defined by section 4723.01 of the Revised Code, a statement verifying the dates that the individual performed nursing and nursing-related services for compensation; or
(2) A statement by a physician or nurse verifying that he or she has personal knowledge that the individual provided nursing and nursing-related services to a patient under the physician's or nurse's care. The statement shall further verify:
(a) The name of the individual that provided nursing and nursing-related services for such patient;
(b) The nature of the nursing and nursing-related services and the date or dates the individual last provided seven and one-half consecutive hours or eight hours in a forty-eight-hour period of nursing and nursing related services;
(c) That the individual received compensation for the services specified in paragraph (D)(2)(b) of this rule. If the physician or nurse is unable to verify that the individual was compensated for those services, the individual must provide further proof that he or she received compensation for the specified services.
(E) No long-term care facility shall continue for longer than four months to use as a nurse aide an individual who previously met the requirements of paragraph (B) of rule 3701-17-07.1 of the Administrative Code but is not able to verify in accordance with this rule that he or she is currently eligible to work in a long term care facility, unless the individual successfully completes additional training and competency evaluation by complying with paragraphs (D)(1) and (D)(2) of rule 3701-17-07.1 of the Administrative Code.

3701-17-08 Personnel requirements.
(A) Each nursing home and home for the aging shall arrange for the services of an administrator who shall be present in the home to the extent necessary for effectively managing the home and assuring that needs of the residents are being met, but not less than sixteen hours during each calendar week.

...(B) Each nursing home shall employ a registered nurse who shall serve as director of nursing.

3701-17-13 Medical supervision.
(A) Each nursing home operator shall arrange for the services of a physician to serve as the home’s medical director, the medical director shall:
(1) In collaboration with the administrator, the nursing director, and other health professionals, develop formal resident care policies for the nursing home that:
(a) Provide for the total medical and psycho-social needs of the resident, including admissions, transfer, discharge planning, range of services available to the resident, emergency procedures and frequency of physician visits in accordance with resident needs and the applicable requirements of Chapter 3721. of the Revised Code and of rules 3701-17-01 to 3701-17-26 of the Administrative Code.
(b) Promote resident rights as enumerated in section 3721.13 of the Revised Code.
(2) Make available medical care for residents not under the care of their own physicians and to make available emergency medical care to all residents, provided their personal physicians are not readily available.
(3) Meet periodically with nursing and other professional staff to discuss clinical and administrative issues, including the need for additional staff, specific resident care problems and professional staff needs for education or consultants to assist in meeting special needs such as dentistry, podiatry, dermatology, and orthopedics, offer solutions to problems, and identify areas where policy should be developed. In carrying out this function, the medical director shall:
(a) Observe residents and facilities at least quarterly or more frequently as needed; and
(b) Review pharmacy reports, at least quarterly, including summaries of drug regimen reviews required by paragraph (H) of rule 3701-17-17 of the Administrative Code and the quality assurance activities required by paragraph (D) of rule 3701-17-06 of the Administrative Code, and take appropriate and timely action as needed to implement recommendations.
(4) Monitor the clinical practices of, and discuss identified problems with, attending physicians; act as a liaison between the attending physicians and other health professionals caring for residents and the residents' families; and intervene as needed on behalf of residents or the home’s administration.
(5) Maintain surveillance of the health of the nursing home’s staff.
(6) Assist the administrator and professional staff in ensuring a safe and sanitary environment for residents and staff by reviewing incidents and accidents, identifying hazards to health and safety, and advising about possible correction or improvement of the environment.

3701-17-15 Restraints.
...(H) Members of the nursing home's quality assurance committee, required by rule 3701-17-06 of
the Administrative Code, shall review monthly the use of restraints and isolation and any incidents that resulted from their use, as well as incidents which resulted in the use of restraints or isolation. The review shall identify any trends, increases, and problems, the need for additional training, consultations or corrective action which shall be discussed and reflected in the minutes of the next quality assurance committee meeting.

3701-17-19 Records and reports.
(A) Nursing homes shall keep the following records and such other records as the director may require:
(1) An individual medical record shall be maintained for each resident. Such record shall be started immediately upon admission of a resident to the home and shall contain the following:
(a) Admission record. Name, residence, age, sex, race/ethnicity, religion, date of admission, name and address of nearest relative or guardian, admission diagnoses from referral record and name of attending physician.
(b) Referral record. All records, reports, and orders which accompany the resident as required by rule 3701-17-10 of the Administrative Code.
(c) Nursing/care notes. A note of the condition of the resident on admission and subsequent notes as indicated to describe changes in condition, unusual events or accidents. Other individuals rendering services to the resident may enter notes regarding the services they render.
(d) Medication administration record. A doctor's order sheet upon which orders are recorded and signed by the physician, including telephone orders as required by rule 3701-17-13 of the Administrative Code; a nurse's treatment sheet upon which all treatments or medications are recorded as given, showing what was done or given, the date and hour, and signed by the nurse giving the treatment or medication; or other documentation authenticating who gave the medication or treatment.
(e) Resident progress notes. A sheet or sheets upon which the doctor, dentist, advanced practice nurse and other licensed health professionals may enter notes concerning changes in diagnosis or condition of the resident. Resident refusal of treatment and services shall also be documented in the progress notes.
(f) Resident assessment record. All assessments and information required by rule 3701-17-10 of the Administrative Code.
(g) Care plan. The plan of care required by rule 3701-17-14 of the Administrative Code.
(2) The nursing home shall maintain all records required by state and federal laws and regulations, as to the purchase, delivery, dispensing, administering, and disposition of all controlled substances including unused portions.
(3) The nursing home shall submit an annual report to the department of health on a form prescribed by the director for calendar year 1999.
(4) The nursing home shall maintain a record of all residents admitted to or discharged from the nursing home, and of any additional information necessary to complete the report required in paragraph (A)(3) of this rule.
(B) A record shall be kept showing the name and hours of duty of all persons who work in the home. The nursing home shall maintain each employee's current home address in its personnel file.
(C) All records and reports required under rules 3701-17-01 to 3701-17-26 of the Administrative Code shall be prepared, maintained, filed, and transmitted when required, and shall be made available for inspection at all times when requested by the director or his authorized representative. The records may be maintained in electronic format, microfilm, or other method that assures a true and accurate copy of the records are available.
(1) The nursing home shall maintain the records and reports required by paragraph (A)(1) of this rule in the following manner:
(a) The home shall safeguard the records and reports against loss, destruction, or unauthorized use and store them in a manner that protects and ensures confidentiality.
(b) The home shall maintain the records and reports for seven years following the date of the resident’s discharge, except if the resident is a minor, the records shall be maintained for three years past the age of majority but not less than seven years.
(c) Upon closure of the home, the operator shall provide and arrange for the retention of records and reports in a secured manner for not less than seven years.

(2) The nursing home shall maintain all other records and reports required by rules 3701-17-01 to 3701-17-26 of the Administrative Code for seven years.

(3) Upon the request of the resident, or legal representative, the nursing home shall provide:
(a) Access to medical and financial records and reports pertaining to the resident within twenty-four hours, excluding holidays and weekends; and
(b) Photocopies of any records and reports, or portions thereof, at a cost not to exceed the community standard for photocopying, unless otherwise specified by law, upon two working days advanced notice.

(D) All records and reports required by Chapter 3701-13 of the Administrative Code shall be maintained and made available in accordance with that chapter.

3701-17-25 Disaster preparedness and fire safety.
Each operator shall:
(A) Provide, maintain, and keep current a written disaster preparedness plan to be followed in case of emergency or disaster. A copy of the plan shall be readily available at all times within the nursing home. The nursing home shall ensure that each staff member, consultant and volunteer is trained and periodically updated about the home’s disaster preparedness plan and understands their role in the event of fire or other disaster or emergency. The plan shall include the following:
(1) Procedures for evacuating all individuals in the nursing home, including:
(a) Provisions for evacuating residents with physical or cognitive impairments;
(b) Provisions for transporting all of the residents of the nursing home to a predetermined appropriate facility or facilities that will accommodate all the residents in the event a disaster requires long-term evacuation of the nursing home; and
(c) A written transfer agreement, renewed biannually, with the appropriate facility or facilities for accommodating all of the residents of the nursing home in case of a disaster requiring evacuation of the nursing home;
(2) Procedures for locating missing residents;
(3) Procedures for ensuring the health and safety of residents during severe weather situations, such as tornadoes and floods, and designation of tornado shelter areas in the home; and
(4) Procedures, as appropriate, for ensuring the health and safety of residents in nursing homes located in close proximity to areas known to have specific disaster potential, such as airports, chemical processing plants, and railroad tracks.
(B) Conduct the following drills, unless the state fire marshal allows a home to vary from this requirement and the nursing home has written documentation to this effect from the state fire marshal:
(1) Twelve fire exit drills every year, at least every three months on each shift to familiarize nursing home personnel with signals and emergency action required under varied conditions. Fire exit drills shall include the transmission of a fire alarm signal and simulation of emergency fire conditions except that the movement of infirm and bedridden residents to safe areas or to the exterior of the structure is not required. Drills conducted between nine p.m. and six a.m. may use a coded announcement instead of an audible alarm; and
(2) At least two disaster preparedness drills per year, one of which shall be a tornado drill which
shall occur during the months of March through July.
(C) Keep a written record and evaluation of each conducted drill and practice which shall include the date, time, employee attendance, effectiveness of the plan, and training format used. This record shall be on file in the nursing home for three years.
(D) Provide and post in a conspicuous place in each section and on each floor of the nursing home a floor plan designating room use, locations of alarm sending stations, fire extinguishers, fire hoses, exits and flow of resident evacuation.
(E) Require at least one responsible employee to attend a fire safety course approved by the state fire marshal's office. The operator shall require all staff members to be periodically instructed in fire control and evacuation and disaster procedures and kept informed of their duties under the evacuation plan.
(F) Conduct at least monthly a fire safety inspection which shall be recorded on forms provided by the department and kept on file in the nursing home for three years.

OKLAHOMA

Subchapter 3 - Licenses
310:675-3.1. Application for licensure
...(c) The facility owner shall be the applicant for the license, unless a receiver has been appointed. If there is a receiver, the receiver shall be the applicant.
(d) If the facility is leased, then the person or entity to whom the facility is leased shall be the applicant. If the lessee does not assume all rights to the facility and the lessor reserves some participatory rights in the operation of the facility, then both entities shall make joint application for the license.

310:675-3.4.1. Forms
The applicant for a license shall file application forms as follows:
(1) For an initial license of a new facility, or for an existing facility following a transfer of ownership or operation, the applicant shall file these forms:... Disclosure Statement of Owner...

310:675-3.5.1. Description of forms
(a) The forms used to apply for a facility license are the following.
...(2) The Disclosure Statement of Owner, Lessee and Manager for a Nursing or Specialized Facility (Form 953-B) requires: the names and types of legal entities for the owner, lessee and manager; name, address and tax identification number for any person or entity disclosed pursuant to 310:675-3.1.1(e); and an oath affirming the truth, correctness and completeness of the information provided.
(3) The Detail Attachment (Form 953-C) supplements the Disclosure Statement (Form 953-B) and requires the names and addresses for the following as applicable:
(A) All shareholders owning 5% or more of a corporate entity and all officers of a corporate entity; (B) All partners of a general partnership;
(C) All general partners and all limited partners that own 5% or more of a limited partnership;
(D) All members that own 5% or more of a limited liability company and all managers of a limited liability company;
(E) All beneficiaries that hold a 5% or more beneficial interest in a trust and all trustees of the trust;
(F) All persons or entities that own a 5% or more interest in a joint venture;
(G) All persons or entities that own a 5% or more interest in an association;
(H) The owners holding a 5% or more interest of any other type of legal entity; and
(I) Any other person holding at least a five percent (5%) interest in any entity which owns, operates, or manages the facility.

(J) As a substitute to submitting a Disclosure Statement and Detail Attachment, if the owner, lessee and/or manager is an entity that is publicly traded and is required to file periodic reports under the Securities and Exchange Act of 1934, or is a wholly owned subsidiary of such a publicly held company, the applicant may submit the applicable portions of the most recent annual and quarterly reports required by the Securities and Exchange Commission (SEC). The applicant shall include an index reflecting where each item of information required to be disclosed pursuant to the Disclosure Statement and Detail Attachment may be located in the SEC filings. Submission of the complete SEC filing is not required. Only those portions applicable to the Disclosure Statement and Detail Attachment are to be submitted.

(K) The required disclosure shall also be made by all persons or entities with an ownership interest in any entity required to be disclosed in paragraphs (A) through (I) of this section that is equal to a 5% or more indirect ownership interest in the owner, lessee and/or manager. The disclosure shall be made at each level of the organization to the extent required by this subsection.

(L) For purposes of subsection (K), the percentage of indirect ownership interest in the owner, lessee and/or manager is determined by multiplying the percentages of ownership in each entity. For example, if A owns 10% of the stock in a corporation that owns 80% of the applicant for license, A's interest equates to an 8% indirect ownership interest in the applicant and must be reported. Conversely, if B owns 80 percent of the stock of a corporation that owns a 5% interest of the stock of the applicant, B's interest equates to a 4% indirect ownership interest in the applicant and need not be reported.

(4) The Affirmation Attachment (Form 953-D) supplements the Disclosure Statement (Form 953-B) and requires the following: the names and addresses of individuals, members, officers and/or registered agents required to be disclosed for the applicant pursuant to 310:675-3-5.1(a)(3); and an affirmation from each of the above concerning their age, character and health.

(5) The Staffing Projection and Professional Certification for a Nursing or Specialized Facility (Form 953-E) requires: a projected staffing pattern; and a certification from the director of nursing, the physician on call for medical emergencies, and the pharmacist providing consultation and emergency pharmacy services.

(6) The Periodic Report for Suspended License (Form 953-F) requires: the name and address of the facility; the applicant's name and address, contact person and address; report of progress in reopening the facility; request for extension based on extenuating circumstances; and an oath affirming the truth, correctness and completeness of the information provided.

(a) The Notice of Change requests information on the name and address of the facility; the name and type of beds; the number of beds; the applicant; confirmation of changes in the owner, lessee or manager; and any change in disclosure of persons or entities pursuant 310:675-3-1.1(e).
Subchapter 7 - Administration
310:675-7-1.1. Administrator
(a) The administrator shall be a person who has the authority and responsibility for the total operation of the facility, subject only to the policies adopted by the governing authority and who is licensed by the Oklahoma State Board of Examiners for Nursing Home Administrators.
(b) The administrator, or the owner, shall designate a person in the facility to act on behalf of the administrator during the administrator’s absence from the facility. Authority shall be granted to the designated person to allow normal management responsibilities to be exercised.

310:675-7-2.1. Medical director
The facility shall designate a licensed physician to serve as medical director. The medical director is responsible for implementation of resident medical care policies and the coordination of medical care in the facility.

310:675-7-5.1. Reports to state and federal agencies
(a) Timeline for reporting. All reports to the Department shall be made by telephone or facsimile within twenty-four (24) hours of the reportable incident unless otherwise noted. A followup report of the incident shall be mailed or faxed to the Department within five (5) Department business days after the incident. The final report shall be filed with the Department within ten (10) Department business days after the incident.
(b) Reporting abuse, neglect or misappropriation. The facility shall report to the Department allegations and incidents of resident abuse, neglect or misappropriation of residents' property [63O.S. §1-1939(I)(1)(e)]. This requirement does not supersede reporting requirements in Title 43A of the Oklahoma Statutes (relating to the Protective Services for the Elderly and for Incapacitated Adults Act).
(c) Reporting to licensing boards. The facility shall also report allegations and incidents of resident abuse, neglect, or misappropriation of residents' property by licensed personnel to the appropriate licensing board.
(d) Reporting communicable diseases. The facility shall report communicable diseases [63 O.S.§1-1939(I)(1)(a)] and injuries as specified by the Department in OAC 310:515 (relating to communicable disease and injury reporting).
(e) Reporting certain deaths. The facility shall report deaths by unusual occurrence, such as accidental deaths or deaths other than by natural causes, and deaths that may be attributed to a medical device, [63 O.S. §1-1939(I)(1)(b)] according to applicable state and federal laws. The facility shall also report such deaths to the Department.
(f) Reporting missing residents. The facility shall report missing residents to the Department after a search of the facility and facility grounds and a determination by the facility that the resident is missing. In addition, the facility shall make a report to local law enforcement agencies within two (2) hours if the resident is still missing [63 O.S. §1-1939(I)(1)(c)].
(g) Reporting criminal acts. The facility shall report situations arising where a criminal intent is suspected. Such situations shall also be reported to local law enforcement [63 O.S. §1-1939(I)(1)(d)]. Where physical harm has occurred to a resident as a result of a suspected criminal act, a report shall immediately be made to the municipal police department or to the sheriff’s office in the county in which the harm occurred. A facility that is not clear whether the incident should be reported to local law enforcement should consult with local law enforcement.
(h) Reporting utility failures. The facility shall report to the Department utility failures of more than four (4) hours.
(i) Reporting certain injuries. The facility shall report to the Department incidents that result in fractures, head injury or require treatment at a hospital.

(j) Reporting storm damage. The facility shall report to the Department storm damage resulting in relocation of a resident from a currently assigned room.

(k) Reporting fires. The facility shall report to the Department all fires occurring on the licensed real estate.

(l) Reporting nurse aides. The facility shall report to the Department allegations and incidents of abuse, neglect, or misappropriation of resident property by a nurse aide by submitting a completed Nurse Aide Abuse, Neglect, Misappropriation of Resident Property Form (ODH Form 718), which requires the following:

(1) facility name, address, and telephone;
(2) facility type;
(3) date;
(4) reporting party name or administrator name;
(5) employee name and address;
(6) employee certification number;
(7) employee social security number;
(8) employee telephone number;
(9) termination action and date;
(10) other contact person name and address; and
(11) facts of abuse, neglect, or misappropriation of resident property.

(m) Content of reports to the department. Reports to the Department made pursuant to this section shall contain the following:

(1) The preliminary report shall, at the minimum, include:
   (A) who, what, when, and where; and
   (B) measures taken to protect the resident(s) during the investigation.

(2) The follow-up report shall, at the minimum, include:
   (A) preliminary information;
   (B) the extent of the injury or damage if any; and
   (C) preliminary findings of the investigation.

(3) The final report shall, at the minimum, include preliminary and follow-up information and:
   (A) a summary of investigative actions;
   (B) investigative findings and conclusions based on findings; and
   (C) corrective measures to prevent future occurrences.
   (D) if items are omitted, why the items are omitted and when they will be provided.

310:675-7-8.1. Administrative records

(a) The administrator shall be responsible for the preparation, supervision, and filing of records.

...(c) Each facility shall provide safe storage for administrative records and all current records shall be readily available to the Department upon request.

(d) Administrative records of the facility shall include the following information:

(1) A copy of the current statement of ownership.
(2) The current administrator's name, license number, and date of employment.
(3) The name of the individual responsible for the facility's operation in the absence of the administrator.
(4) Copies of credentials of all personnel and consultants working in the facility who are licensed, registered or certified.
(5) Copies of criminal background checks on all required current employees.
(6) A copy of all contracts with individuals or firms providing any services to the facility.
(7) Written admission and discharge policies.
(8) A description of the services provided by the facility and the rates charged for those services and services for which a resident may be charged separately; limitations of available services; causes for termination of services; and refund policies if services are terminated. Documentation shall show that each resident, and/or representative received this information prior to, or at, the time of admission.

(9) Copies of affiliation agreements, contracts, or written arrangements for advice, consultation, services, training, or transportation with other organizations or individuals, and public or private agencies.

(10) Written transfer agreements with other health facilities to make the services of such facilities readily accessible, and to facilitate the transfer of residents and essential resident information with the resident.

(11) Records of residents advisory council meetings.

(12) Copies of inspection reports from the local, county, and state agencies during the past three years.

(13) All adverse actions instituted against the facility during the past three years, including warning letters, administrative penalties, notice of hearing, hearing officer’s findings, final orders, and court proceedings.

(14) Written disaster plan/emergency evacuation plan.

(15) A record of all nurse aide competency and certification records and contacts to Oklahoma and other state’s nurse aide registries.

(16) Current resident census records.

310:675-7-9.1. Written administrative policies and procedures
(a) The facility shall maintain written policies to govern the administration of the facility. These policies shall be reviewed annually and revised as necessary.
...(e) Residents shall be accepted and cared for without discrimination on the basis of race, sex, color, religion, ancestry, disability, or national origin.
...(g) Conflict resolution procedures shall be adopted for processing complaints received from residents and employees.
(h) Job descriptions shall be developed that detail the functions of each classification of employee.
...(k) The facility shall adopt a nursing policy and procedure manual, which shall detail all nursing procedures performed within the facility. All procedures shall be in accordance with accepted nursing practice standards, and shall include, but not be limited to, the following:
...(11) Emergency procedures....
(l) Each nursing station shall have a copy of the nursing policy and procedure manual, isolation techniques, and emergency procedures for fire and natural disasters.
(m) The facility shall adopt policies and procedures for the administration of social services, activities, dietary, housekeeping, maintenance and personnel.

310:675-7-10.1. Resident’s clinical record
(a) There shall be an organized, accurate, clinical and personal record, either typewritten or legibly written with pen and ink, for each resident admitted or accepted for treatment. The resident’s clinical record shall document all nursing services provided.
(b) The resident clinical record shall be retained for at least five years after the resident’s discharge or death. A minor’s record shall be retained for at least two years after the minor has reached the age of eighteen but, in no case, less than five years.
(c) All required records, either original or microfilm copies, shall be maintained in such form as to be legible and readily available upon request of the attending physician, the facility, and any person authorized by law to make such a request.
(d) Information contained in the resident record shall be confidential and disclosed only to the resident, persons authorized by the resident, and persons authorized by law.

(e) Resident’s records shall be filed and stored to protect against loss, destruction, or unauthorized use.

(f) The Department shall be informed in writing immediately whenever any resident’s records are defaced, or destroyed, before the end of the required retention period.

(g) If a facility ceases operation, the Department shall be notified immediately of the arrangements for preserving the resident’s record. The record shall be preserved for the required time and the information in the records shall be available to the health professionals or facilities assuming care of the resident so that continuity of care is available.

(h) If the ownership of the facility changes, the new licensee shall have custody of the resident’s records and the records shall be available to the former licensee and other authorized persons.

(i) A person employed by the owner shall be in charge of resident records and properly identifiable to others concerned.

(j) The resident clinical record shall include:

1. An admission record sheet which shall include:
   (A) Identification of the resident (name, sex, age, date of birth, marital status).
   (B) Identification numbers as applicable: i.e., Medicare number, Medicaid number.
   (C) Date and time of admission.
   (D) Diagnosis and known allergies.
   (E) Name, address, and telephone number of responsible party, next of kin, pharmacist, and funeral home.

2. Physician’s orders for medications, diet, treatment, and therapy.

3. Orders dated and signed by the physician giving the order. Verbal or telephone orders shall be signed by the physician within five working days, excluding weekends and holidays.

4. Initial orders given by the physician at the time of admission shall be signed by the physician and placed in the clinical record within five working days of admission, excluding weekends and holidays.

5. The most recent medical history and physical examination signed and dated by the physician.

6. Nurse’s notes, dated and signed at the time of entry.

7. Temperature, pulse, respirations, blood pressure and weight when indicated by physician’s orders or by a change in the resident’s condition.

8. Progress notes generated by all health care professionals and allied health personnel.


10. An inventory of personal effects including clothing and property on admission, and as necessary.

11. Written acknowledgement by the resident or legal representative of receipt of the resident’s rights upon admission and as needed.

12. Discharge summary signed by the attending physician that shall include the diagnosis or 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 transfer, or cause of death, date and time of discharge, and diagnosis on discharge.

13. A transfer or discharge form when a resident is transferred, or discharged, to the hospital, another facility or released from care. Transfer or discharge forms may be excluded when a resident is discharged to his/her home when the stay in the facility is for respite care only. The transfer form shall include, but not be limited to, the following information:

   (A) Identification of the resident and his attending physician.
   (B) Diagnosis, medications and medication administration schedule.
   (C) Name of transferring facility.
(D) Name of receiving facility.
(E) Date of transfer.
(F) Family or legal representative.
(G) Condition on transfer.
(H) Reason for transfer.
(I) Known allergies.
(J) Pertinent medical history.
(K) Any advance directive for medical care.

310:675-7-14.1. Facility maintenance
...(b) The maintenance records shall include:
(1) A written orientation program for maintenance personnel.
...(5) Verification that facility maintenance personnel are certified or licensed as required by state law.

310:675-7-15.1. Housekeeping laundry, and general storage
(a) Housekeeping.
...(6) Housekeeping personnel shall receive effective supervision, orientation and training.

310:675-7-16.1. Quality assessment and assurance
(a) The facility shall maintain a quality assessment and assurance committee to address facility and resident's needs.
(b) The committee shall include the director of nursing, a physician designated by the facility, and at least one other appropriate staff.
(c) The quality assessment and assurance committee shall meet at least quarterly to identify quality assessment and assurance activities.
(d) The committee shall develop and implement appropriate plans of action to correct identified quality deficiencies.
(e) The Department shall not require disclosure of the records of the committee unless such disclosure is related to the committee's compliance with the requirements of this section.
(f) Good faith attempts by the committee to identify and correct quality deficiencies shall not be used as a basis for sanctions.

310:675-7-18.1. Personnel records
Each facility shall maintain a personnel record for each current employee containing:
(1) Application for employment. An application for employment which contains employee's full name, social security number, professional license or registration number, if any, employment classification, and information about past employment, including: place of employment, position held, length of employment, and reason for leaving.
(2) Employee time records. Copies of current employee time records, signed by the employee, shall be maintained by the facility for at least thirty-six (36) months.
(3) Training, arrest check, and certification. Documentation of orientation and training (may be kept in separate file), continuing education, a copy of the criminal arrest check, and appropriate certification and licensure.

310:675-7-20. Financial solvency and reports
(a) The facility shall maintain financial solvency sufficient to ensure its operation as evidenced by the timely payment of obligations including but not limited to:
(1) Employee payrolls;
(2) Amounts owed to consultants, medical directors, vendors, suppliers, and utility service providers;
(3) Taxes and provider fees; and
(4) Leases, rents and mortgages.

310:675-7-21. Sex or violent offender status
(a) Determination of status. A facility subject to the provisions of this Chapter shall determine whether the following individuals have registered pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act:
(1) An applicant for admission or participation,
(2) A resident, client or participant of a facility subject to the provisions of this Chapter, and
(3) All employees of facilities subject to the provisions of this Chapter, in addition to the required criminal arrest check in 63 O.S. §1-1950.1 and 63 O.S. §1-1950.8 (relating to criminal arrest checks).
(b) Procedures for determination of status. Prior to admission or employment but no later than three (3) business days from acceptance of any resident or participant, the employing or receiving facility subject to the provisions of this Chapter shall determine from local law enforcement, the Department of Corrections, or the Department of Corrections’ Sex Offender and Mary Rippy Violent Crime Offender registries, whether the prospective employee or accepted resident or participant is registered or qualifies for registration on either registry.
(c) Recommended registry search strategy. A facility subject to the provisions of this Chapter may utilize the first three letters of the last name and an asterisk, and the first letter of the first name and asterisk, any known alias, and appearance criteria as provided for search within the Department of Correction’s Internet based sex and violent crime offender registries.
(d) Change in status after employment or admission. A facility subject to the provisions of this Chapter shall repeat the screening in OAC 310:675-7-21(b) (regarding procedures for determination of status) subsequent to the receipt of any information that an employee, resident or participant’s registration status may have been altered or updated after the initial screening.
(e) Posting of offender status. Pursuant to 63 O.S. §1-1909(4), a facility subject to the provisions of this Chapter shall conspicuously post for display in an area of its offices accessible to residents, employees and visitors a copy of any notification from the local law enforcement authority regarding the registration status of any person residing in the facility who is required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act.
(f) Notice to Department of sex or violent offender’s presence. When a facility subject to the provisions of this Chapter is notified, or has determined, that an individual who is required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act is residing or participating at such facility, the facility shall immediately, in writing, notify the State Department of Health.[63 O.S. §1-1946(A)(3)]
(g) Content of notice of sex or violent offender’s presence. Notice provided to the Department shall include the name, and identifying information used to make the determination in 310:675-7-21(b)[regarding determination of status].
(h) Notification through other means. Where a facility subject to the provisions of this Chapter determines through other means, excepting written notification by the Department, of an employee, resident or participant required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act, the facility shall notify the Department and shall be subject to all other requirements within this section.

310:675-9-6.1. Restraints
...(b) ... When restraints are used in an emergency, the facility shall comply with the following process:
(1)...The licensed nurse shall document in the clinical record the application of the physical restraint and the alternative measures that were not effective. ...
...(3)... Circumstances requiring the physical restraints shall be re-evaluated every thirty minutes and documented in the clinical record.

(a) The facility shall provide, or obtain, clinical laboratory services to meet the resident’s needs. The facility shall be responsible for the quality and timeliness of the services. If the facility provides clinical laboratory services, the services shall meet the applicable conditions of the services furnished by independent laboratories. If the facility provides blood bank and transfusion services, it shall meet the applicable conditions for independent laboratories and hospitals.
(b) If the laboratory refers specimens for testing to another laboratory, the receiving laboratory shall meet applicable conditions as an independent laboratory.
(c) If the facility does not provide laboratory services on site, it shall have an agreement to obtain such services only from a laboratory that meets applicable conditions as an independent laboratory, either as a hospital or an independent laboratory.
(d) The facility shall:
(1) Provide or obtain laboratory services only when ordered by the physician.
(2) Promptly notify the physician of the findings.
(3) Assist the resident in arranging transportation to and from the source of service, if the resident needs assistance.
(4) File signed and dated reports of clinical laboratory services in the resident’s clinical record.

Subchapter 13 - Staff Requirements
310:675-13-1. Required staff
310:675-13-2. Staff orientation
All staff shall complete orientation, and specific training, for their respective responsibilities before working without supervision. Staff shall immediately be oriented to the use and location of fire extinguishers, procedures to be followed in the event of a fire and resident rights.
310:675-13-3. Administrator... (b) The facility shall designate a person to act for the administrator during his/her absence. The designated person shall have the authority to exercise normal management responsibilities.
310:675-13-4. Medical director
(a) The facility shall designate an Oklahoma licensed medical doctor or osteopathic physician to serve as its medical director.
(b) The medical director shall coordinate the medical services within the facility.
310:675-13-5. Nursing service
... (b) Licenses. All licensed nurses shall hold a current license issued by the Oklahoma Board of Nursing.
(c) Director of nursing
(1) A registered nurse or licensed practical nurse shall be designated as the director of nursing.
(f) Certified medication aide
... (5) A certified medication aide shall complete eight hours of continuing education a year that is approved by the Department.
(g) Nurse aide
(1) No facility shall use, on a full-time basis, any person as a nurse aide for more than 120 days unless that person is enrolled in a training program.
(2) No facility shall use, on a temporary, per diem, or other basis, any person as a nurse aide unless the individual is listed on the Department's nurse aide registry.

(3) The facility shall contact the Department’s nurse aide registry prior to employing a nurse aide to determine if the person is listed on the registry, and if there is any record of abuse, neglect, or misappropriation of resident property.

(h) Nursing students. Facilities participating in a state approved nursing education program may allow nursing students to administer medications to residents. The facility shall have a written agreement with the nursing education program. The agreement shall specify the scope of activities, education level, and required supervision. The facility shall maintain a current roster of nursing students in the program. Details about the program and its operation within the facility shall be included in the facility's policy and procedure manual.

(i) Inservice. The facility shall provide all direct care staff with two hours of inservice training specific to their job assignment per month. This training shall include, at least, the following:

1. Fire safety and first aid classes semi-annually.
2. Resident rights and resident adjustment to institutional life annually.
3. Cardiopulmonary resuscitation and Heimlich maneuver procedures annually.
4. All supervisory staff shall receive training in regards to applicable local, state, and federal regulations governing the facility.

5. Each staff person shall be provided training in pain recognition at the time of orientation and at least once a year thereafter.
6. Each certified nurse aide shall be provided training in pain screening at the time of orientation and at least once every year thereafter.
7. Each licensed practical nurse shall be provided training in pain screening and pain management at the time of orientation and at least once every year thereafter.
8. Each registered nurse shall be provided training in pain assessment and pain management at the time of orientation and at least once every year thereafter.

310:675-13-6. Registered/licensed dietician or qualified nutritionist

(b) The registered/licensed dietician or qualified nutritionist shall... provide inservice training for food service personnel and direct care staff.

(c) A qualified nutritionist shall complete eight hours of continuing education a year approved by the Department.

310:675-13-7. Food service staff

(b) Food service staff.

(2) The food service staff shall complete a basic orientation program before working in the food service area. This orientation shall include, but not be limited to: fire and safety precautions...

(3) Each food service staff member shall successfully complete a food service training program offered or approved by the Department within ninety (90) days of beginning employment. Food service training shall be renewed as required by the authorized training program.

310:675-13-9. Social services personnel

(12) Continuing education. This section creates no obligation for continuing education beyond requirements specified otherwise in this Chapter. The Department will not approve continuing education or update courses.

310:675-13-10. Maintenance personnel

(c) Each person who provides maintenance services shall have a current license from the state or political subdivision if required to provide such service.

(d) The maintenance staff shall complete one hour of inservice each quarter relevant to
maintenance services.

310:675-13-11. Housekeeping personnel
...(b) Housekeeping personnel shall receive effective supervision, orientation and training.
...(d) The housekeeping staff shall complete one hour of inservice per quarter about housekeeping practices.

Subchapter 3 – Nurse Aide Training and Competency Examination Program
310:677-3-1. Categories of training programs
The Department shall approve training and competency evaluation programs including, but not limited to, educational-based programs and employer-based programs.

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The Department shall approve training and competency evaluation programs including, but not limited to, educational-based programs and employer-based programs.

310:677-3-2. Approved programs
(a) The Department shall approve a nurse aide training and/or competency examination program that meets the criteria for a State approved program.
(b) An entity seeking approval of a nurse aide training and/or competency examination program shall file the appropriate application form (ODH-743) and, for training programs other than long term care aide, a non-refundable application fee of one hundred dollars ($100.00). There is no application fee for long-term care aide training, or long-term care aide competency evaluation, programs.
(c) The Department's approval of a program shall not be transferable or assignable.

310:677-3-3. Application
(a) An entity which desires to sponsor a nurse aide training and competency examination program shall file an application for approval on the forms prescribed by the Department.
(b) No nurse aide training and competency examination program shall be operated, and no trainee shall be solicited or enrolled, until the Department has approved the program.
(c) The application requires the following information:
   (1) Name and address for the entity sponsoring the program and for the contact person for the program;
   (2) The location of the administrative office of the program and the location where records are maintained;
   (3) A program plan that follows the curriculum established by the Department including, but not limited to:
      (A) Program objectives;
      (B) A breakdown of the curriculum into clock hours of classroom/lecture, laboratory and supervised clinical instruction;
      (4) A Skills Performance Checklist, documenting the date the nurse aide trainee successfully demonstrated all those basic nursing skills and personal care skills that are generally performed by nurse aides and the signature of the instructor that observed the successful demonstration of the skills. The skills must include the basic nursing skills and personal care skills listed in 42 Code of Federal Regulations (CFR) 483.152 (b)(2) and (3);
      (5) A Training Verification Form;
      (6) A description of the program's standards for classroom and skills training facilities including, but not limited to:
(A) Heat and cooling systems;
(B) Clean and safe conditions;
(C) Adequate space to accommodate all trainees;
(D) Adequate lighting;
(E) Proper equipment and furnishings;
(F) The specific location of the classroom and lab if known at the time of the application; and
(7) Position descriptions and education and experience requirements for training supervisors and instructors, and the program’s procedure for ensuring that supervisors and instructors satisfy such descriptions and requirements.
(d) The entity shall file an application for each program with a non-refundable application fee.
(e) A training and competency examination program shall not be offered by or in a facility which, within the previous two years:
(1) has operated under a registered nurse staffing waiver under Section 1819(b)(4)(C)(ii)(II) or Section 1919(b)(4)(C)(ii) of the Social Security Act; or
(2) has been assessed a penalty that has been determined, after opportunity for hearing, to be due and payable in an amount of not less than $5,000;
(3) had a license revoked, a Medicare or Medicaid certification terminated, a denial of payment for new admissions imposed, a temporary manager appointed, or was closed or had residents transferred pursuant to an emergency action by the Department; or
(4) was found to have provided substandard quality of care. For the purpose of this Section, "substandard quality of care" means one or more deficiencies related to participation requirements under 42 CFR 483.13, Resident Behavior and Facility Practices, 42 CFR 483.15, Quality of Life, or 42 CFR 483.25, Quality of Care. The deficient practice must constitute immediate jeopardy which has caused or is likely to cause serious injury, harm, impairment, or death to an individual resident or a very limited number of residents receiving care in a facility; or deficient practice that results in actual harm to residents' physical, mental and psychosocial well-being and occurs as a pattern affecting more than a very limited number of residents or widespread affecting a large number or all of the facility's residents; or deficient practice that results in potential for more than minimal physical, mental and /or psychosocial harm to residents' that is widespread and affects the entire facility population.
(f) The Department may waive for a period not to exceed two years the imposition of (e) of this Section and allow the offering of a training and competency evaluation program in, but not by, a facility upon the written request of the facility if:
(1) The Department determines that no other such program is offered within a round-trip travel time of one hour from the facility;
(2) The facility has no deficiencies that constitute substandard quality of care at the time of the request and has no deterioration in care that results in substandard quality of care during the waiver period; and
(3) The Department provides notice of such determination and assurances to the Oklahoma Long Term Care Ombudsman.
(g) The Department may waive for a period not to exceed two years the imposition of (e)(2) and (e)(3) of this Section and allow the offering of a training and competency evaluation program in, but not by, a facility upon the written request of the facility if the penalty or remedy was not related to the quality of care provided to residents.

310:677-3-4. Program requirements
(a) Before the Department approves a nurse aide training and competency examination program or a competency examination program, the Department shall determine whether the nurse aide training and competency examination program or the competency examination program meets the minimum requirements.
(b) The Department shall not approve, or shall withdraw approval, of an employer based program when the employer has been assessed the following penalties or actions by the Department:

1. License suspended or revoked or had a conditional license issued.
2. An administrative money penalty of five thousand dollars ($5,000) or more for deficiencies cited under state licensure.
3. Closed or had its residents or clients transferred pursuant to the Department’s action.
4. Enforcement actions based on the Department’s authority under Medicare and Medicaid certification programs, except for facilities certified as Intermediate Care Facilities for the Mentally Retarded.
5. For Intermediate Care Facilities for the Mentally Retarded, repeated enforcement actions based on the Department’s authority.

(c) The Department may withdraw approval of a nurse aide training and competency examination program sponsored by an entity when the following occurs:

1. The entity has been determined by the Department to have a competency examination failure rate greater than fifty (50) per cent during a calendar year.
2. The entity no longer meets, at a minimum, the following requirements to be a certified program:
   A. The training program falls below the required clock hours of training.
   B. The curriculum does not include at least the subjects specified under 310:677-9-4 Home Health Aides, 310:677-11-4 Long Term Care Aides, 310:677-13-4 Certified Medication Aides, 310:677-15-3 Developmentally Disabled Direct Care Aides, 310:677-17-3 Residential Care Aides, and or 310:677-19-3 Adult Day Care Aides;
   C. A minimum of 16 hours of specified training for Long Term Care Aides is not provided prior to direct contact with residents;
   D. At least sixteen (16) hours of supervised practical training under the direct supervision of a registered nurse or a licensed practical nurse. The sixteen (16) hours does not include the administration of the skills examination.
3. The entity uses an uncertified individual as a nurse aide for longer than four months. To use an uncertified individual as a nurse aide for four months or less, an entity must have a temporary emergency waiver approved pursuant to 63 O.S. Section 1-1950.3.
4. The onsite review determines the training program is out of compliance with the requirements of 63 O.S. Section 1-1950.1, 1-1950.3 or 1-1951, or OAC 310:677.

(d) The Department shall withdraw approval of a nurse aide training and competency evaluation program if:

1. The entity refuses to permit the Department to make unannounced visits; or
2. The entity falsifies records of competency or training.

(e) Withdrawal of approval shall be for a period of two (2) years or until the Department is assured through review that the entity complies with the requirements.

(f) If the Department withdraws approval of a nurse aide training and competency examination program, the Department shall:

1. Notify the entity in writing, indicating the reason for withdrawal of approval.
2. Allow the trainees who have started a training and competency examination program to complete the program or allow the trainees who have started the program to transfer to another approved program.

(g) A program entity may request reconsideration of the Department’s decision in accordance to Chapter 2 of this Title and appealed according to the Administrative Procedures Act.

(h) The entity shall notify the trainee in writing, that successful completion of the nurse aide training and competency examination program shall result in the individual being listed in the Department’s nurse aide registry and shall retain a copy of such notice, signed by the trainee, in the trainee’s file.
(i) A trainee shall not perform any services for which the trainee has not been trained and found proficient by an instructor.

310:677-3-5. Training program review and approval
(a) Within 30 days after receipt of an application for a program that is not currently approved, the Department shall determine if the application is complete and consistent. If the application is incomplete or inconsistent, the Department shall advise the applicant in writing and offer an opportunity to submit additional information. Within 30 days after completeness, the Department shall approve or disapprove the application. If the action is to disapprove, the Department shall advise the applicant in writing of the specific reasons for the disapproval, and shall offer the applicant an opportunity to demonstrate compliance.
(b) Each program is subject to site visits by the Department. Approved programs shall be evaluated by the Department every two years.
(c) An approved program shall notify the Department in writing before making substantive changes to the program. Substantive changes shall include but not be limited to:
(1) A change in location of the administrative offices of the training program;
(2) A change in the requirements or procedures for selection of instructors;
(3) A change in the curriculum;
(4) A different legal entity sponsoring the program; or
(5) A change in location of the class, clinical training site, or laboratory.

310:677-3-6. Closing an approved nurse aide training and competency examination program
(a) When an entity decides to close a nurse aide training and competency examination program, it shall:
(1) Notify the Department at least sixty (60) days in advance, in writing, stating the reason, plan, and date of intended closing.
(2) Continue the program until the classes for currently enrolled trainees are completed.
(b) The entity shall notify the Department of its plan to safeguard the program records.

310:677-3-7. Criminal arrest checks
(a) An employer based program shall complete the State required criminal arrest check. The record of the finding shall be maintained by the employer. These records shall be destroyed after one (1) year from the end of employment of the person to whom such records relate. [63:1-1950.3(H)]
(b) A non-employer based program shall notify trainees that if a criminal arrest check reveals a cause which bars employment in a health care entity, then the trainee shall be withdrawn from the training program.
(c) If a non-employer based training program does not require an OSBI criminal arrest check as part of the admission requirements to the training program, the training program shall provide the trainee with written notification of 63:1-1950.1 as part of the training program application.

310:677-3-8. Records and examination
(a) A program shall use a performance record/Skills Performance Checklist which shall include:
(1) A record of when the trainee performs the duties and skills and the determination of satisfactory or unsatisfactory performance.
(2) The name of the instructor supervising the performance.
(b) Upon request from the nurse aide trainee, the training program shall provide the trainee with a copy of the Training Verification Form upon completion of training.
(c) Upon request from the nurse aide trainee, the training program shall provide the trainee a copy of the completed classroom/lecture training and the training performance record/Skills
Performance Checklist with the skills that have been demonstrated if the trainee has to withdraw from the training program prior to completion of the training program.

(d) The program shall retain the following records for each trainee for at least three (3) years:

1. The Trainee's Application for the training program.
2. Performance records, the Skills Performance Checklist and Training Verification Form.
3. Nurse aide competency and examination results.

(e) The training program shall provide copies to the nurse aide registry of any individual nurse aide training records that may be requested by the Department.

310:677-3-9. Requirements for administration of the competency examination

(a) The competency examination shall be administered and evaluated only by a Department approved entity which shall be periodically monitored by the Department.

(b) Each approved examination entity must provide the Department with the following:
1. Written job analysis studies to determine the pool of test questions.
2. Test question validation studies.
3. Capabilities of providing competency results in the proper format for compatibility with the Department's nurse aide registry within thirty (30) days of scoring.
4. Assurances that the written and skills testing process are not compromised.

(c) Each approved examination entity shall provide the examinee with the following:
1. The notice showing pass/fail results.
2. The notice shall specify the areas of failure to the nurse aide.

(d) The Department shall withdraw approval of a testing entity when it allows one or more of the following:
1. Disclosure of the competency examination.
2. Allowing another entity not approved by the Department to score the competency examination.
3. Tampering with the competency examination.
4. The competency examination was administered by a non-qualified individual.

(e) If the competency examination is proctored by facility personnel:
1. The test results must be transmitted to the scoring entity immediately after completion of the written or oral examination.
2. A record of successful completion of the competency examination must be included in the nurse aide registry within 30 days of the date the individual is found to be competent. Competency is determined by a passing score on the written or oral examination and skills examination.
3. If the competency evaluation is to be proctored by facility personnel and the entity chooses to delay the administration of the written or oral examination and/or skills examination after completion of the training which will delay certification, this information shall be provided in writing in the training program application and signed by the trainee.
4. The trainee may sit for the written or oral examination and skills examination at a different location than where training was completed if the testing entity is provided with a Training Verification Form.

310:677-3-10. Content of the competency examination

(a) The competency examination shall include a written or oral portion, in English, which shall:
1. Allow a nurse aide to choose between a written and an oral examination.
2. Address each requirement specified in the minimum curriculum prescribed by the Department.
3. Be developed from a pool of test questions, only a portion of which is used in any one (1) examination.
4. Use a system that prevents disclosure of both the pool of test questions and the individual competency examination results.
(5) If oral, the examination portion shall be read from a prepared text in a neutral manner.

(b) The skills examination portion of the competency examination shall:

(1) Consist of randomly selected items drawn from a pool of tasks generally performed by nurse aides except as provided in section 9-5 (b).

(2) Be performed in an entity in which the individual will function as a nurse aide or a similar laboratory setting.

(3) Be administered and evaluated by a qualified clinical skills observer.

(c) The Department shall permit the skills examination to be proctored by qualified entity personnel if the Department finds that the procedure adopted by the testing entity ensures that the competency examination:

(1) Is secure from tampering.

(2) Is standardized and scored by a testing, educational, or other organization approved by the Department.

(3) Is transmitted to the scoring entity immediately after completion of the skills examination. A record of successful completion of the skills examination must be included in the Nurse Aide Registry within 30 days of the date the individual is found to be competent or has passed the skills examination.

(d) The Department shall revoke the approval of any entity to proctor the nurse aide competency examination if the Department finds evidence of impropriety, including evidence of tampering by facility staff.

310:677-3-11. Successful completion of the competency examination

(a) An individual shall pass both the written or oral examination and the skills examination to complete the competency examination successfully.

(b) An individual shall score at least seventy (70) percent on the written or oral examination.

(c) An individual shall demonstrate at least eighty (80) percent accuracy for the skills examination.

(d) The Department shall include in the nurse aide registry a record of successful completion of the competency examination within thirty (30) days of the date the individual is found to be competent.

310:677-3-12. Failure to complete the competency examination

If an individual does not complete the competency examination successfully, the individual shall be notified by the testing entity of, at least, the following:

(1) The areas which the individual did not pass.

(2) That the individual may retake the examination a total of three times without further training.

SUBCHAPTER 11. LONG TERM CARE AIDES

310:677-11-1. General requirements

(a) The facility shall:

(1) Complete a performance review of every nurse aide at least once every twelve (12) months and provide two (2) hours of inservice training specific to their job assignment each month.

(2) Have in-service education generally supervised by a registered nurse who has at least two (2) years nursing experience with at least one (1) year of which shall be in the provision of long term care services.

(3) Ensure that each nurse aide certification is current and not expired.

(b) An individual may apply for listing in the nurse aide registry by reciprocity from another State and the Department may approve such application if the individual is listed in another State
registry as a certified long term care aide and does not have a notation of abuse, neglect, mistreatment, or misappropriation of property.

(c) The training program shall inform the trainee that a long term care aide shall complete a new nurse aide training and competency examination program or competency examination if, upon applying for renewal of certification, the nurse aide has not provided at least eight (8) hours of nursing or health related services for compensation during the previous twenty-four (24) months.

(d) The training program shall inform a trainee that the trainee shall not perform any resident services until the trainee has completed the required sixteen (16) hours of training identified in 310:677-11-4 and the aide shall not perform services for which they have not trained and been found proficient by the instructor.

310:677-11-2. Deemed to meet state certification requirements

(a) The Department shall deem a certified long term care aide to meet the nurse aide certification requirements for the following employers after successful completion of at least sixteen (16) hours of orientation specific to the employer’s population. Documentation of the sixteen (16) hours shall be submitted to the Department and the certified nurse aides name will be entered in the registry as being certified in that category. This requirement shall apply to the following employers:

(1) Residential care.
(2) Adult day care.
(3) Specialized facility.

(b) A home care aide may be employed by a long term care facility following at least sixteen (16) hours of training in the following areas:

(1) Resident rights.
(2) Caring for the resident when death is imminent.
(3) Care of the cognitively impaired resident.
(4) Avoiding the need for restraints in accordance with current professional standards.
(5) The minimum data set, care plans and the interdisciplinary team.

(c) Documentation of the sixteen (16) hours of training shall indicate time spent in each area, be signed by the nurse aide and the instructor and be kept in the nurse aide’s personnel file. Documentation shall also be submitted to the Department to place the certified home care aide on the registry as a certified long term care aide.

310:677-11-3. Instructor qualifications

(a) The training of long term care aides shall be done by, or under the general supervision of, a registered nurse who has:

(1) At least two (2) years of nursing experience with at least one (1) year in long term care facility services.
(2) Completed a course in teaching adults or experience in teaching adults or supervising nurse aides.

(b) The nurse aide training and competency examination may be supervised by the registered nurse who serves as the director of nursing, provided that the director of nursing shall not perform the actual training.

(c) There must be one (1) Registered Nurse who meets the qualifications for each long term care training program, whether in the role of RN Supervisor or RN instructor.

(d) A licensed practical nurse may act as an instructor in an approved nurse aide training and competency examination program when a registered nurse maintains responsibility for the program and is available to provide instruction in areas in which a licensed practical nurse may lack technical expertise.
(e) Other personnel from the health professions may supplement the instructor. These persons shall be licensed by the State, if applicable, and shall have at least one (1) year experience in the practice of the profession.

310:677-11-4. Curriculum
(a) The training program for long term care aides shall include:
(1) At least, seventy-five (75) hours of training or the equivalent.
(2) At least sixteen (16) hours of training in the following areas prior to any direct contact with a resident that is documented and signed by the nurse aide trainee:
(A) Communication and interpersonal skills.
(B) Infection control.
(C) Safety and emergency procedures, including the Heimlich maneuver.
(D) Promoting a resident’s independence.
(E) Respecting a resident’s rights.
(3) At least sixteen (16) hours of supervised practical training that is documented and signed by the nurse aide trainee.
(b) The long term care aide training program shall include the subjects specified in paragraphs (b)(2) through (7) of 42 CFR 483.152(b).
(c) Pursuant to 63 O.S. 1-1951(A)(3), the long term care aide training program shall include a minimum of ten (10) hours of training in the care of Alzheimer’s patients.

310:677-11-5. Competency and skills examination
(a) The competency examination must comply with 42 CFR 483.154, and is addressed under 310:677-3-9 and 310:677-3-10.
(b) The skills examination shall:
(1) Consist of a demonstration of randomly selected items drawn from a pool of tasks generally performed by long term care aides. This pool shall include all of the personal care skills.
(2) Be performed in a facility or laboratory setting comparable to the setting in which the individual shall function as a long term care aide.
(3) Be administered and evaluated by a registered nurse with at least one (1) year experience in providing care for the elderly or the chronically ill of any age and a qualified clinical skills observer.

OREGON
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Conditions for Payment. Nursing facilities must meet the following conditions in order to receive payment under Title XIX (Medicaid):
(1) CERTIFICATION.
(a) The facility must be in compliance with Title XIX federal certification requirements.
(b) Except as provided in section (1)(c) of this rule, all beds in the facility must be certified as nursing facility beds.
(c) A facility choosing to discontinue compliance with section (1)(b) of this rule may elect to gradually withdraw from Medicaid certification but must comply with all of the following:
(A) Notify SPD in writing within 30 days of the certification survey that it elects to gradually withdraw from the Medicaid Program;
(B) Request Medicaid reimbursement for any resident who resided in the facility, or who was eligible for right of return under OAR 411088-0050 or right of readmission under OAR 411-088-0060, on the date of the notice required by this rule. If it appears the resident may be eligible within 90 days, such request may be initiated;
(C) Retain certification for any bed occupied by or held for any resident who is found eligible for Medicaid until the bed is vacated by:
(i) The death of the resident; or
(ii) The transfer or discharge of the resident pursuant to the transfer rules in OAR chapter 411, division 088.
(D) All Medicaid recipients exercising rights of return or readmission under the transfer rules must be permitted to occupy a Medicaid certified bed; and
(E) Notify in writing all persons applying for admission subsequent to notification of gradual withdrawal that, should the person later become eligible for Medicaid assistance, that reimbursement would not be available in that facility.

411-070-0315 Maximum Allowable Compensation of Administrator and Assistant Administrator.
(1) The maximum compensation of a full-time (40 hours per week) licensed administrator to a nursing facility may be allowable at the lower of compensation actually received or the maximum allowable administrator compensation amount determined annually using the calculation in section (4) of this rule.
(2) The maximum compensation of not more than one full-time (40 hours per week) assistant administrator to a nursing facility with at least 80 licensed beds may be allowable at the lower of compensation actually received or seventy-five percent of the allowable administrator compensation for the number of licensed beds in the nursing facility. The Department will not allow the cost of an assistant administrator in a facility with less than 80 beds.
(3) If either of the above individuals works less than 40 hours in the average week, allowable compensation must be the lower of actual compensation received or the maximum allowable administrator compensation determined annually based on the calculation in section (4) of this rule, multiplied by the percentage of 40 hours worked in the average week. The provider must maintain adequate records to demonstrate time actually spent.
(4) The maximum allowable administrator compensation may be adjusted each year and will be effective as of January 1 each year. The rates must be established using the gross allowable compensation in Account 411 (Administrator Compensation) of the Nursing Facility Financial Statement for non-owner administrators. The applicable compensation amounts will be inflated by the U.S. CPI from the mid point of each facility’s fiscal year to July 1. The 75th percentile of each bed-size category, 1-49, 50-79, 80-99, 100 and over, will be the ceiling for each grouping.
(5) When a single individual serves as the administrator of both a nursing facility and a hospital, the salary will be pro-rated to both functions. The nursing facility portion will then be compared to the pro-rated share of the allowable administrator compensation to determine the amount to be included as allowable.

411-070-0470 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.

(c) 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.

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

411-085-0025 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.

(2) 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.

(3) 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 inservice 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 inservice 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.
(1) The nursing facility must prepare and maintain a written emergency preparedness plan in
accordance with the Oregon Fire Code (OFC) in OAR chapter 837, division 040 and the 2009
(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.

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§ 201.11. Types of ownership.
The owner of a facility may be an individual, a partnership, an association, a corporation or
combination thereof.

§ 201.12. Application for license.
...(b) The following shall be submitted with the application for licensure:
(1) The names and addresses of a person who has direct or indirect ownership interest of 5% or
more in the facility as well as a written list of the names and addresses of the facility's officers and
members of the board of directors...

§ 201.13. Issuance of license.
...(i) The current license shall be displayed in a public and conspicuous place in the facility.

(a) The licensee is responsible for meeting the minimum standards for the operation of a facility as
set forth by the Department and by other State and local agencies responsible for the health and
welfare of residents.
(b) If the services are purchased for the administration or management of the facility, the licensee is
responsible for insuring compliance with this subpart, and other relevant Commonwealth
regulations.

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(c) The licensee through the administrator shall report to the appropriate Division of Nursing Care Facilities field office serious incidents involving residents. As set forth in § 51.3 (relating to notification). For purposes of this subpart, references to patients in § 51.3 include references to residents.

(d) In addition to the notification requirements in § 51.3, the facility shall report in writing to the appropriate division of nursing care facilities field office:

1. Transfers to hospitals as a result of injuries or accidents.
2. Admissions to hospitals as a result of injuries or accidents.

(e) The administrator shall notify the appropriate division of nursing care facilities field office as soon as possible, or, at the latest, within 24 hours of the incidents listed in § 51.3 and subsection (d).

(f) Upon receipt of a strike notice, the licensee or administrator shall promptly notify the appropriate Division of Nursing Care Facilities field office and keep the Department apprised of the strike status and the measures being taken to provide resident care during the strike.

(g) A facility owner shall pay in a timely manner bills incurred in the operation of a facility that are not in dispute and that are for services without which the resident's health and safety are jeopardized.

(h) The facility shall report to the Department, on forms issued by the Department, census, rate and program occupancy information as the Department may request.

§ 201.17. Location.
The facility shall be operated as a unit reasonably distinct from the other related services, if located in a building which offers various levels of health-related services.

§ 201.18. Management.

(a) The facility shall have an effective governing body or designated person functioning with full legal authority and responsibility for the operation of the facility.

(b) The governing body shall adopt and enforce rules relative to:

1. The health care and safety of the residents.
2. Protection of personal and property rights of the residents, while in the facility, and upon discharge or after death.
3. The general operation of the facility.

(c) The governing body shall provide the information required in § 201.12 (relating to application for license) and prompt reports of changes which would affect the current accuracy of the information required.

(d) The governing body shall adopt effective administrative and resident care policies and bylaws governing the operation of the facility in accordance with legal requirements. The administrative and resident care policies and bylaws shall be in writing; shall be dated; shall be made available to the members of the governing body, which shall ensure that they are operational; and shall be reviewed and revised, in writing, as necessary. The policies and bylaws shall be available upon request, to residents, responsible persons and for review by members of the public.

(e) The governing body shall appoint a full-time administrator who is currently licensed and registered in this Commonwealth and who is responsible for the overall management of the facility. The Department may, by exception, permit a long-term care facility of 25 beds or less to share the services of an administrator in keeping with section 3(b) of the Nursing Home Administrators License Act (63 P. S. § 1103(b)). The sharing of an administrator shall be limited to two facilities. The schedule of the currently licensed administrator shall be publicly posted in each facility. The administrator's responsibilities shall include the following:
(1) Enforcing the regulations relative to the level of health care and safety of residents and to the 
protection of their personal and property rights.
(2) Planning, organizing and directing responsibilities obligated to the administrator by the 
governing body.
(3) Maintaining an ongoing relationship with the governing body, medical and nursing staff and 
other professional and supervisory staff through meetings and periodic reports.
(4) Studying and acting upon recommendations made by committees.
(5) Appointing, in writing and in concurrence with the governing body, a responsible employee to 
act on the administrator’s behalf during temporary absences.
(6) Assuring that appropriate and adequate relief personnel are utilized for those necessary 
positions vacated either on a temporary or permanent basis.
(7) Developing a written plan to assure the continuity of resident care and services in the event of a 
strike in a unionized facility.

(f) A written record shall be maintained on a current basis for each resident with written receipts 
for personal possessions and funds received or deposited with the facility and for expenditures and 
disbursements made on behalf of the resident. The record shall be available for review by the 
resident or resident’s responsible person upon request.

(g) The governing body shall disclose, upon request, to be made available to the public, the 
licensee’s current daily reimbursement under Medical Assistance and Medicare as well as the 
average daily charge to other insured and noninsured private pay residents.

(h) When the facility accepts the responsibility for the resident’s financial affairs, the resident or 
resident’s responsible person shall designate, in writing, the transfer of the responsibility. The 
facility shall provide the residents with access to their money within 3 bank business days of the 
request and in the form—cash or check—requested by the resident.

§ 201.19. Personnel policies and procedures.
Personnel records shall be kept current and available for each employee and contain sufficient 
information to support placement in the position to which assigned.

§ 201.20. Staff development.
(a) There shall be an ongoing coordinated educational program which is planned and conducted for 
the development and improvement of skills of the facility’s personnel, including training related to 
problems, needs and rights of the residents.

(b) An employee shall receive appropriate orientation to the facility, its policies and to the position 
and duties. The orientation shall include training on the prevention of resident abuse and the 
reporting of the abuse.

(c) There shall be at least annual in service training which includes at least infection prevention and 
control, fire prevention and safety, accident prevention, disaster preparedness, resident 
confidential information, resident psychosocial needs, restorative nursing techniques and resident 
rights, including personal property rights, privacy, preservation of dignity and the prevention and 
reporting of resident abuse.

(d) Written records shall be maintained which indicate the content of and attendance at the staff 
development programs.

§ 201.21. Use of outside resources.
(a) The facility is responsible for insuring that personnel and services provided by outside 
resources meet all necessary licensure and certification requirements, including those of the 
Bureau of Professional and Occupational Affairs in the Department of State, as well as requirements 
of this subpart.
(b) If the facility does not employ a qualified professional person to render a specific service to be provided by the facility, it shall make arrangements to have the service provided by an outside resource, a person or agency that will render direct service to residents or act as a consultant to the facility.

(c) The responsibilities, functions and objectives and the terms of agreement, including financial arrangements and charges of the outside resource shall be delineated in writing and signed and dated by an authorized representative of the facility and the person or agency providing the service.

(d) Outside resources supplying temporary employees to a facility shall provide the facility with documentation of an employee’s health status as required under § 201.22 (c)—(j) and (l)—(m) (relating to prevention, control and surveillance of tuberculosis (TB)).

§ 201.27. Advertisement of special services.
A facility may not advertise special services offered unless the service is under the direction and supervision of personnel trained or educated in that particular special service, such as, rehabilitation or physical therapy by a registered physical therapist; occupational therapy by a registered occupational therapist; skilled nursing care by registered nurses; special diets by a dietitian; or special foods.

§ 201.29. Resident rights.
(a) The governing body of the facility shall establish written policies regarding the rights and responsibilities of residents and, through the administrator, shall be responsible for development of and adherence to procedures implementing the policies.

§ 201.31. Transfer agreement.
(a) The facility shall have in effect a transfer agreement with one or more hospitals, located reasonably close by, which provides the basis for effective working arrangements between the two health care facilities. Under the agreement, inpatient hospital care or other hospital services shall be promptly available to the facility’s residents when needed.

(b) A transfer agreement between a hospital and a facility shall be in writing and specifically provide for the exchange of medical and other information necessary to the appropriate care and treatment of the residents to be transferred. The agreement shall further provide for the transfer of residents’ personal effects, particularly money and valuables, as well as the transfer of information related to these items when necessary.

§ 207.2. Administrator’s responsibility.
(a) The administrator shall be responsible for satisfactory housekeeping and maintenance of the buildings and grounds.

§ 209.7. Disaster preparedness.
(a) The facility shall have a comprehensive written disaster plan which shall be developed and maintained with the assistance of qualified fire, safety and other appropriate experts. It shall include procedures for prompt transfer of casualties and records, instructions regarding the location and use of alarm systems and signals and fire fighting equipment, information regarding methods of containing fire, procedures for notification of appropriate persons and specifications of evacuation routes and procedures. The written plan shall be made available to and reviewed with personnel, and it shall be available at each nursing station and in each department. The plan shall be reviewed periodically to determine its effectiveness.

(b) A diagram of each floor showing corridors, line of travel, exit doors and location of the fire extinguishers and pull signals shall be posted on each floor in view of residents and personnel.
(c) All personnel shall be instructed in the operation of the various types of fire extinguishers used in the facility.

§ 209.8. Fire drills.

(a) Fire drills shall be held monthly. Fire drills shall be held at least four times per year per shift at unspecified hours of the day and night.
(b) A written report shall be maintained of each fire drill which includes date, time required for evacuation or relocation, number of residents evacuated or moved to another location and number of personnel participating in a fire drill.

§ 211.2. Physician services.

...(c) A facility shall have a medical director who is licensed as a physician in this Commonwealth and who is responsible for the overall coordination of the medical care in the facility to ensure the adequacy and appropriateness of the medical services provided to the residents. The medical director may serve on a full-or part-time basis depending on the needs of the residents and the facility and may be designated for single or multiple facilities. There shall be a written agreement between the physician and the facility.
(d) The medical director’s responsibilities shall include at least the following:
(1) Review of incidents and accidents that occur on the premises and addressing the health and safety hazards of the facility. The administrator shall be given appropriate information from the medical director to help insure a safe and sanitary environment for residents and personnel.
(2) Development of written policies which are approved by the governing body that delineate the responsibilities of attending physicians.

§ 211.5. Clinical records.

(a) Clinical records shall be available to, but not be limited to, representatives of the Department of Aging Ombudsman Program.
(b) Information contained in the resident's record shall be privileged and confidential. Written consent of the resident, or of a designated responsible agent acting on the resident’s behalf, is required for release of information. Written consent is not necessary for authorized representatives of the State and Federal government during the conduct of their official duties.
(c) Records shall be retained for a minimum of 7 years following a resident’s discharge or death.
(d) Records of discharged residents shall be completed within 30 days of discharge. Clinical information pertaining to a resident’s stay shall be centralized in the resident’s record.
(e) When a facility closes, resident clinical records may be transferred with the resident if the resident is transferred to another health care facility. Otherwise, the owners of the facility shall make provisions for the safekeeping and confidentiality of clinical records and shall notify the Department of how the records may be obtained.
(f) At a minimum, the resident’s clinical record shall include physicians’ orders, observation and progress notes, nurses’ notes, medical and nursing history and physical examination reports; identification information, admission data, documented evidence of assessment of a resident’s needs, establishment of an appropriate treatment plan and plans of care and services provided; hospital diagnoses authentication—discharge summary, report from attending physician or transfer form—diagnostic and therapeutic orders, reports of treatments, clinical findings, medication records and discharge summary including final diagnosis and prognosis or cause of death. The information contained in the record shall be sufficient to justify the diagnosis and treatment, identify the resident and show accurately documented information.
(g) Symptoms and other indications of illness or injury, including the date, time and action taken shall be recorded.
(h) Each professional discipline shall enter the appropriate historical and progress notes in a timely fashion in accordance with the individual needs of a resident.
(i) The facility shall assign overall supervisory responsibility for the clinical record service to a medical records practitioner. Consultative services may be utilized, however, the facility shall employ sufficient personnel competent to carry out the functions of the medical record service.

Notes of Decisions
Alteration of medical records during the course of a licensure survey in order to produce the appearance of compliance with regulations constitutes fraud and deceit justifying the Department of Health to refuse to renew a nursing home license. Colonial Gardens Nursing Home, Inc. v. Department of Health, 382 A.2d 1273 (Pa. Cmwlth. 1978).

§ 211.6. Dietary services.
... (d) If consultant dietary services are used, the consultant's visits shall be at appropriate times and of sufficient duration and frequency to provide... participation in development or revision of dietary policies and procedures and in planning and conducting inservice education and programs.

§ 211.9. Pharmacy services.
...(k) The oversight of pharmaceutical services shall be the responsibility of the quality assurance committee. Arrangements shall be made for the pharmacist responsible for the adequacy and accuracy of the services to have committee input. The quality assurance committee, with input from the pharmacist, shall develop written policies and procedures for drug therapy, distribution, administration, control, accountability and use.

§ 51.3. Notification.
(a) A health care facility shall notify the Department in writing at least 60 days prior to the intended commencement of a health care service which has not been previously provided at that facility.
(b) A health care facility shall notify the Department in writing at least 60 days prior to the intended date of providing services in new beds it intends to add to its approved complement of beds.
(c) A health care facility shall provide similar notice at least 60 days prior to the effective date it intends to cease providing an existing health care service or reduce its licensed bed complement.
(d) A health care facility shall submit to the Department architectural plans and blueprints of proposed new construction, alteration or renovation to the facility. This material shall be submitted at least 60 days before the initiation of construction, alteration or renovation. The Department will review these documents to assure compliance with relevant life safety code and other regulatory requirements. The Department will respond to the facility by either issuing an approval or disapproval or requesting further information within 45 days of receipt of the facility's submission. The facility may not initiate construction, alteration or renovation until it has received an approval from the Department.
(e) If a health care facility is aware of information which shows that the facility is not in compliance with any of the Department’s regulations which are applicable to that health care facility, and that the noncompliance seriously compromises quality assurance or patient safety, it shall immediately notify the Department in writing of its noncompliance. The notification shall include sufficient detail and information to alert the Department as to the reason for the failure to comply and the steps which the health care facility shall take to bring it into compliance with the regulation. (Editor's Note: Under section 314 of the act of March 20, 2002 (P. L. 154, No. 13) (act), subsections (f) and (g) are abrogated with respect to a medical facility upon the reporting of a serious event, incident or infrastructure failure pursuant to section 313 of the act.)
(f) If a health care facility is aware of a situation or the occurrence of an event at the facility which could seriously compromise quality assurance or patient safety, the facility shall immediately notify the Department in writing. The notification shall include sufficient detail and information to alert the Department as to the reason for its occurrence and the steps which the health care facility shall take to rectify the situation.

(g) For purposes of subsections (e) and (f), events which seriously compromise quality assurance or patient safety include, but are not limited to, the following:

1. Deaths due to injuries, suicide or unusual circumstances.
2. Deaths due to malnutrition, dehydration or sepsis.
3. Deaths or serious injuries due to a medication error.
4. Elopements.
5. Transfers to a hospital as a result of injuries or accidents.
6. Complaints of patient abuse, whether or not confirmed by the facility.
7. Rape.
8. (9) Hemolytic transfusion reaction.
9. (11) Significant disruption of services due to disaster such as fire, storm, flood or other occurrence.
10. Notification of termination of any services vital to the continued safe operation of the facility or the health and safety of its patients and personnel, including, but not limited to, the anticipated or actual termination of electric, gas, steam heat, water, sewer and local exchange telephone service.
11. Unlicensed practice of a regulated profession.
12. Receipt of a strike notice.

(h) A health care facility shall send the written notification required under subsections (a)—(f) to the director of the division in the Department responsible for the licensure of the health care facility.

(i) Information contained in the notification submitted to the Department by a facility under subsection (e) or (f) may not, unless otherwise ordered by a court for good cause shown, be produced for inspection or copying by, nor may the contents thereof be disclosed to, a person other than the Secretary, the Secretary’s representative or another government agency, without the consent of the facility which filed the report.

(j) The Secretary and the Secretary’s representative shall use the information contained in the notification from the facility only in connection with the enforcement of the Department’s responsibilities under the act, or other applicable statutes within the Department’s jurisdiction.

(k) The notification requirements of this section do not require a facility, in providing a notification under subsection (e) or (f), to include information which is deemed confidential and not reportable to the Department under other provisions of Federal or State law or regulations.

(l) A health care facility may not commence the provision of new health care services or provide services in new beds until it has been informed by the Department that it is in compliance with all licensure requirements.

§ 51.4. Change in ownership; change in management.

(a) A health care facility shall notify the Department in writing at least 30 days prior to transfer involving 5% or more of the stock or equity of the health care facility.

(b) A health care facility shall notify the Department in writing at least 30 days prior to a change in ownership or a change in the form of ownership or name of the facility. A change in ownership shall mean any transfer of the controlling interest in a health care facility.
(c) A health care facility shall notify the Department in writing within 30 days after a change of
management of a health care facility. A change in management occurs when the person responsible
for the day to day operation of the health care facility changes.

§ 51.6. Identification of personnel.
(a) When working in a health care facility and when clinically feasible, the following individuals
shall wear an identification tag which displays that person's name and professional designation:
(1) Health care practitioners licensed or certified by Commonwealth agencies.
(2) Health care providers employed by health care facilities.
(b) The identification tag shall include the individual's full name. Abbreviated professional
designations may be used only when the designation indicates licensure or certification by a
Commonwealth agency, otherwise the full title shall be printed on the tag.
(c) The last name of the individual may be omitted or concealed when treating patients who exhibit
symptoms of irrationality or violence.

§ 51.11. Civil rights compliance.
A health care facility shall comply with all civil rights laws. The Department may make onsite visits
at its discretion to verify the civil rights compliance status of the health care facility.

(a) A health care facility shall have a nondiscriminatory policy which applies to all patients or
residents and staff. The policy shall include a prohibition on the segregation of buildings, wings,
floors and rooms for reasons of race, color, national origin, ancestry, age, sex, religion, handicap or
disability. The nondiscriminatory policy shall also address the following:
1. Inpatient or outpatient admission or care.
2. Assigning patients or residents to rooms, floors and
sections.
3. Asking patients or residents about roommate
preferences.
4. Assignments of staff to patient or resident services.
5. Staff privileges of professionally qualified personnel.
6. Utilization of the health care facility.
7. Transfers of patients or residents from their rooms.
(b) A health care facility is required to comply with Title VI of the Civil Rights Act of 1964 (42
and to sign the following statement prior to receiving an initial license:
“This facility has agreed to comply with the provisions of the Federal Civil Rights Act of 1964 and
the Pennsylvania Human Relations Act and all requirements imposed pursuant thereto to the end
that no person shall, on the grounds of race, color, national origin, ancestry, age, sex, religious creed,
or disability, be excluded from participation in, be denied benefits of, or otherwise be subject to
discrimination in the provision of any care or service.”

§ 51.13. Civil rights compliance records.
(a) A health care facility shall maintain the following records to show compliance with § 51.12
(relating to nondiscriminatory policy):
(1) A copy of the health care facility’s admission policy which includes the date of its adoption,
which sets forth in clear terms nondiscriminatory practices with regard to race, color, national
origin, creed, ancestry, age, sex, religion, handicap or disability.
(2) A copy of a signed and dated notification to employees of the health care facility’s nondiscrimination policy.
(3) Evidence that the nondiscriminatory practices of the health care facility have been publicized in the community at least every 3 years by one of the following methods: newspapers, television, radio, brochure or yellow pages.
(b) Copies of the health care facility’s nondiscriminatory policy shall be posted in locations accessible to the facility’s staff and the general public.
(c) The health care facility shall provide the Department with a signed and dated copy of the nondiscriminatory policy within 30 days of the effective date of any change in the policy.

§ 51.32. Exceptions for innovative programs.
This part is not intended to restrict the efforts of a health care facility to develop innovative and improved programs of management, clinical practice, physical renovation or structural design. Whenever this part appears to preclude a program which may improve the capacity of the health care facility to deliver higher quality care and services or to operate more efficiently without compromising patient or resident care, the Department encourages the health care facility to request appropriate exceptions under this chapter.

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Section 3.0 General Requirements for Licensure
Safe Resident Handling

...3.6 Each licensed nursing facility shall comply with the following as a condition of licensure:
3.6.1 Each licensed nursing facility shall establish a safe patient handling committee, which shall be chaired by a professional nurse or other appropriate licensed health care professional. A nursing facility may utilize any appropriately configured committee to perform the responsibilities of this section. At least half of the members of the committee shall be hourly, non-managerial employees who provide direct resident care.
3.6.2 By July 1, 2007, each licensed nursing facility shall develop a written safe patient handling program, with input from the safe patient handling committee, to prevent musculoskeletal disorders among health care workers and injuries to residents. As part of this program, each licensed nursing facility shall:
3.6.3 By July 1, 2008, implement a safe resident handling policy for all shifts and units of the facility that will achieve the maximum reasonable reduction of manual lifting, transferring, and repositioning of all or most of a resident’s weight, except in emergency, life-threatening, or otherwise exceptional circumstances;
a) Conduct a resident handling hazard assessment. This assessment should consider such variables as patient-handling tasks, types of nursing units, resident populations, and the physical environment of resident care areas;
b) Develop a process to identify the appropriate use of the safe resident handling policy based on the resident’s physical and mental condition, the resident’s choice, and the availability of lifting equipment or lift teams. The policy shall include a means to address circumstances under which it would be medically contraindicated to use lifting or transfer aids or assistive devices for particular residents;
c) Designate and train a registered nurse or other appropriate licensed health care professional to serve as an expert resource, and train all clinical staff on safe resident handling policies, equipment,
and devices before implementation, and at least annually or as changes are made to the safe patient handling policies, equipment and/or devices being used;

d) Conduct an annual performance evaluation of the safe resident handling with the results of the evaluation reported to the safe resident handling committee or other appropriately designated committee. The evaluation shall determine the extent to which implementation of the program has resulted in a reduction in musculoskeletal disorder claims and days of lost work attributable to musculoskeletal disorder caused by resident handling, and include recommendations to increase the program’s effectiveness; and

e) Submit an annual report to the safe resident handling committee of the facility, which shall be made available to the public upon request, on activities related to the identification, assessment, development, and evaluation of strategies to control risk of injury to patients, nurses, and other health care workers associated with the lifting, transferring, repositioning, or movement of a resident.

3.6.4 Nothing in this section precludes lift team members from performing other duties as assigned during their shift.

3.6.5 An employee may, in accordance with established facility protocols, report to the committee, as soon as possible, after being required to perform a resident handling activity that he/she believes in good faith exposed the resident and/or employee to an unacceptable risk of injury. Such employee reporting shall not be cause for discipline or be subject to other adverse consequences by his/her employer. These reportable incidents shall be included in the facility’s annual performance evaluation.

Section 4.0 Application for License or for Changes in Owner, Operator, or Lessee

4.2 A notarized listing of names and addresses of direct and indirect owners whether individual, partnership, or corporation, with percentages of ownership designated, shall be provided with the application for licensure and shall be updated annually. If a corporation, the list shall include all officers, directors and other persons or any subsidiary corporation owning stock.

Additional Information Required of all Nursing Facilities

5.16 Effective January 1, 2006, any nursing facility applying for initial licensure or renewal of its license that contracts with a management company to assist with the facility’s operation shall file a copy of the management contract with the Department including the management fee and, if the management company is a corporation or limited liability company, shall identify every person having an ownership interest of five percent (5%) or more in such corporation or limited liability company and, if the management company is a general partnership or limited partnership, shall identify all general or limited partners of such general partnership or limited partnership.

Section 7.0 Change of Ownership, Operation and/or Location

7.1 When a change of ownership, as defined in the rules and regulations pursuant to reference 5, or in operation or location of a facility or when discontinuation of services is contemplated the owner and/or operator shall notify the licensing agency in writing no later than six (6) weeks prior to the proposed action.

Section 10.0 Governing Body or Other Legal Authority

10.1 Each facility shall have an organized governing body or other legal authority, responsible for:

a) the management and fiduciary control of the operation and maintenance of the facility; and

b) the conformity of the facility with all federal, state and local rules and regulations relating to fire, safety, sanitation, communicable and reportable diseases, resident quality of care and quality of life, and other relevant health and safety requirements and with all rules and regulations herein.
c) the administration of a policy of non-discrimination in the provision of services to residents and
the employment of persons without regard to race, color, creed, national origin, gender, religion,
sexual orientation, age, handicapping condition or degree of handicap, in accordance with Title VI of
the Civil Rights Act of 1964; U.S. Executive Order #11246 entitled “Equal Employment
Opportunity”, U.S. Department of Labor regulations; Title V of the Rehabilitation Act of 1973, as
amended; the Rhode Island Fair Employment Practices Act, Rhode Island General Laws Chapter 28-
5-1 et seq.; the Americans with Disabilities Act; and any other federal or state laws relating to
discriminatory practices.

10.2 The governing body or other legal authority shall provide facilities, personnel and other
resources necessary to meet resident and program needs and also:
a) describe the structure of the facility’s governing body, including functional and staff
organizational charts; b) provide names and affiliations of members of the facility’s governing body;
c) provide a copy of the organization’s charter, constitution and/or by-laws.

10.3 The governing body or other legal authority shall designate a licensed administrator in
accordance with reference 8 and shall establish by-laws or policies to govern the organization of
the facility, to establish authority and responsibility, to identify program goals, and to provide for
an annual evaluation of administrator performance.

10.4 The governing body or other legal authority shall adopt a written policy statement relating to
conflict of interest on the part of members of the governing body receiving financial gain from
ownership, medical staff and employees who may influence corporate decisions.

10.5 The governing body or other legal authority, through the administrator, shall be responsible
for the procurement of a sufficient number of trained, experienced and competent personnel to
provide appropriate care and supervision for all residents and to ensure that their personal needs
are met.

Section 11.0 Quality Improvement Program

11.1 Pursuant to section 23-17-12.11 of the Rhode Island General Laws, as amended, each licensed
nursing facility shall develop and implement a quality improvement program and establish a
quality improvement committee. The governing body shall ensure that this program is effective,
ongoing, facility-wide and shall have a written plan of implementation.

11.2 Each licensed nursing facility shall designate a qualified individual, who shall be determined
by the facility’s administrator, to coordinate and manage the nursing facility’s quality improvement
program.

11.3 The nursing facility’s quality improvement committee shall include at least the following
members:
- The nursing facility administrator;
- The director of nursing;
- The medical director;
- A social worker; and
- A representative of dietary services.

11.4 The quality improvement committee shall meet at least quarterly; shall maintain records of all
quality improvement activities; and shall keep records of committee meetings that shall be
available to the Department during any on-site visit.

11.5 The quality improvement committee for a nursing facility shall annually review and approve
the quality improvement plan for the nursing facility. Said plan shall be available to the public upon
request.

11.6 Each nursing facility shall establish a written quality improvement plan that shall be reviewed
by the Department during the facility’s annual survey and that includes:
a) program objectives; b) oversight responsibility (e.g., reports to the governing body); c) facility-wide scope; d) involvement of all resident care disciplines/services; and e) provides criteria to monitor nursing care, including medication administration; f) prevention and treatment of decubitus ulcers; g) dehydration, and nutritional status and weight loss or gain; h) accidents and injuries; i) unexpected deaths; j) changes in mental or psychological status; and k) any other data necessary to monitor quality of care; l) and includes methods to identify, evaluate, and correct problems.

11.7 All resident care services, including services rendered by a contractor, shall be evaluated.

11.8 The facility shall take and document appropriate remedial action to address problems identified through the quality improvement program. The nursing facility administrator shall take appropriate remedial actions based on the recommendations of the nursing facility's quality improvement committee. The outcome(s) of the remedial action shall be documented and submitted to the governing body for their consideration.

11.9 The Director may not require the quality improvement committee to disclose the records and the reports prepared by the committee except as necessary to assure compliance with the requirements of this section.

11.10 Good faith attempts by the quality improvement committee to identify and correct quality deficiencies will not be used as a basis for sanctions.

11.11 If the Department determines that a nursing facility is not implementing its quality improvement program effectively and that quality improvement activities are inadequate, the Department may impose sanctions on the nursing facility to improve quality of resident care including mandated hiring of, directly or by contract, an independent quality consultant acceptable to the Department.

11.12 All nursing facilities licensed under Chapter 23-17 of the Rhode Island General Laws, as amended, shall meet all applicable requirements of the Rules and Regulations Related to the Health Care Quality Program (R23-17.17-QUAL) promulgated by the Department.

Section 12.0 Administrator

12.1 Every facility shall have a full-time administrator licensed in accordance with reference 8, who shall be directly responsible to the governing body or other legal authority for its management and operation, and shall provide liaison between the governing body, medical and nursing staff and other professional staff.

a) When the administrator does not spend full-time in the facility, a substitute shall be designated only with the approval of the licensing agency.

b) In the absence of the administrator, a person shall be designated or authorized in writing, as a substitute on an interim basis.

c) A substitute must be licensed in Rhode Island as a nursing home administrator.

12.2 The administrator shall be responsible to ensure that services required by residents shall be available on a regular basis and provided in an appropriate environment in accordance with established policies.

12.3 The administrator shall be responsible for maintaining accurate time records on all personnel and for posting the work schedule of all direct resident care personnel on a weekly basis. Time records shall be retained by the facility for no less than three years.

12.4 Health care facilities shall provide the licensing agency with prompt notice of pending and actual labor disputes/actions which would impact delivery of patient care services including, but not limited to, strikes, walk-outs, and strike notices. Health care facilities shall provide a plan, acceptable to the Director, for continued operation of the facility, suspension of operations, or closure in the event of such actual or potential labor dispute/action.

12.5 The licensing agency shall be notified of any change of the administrator of a facility.
Section 13.0 Medical Director and Attending Physicians

13.1 The governing body or other legal authority shall designate a physician to serve as medical director. The medical director shall be a physician licensed to practice in Rhode Island in accordance with the provisions of reference 27 herein. Upon appointment, the name of the medical director shall be submitted to the Department. Each time a new medical director is appointed, the name of said physician shall be reported promptly to the Department. The medical director’s Rhode Island medical license number, medical office address, telephone number, emergency telephone number, hospital affiliation and other credentialing information shall be maintained on file at the facility and updated as needed.

Duties and Responsibilities of the Medical Director

13.2 Responsibilities of the medical director shall include, but not be limited to:
   a) coordination of medical care in the facility,
   b) ensuring completion of employee health screening and immunization requirements contained in sections 14.11 and 14.12 herein,
   c) the implementation of facility policies and procedures related to the medical care delivered in the facility,
   d) physician and advanced practice practitioner credentialing,
   e) practitioner performance reviews,
   f) employee health including infection control measures,
   g) evaluation of health care delivery, including oversight of medical records and participation in quality improvement,
   h) provision of staff education on medical issues,
   i) participation in state survey process, including the resolution of deficiencies, as needed.

13.3 The medical director, charged with the aforementioned duties and responsibilities for the delivery of medical care in the nursing facility, shall be immune from civil or criminal prosecution for reporting to the Board of Medical Licensure and Discipline the unprofessional conduct, incompetence or negligence of a nursing facility physician or limited registrant; provided, that the report, testimony, or other communication was made in good faith and while acting within the scope of authority conferred by this section.

13.4 The administrator shall notify the medical director immediately when any enforcement order as described in section 9.0 herein is issued by the Department or when the administrator is notified of any Medicare/Medicaid certification enforcement action. The administrator shall provide copies of all statements of deficiencies and related plans of correction to the medical director in a timely fashion.

13.5 The medical director shall attend the quarterly quality assurance/improvement meetings, as required in section 10.7 (d) herein. The administrator, or his/her designee, shall provide the medical director with adequate notice of the quarterly quality assurance/improvement meeting.

...13.7 The governing body or other legal authority shall make available to each physician attending residents in the facility all of the policies governing resident care management and services.

Section 14.0 Personnel

Criminal Records Check

14.1 Pursuant to section 23-17-34 of the General Laws, any person seeking employment in a nursing facility, hired after July 21, 1992, and having routine contact with a resident without the presence of other employees, shall be subject to a criminal background check, to be initiated prior to, or within one week of employment.

14.2 Said employee through the employer shall apply to the bureau of criminal identification of the state or local police department for a statewide criminal records check. Fingerprinting shall not be required as part of this check.

14.3 In those situations in which no disqualifying information has been found, the bureau of criminal identification (BCI) of the state or local police shall inform the applicant and the employer in writing.
14.4 Any disqualifying information, as defined below, according to the provisions of section 23-17-34 of the General Laws, will be conveyed to the applicant in writing, by the bureau of criminal identification. The employer shall also be notified that disqualifying information has been discovered, but shall not be informed by the BCI of the nature of the disqualifying information.

14.4.1 Disqualifying information, as defined in Chapter 23-17-37 of the Rhode Island General Laws, as amended, means information produced by a criminal records review pertaining to conviction, for the following crimes will result in a letter to the employee and employer disqualifying the applicant from said employment: murder, voluntary manslaughter, involuntary manslaughter, first degree sexual assault, second degree sexual assault, third degree sexual assault, assault on persons sixty (60) years of age or older, child abuse, assault with intent to commit specified felonies (murder, robbery, rape, burglary, or the abominable and detestable crime against nature), felony assault, patient abuse, neglect or mistreatment of patients, burglary, first degree arson, robbery, felony drug offenses, larceny or felony banking law violations.

14.5 The employer shall maintain on file, subject to inspection by the Department of Health, evidence that criminal records checks have been initiated on all employees seeking employment after July 21, 1992 as well as the results of said check. Failure to maintain this evidence shall be grounds to revoke the license or registration of the employer.

14.6 If an applicant has undergone a statewide criminal records check within eighteen (18) months of an application for employment, then an employer may request from the bureau a letter indicating if any disqualifying information was discovered. The bureau will respond without disclosing the nature of the disqualifying information. This letter may be maintained on file to satisfy the requirements of Chapter 23-17-34.

14.7 An employee against whom disqualifying information has been found may request that a copy of the criminal background report be sent to the employer who shall make a judgment regarding the continued employment of the employee.

Policies and Procedures

14.8 Each nursing facility shall maintain and implement written personnel policies and procedures supporting sound resident care and personnel practices. Such policies shall be reviewed annually and updated as necessary.

Job Descriptions

14.9 There shall be a job description for each classification of position which delineates qualifications, duties, authority and responsibilities inherent in each position.

a) For those selected non-licensed personnel authorized to administer drugs in accordance with section 25.9 herein, a job description delineating qualifications, duties and responsibilities shall be provided.

Personnel Records

14.12 Personnel records shall be maintained for each employee, shall be available at all times for inspection and shall include no less than the following: a) current and background information covering qualifications for employment; b) records of completion of required training and educational programs; c) records of all required health examinations which shall be kept confidential and in accordance with reference 17; d) evidence of current registration, certification or licensure of personnel subject to statutory regulation; e) annual work performance evaluation records; and f) evidence of authorization to administer drugs for selected non-licensed personnel in accordance with section 25.9 herein.

In-Service Education

14.13 An in-service educational program shall be conducted on an ongoing basis, which shall include an orientation program for new personnel and a program for the development and
improvement of skills of all personnel. The in-service program shall be geared to the needs of the aged and shall include annual programs on prevention and control of infection, food services and sanitation, fire prevention and safety, confidentiality of resident information, rights of residents and any other area related to resident care.

14.13.1 Provision shall be made for written documentation of programs, including attendance. Flexible program schedules shall be formulated at least two (2) months in advance.

Photo Identification

14.14 A health care facility shall require all persons, including students, and as directed by the nursing facility, who examine, observe, treat or assist a patient or resident of such facility to wear a photo identification badge which states, in a reasonably legible manner, the first name, licensure/registration status, if any, and staff position of such person. This badge shall be worn in a manner that makes the badge easily seen and read by the resident or visitor.

Licensure Verification

14.15 For every person employed by the nursing facility who is licensed, certified, or registered by the Department, a mechanism shall be in place to electronically verify such licensure via the Department’s licensure database.

Section 16.0 Reporting of Resident Abuse or Neglect, Accidents & Death

16.1 Any physician, nurse or other employee of a nursing facility who has reasonable cause to believe that a resident has been abused, exploited, mistreated, or neglected shall make within 24 hours or by the end of the next business day of the receipt of said information, a report to the licensing agency (Office of Facilities Regulation). Any person required to make a report pursuant to this section shall be deemed to have complied with these requirements if a report is made to a high managerial agent. Once notified, the administrator or the director of nursing services shall be required to meet the above reporting requirements.

a) All reports, as required herein, shall be provided to the licensing agency (Office of Facilities Regulation) in writing via facsimile on the form supplied in Appendix “E” herein. A copy of each report shall be retained by the facility for review during subsequent inspections by the licensing agency.

b) The facility shall maintain evidence that all allegations of abuse, neglect, and/or mistreatment have been thoroughly investigated and that further potential abuse has been prevented while the investigation is in progress. Appropriate corrective action shall be taken, as necessary. The results of said investigation shall be reported to the licensing agency within five (5) business days.

16.2 Accidents resulting in: hospitalization; or death in the nursing facility; or death in the hospital following the accident; of any resident shall be reported in writing to the licensing agency before the end of the next working day or in a follow-up report in the event of item #3 (above). A copy of each report shall be retained by the facility for review during subsequent surveys.

16.3 The death of any resident of a nursing facility occurring within 24 hours of admission or prior to the performance of a physical examination in accordance with section 23.3 (c) herein, shall be reported to the Office of the State Medical Examiners.

16.4 In addition, all resident deaths occurring within a nursing facility which are sudden or unexpected, suspicious or unnatural, the result of trauma, remote or otherwise or when unattended by a physician shall be reported to the facility medical director and to the Office of the State Medical Examiners in accordance with Title 23, Chapter 4 of the General Laws of Rhode Island, as amended.

16.5 Reporting requirements, pursuant to Chapter 23-17.8 of the General Laws must be posted.

Section 17.0 Medical Records
17.1 A medical record shall be established and maintained for every person admitted to a facility in accordance with accepted professional standards and practices. The administrator shall have ultimate responsibility for the maintenance of medical records; such responsibility may be delegated in writing to a staff member.

17.2 Entries in the medical record relating to treatment, medication, diagnostic tests and other similar services rendered shall be made by the responsible persons at the time of administration. Only physicians shall enter or authenticate medical opinions or judgment.

a) All accidents, including falls, whether resulting in an injury or not, shall be immediately recorded in the resident’s record.

b) Detailed descriptions of all pressure ulcers, or other skin lesions, shall be recorded in the resident’s record.

17.3 Each medical record shall contain sufficient information to identify the resident and to justify diagnosis, treatment, care and documented results and shall include as deemed appropriate: a) identification data; b) pre-admission screening including mental status (or PASARR (Pre-Admission Screening and Annual Resident Review), where appropriate); c) medical history; d) plan of care and services provided; e) physical examination reports; f) admitting diagnosis; g) diagnostic and therapeutic orders; h) consent forms; i) physicians’ progress notes and observations; j) nursing notes; k) medication and treatment records, including any immunizations; l) laboratory reports, X-ray reports, or other clinical findings; m) consultation reports; n) documentation of all care and services rendered (e.g., dental reports, physical and occupational therapy reports, social service summaries, podiatry reports, inhalation therapy reports, etc.); o) resident referral forms; p) diagnosis at time of discharge; and q) disposition and final summary notes.

17.4 At time of discharge, a discharge summary, summarizing the resident’s stay, shall be completed promptly and signed by the attending physician.

17.5 Medical records of discharged residents shall be completed within a reasonable period of time (not to exceed sixty (60) days) with all clinical information pertaining to the resident’s stay made part of the resident’s medical record.

17.6 Confidentiality of medical records shall be governed by the provisions of reference 17 and the following:

a) Only authorized personnel shall have access to the records.

b) The facility shall release resident’s medical information only with the written consent of the resident, parent, guardian or legal representative in accordance with reference 17.

17.7 Provisions shall be made for the safe storage of medical records to safeguard them against loss, destruction or unauthorized use.

17.8 All medical records, either original or accurately reproduced, shall be preserved for a minimum of five (5) years following discharge or death of the resident in accordance with reference 9. a) Medical records of minors, however, shall be kept for at least five (5) years after such minor would have reached the age of eighteen (18) years.

17.9 The medical records of all residents shall be opened for inspection to duly authorized representatives of the licensing agency whose duty it is to enforce the regulations herein consistent with section 19.15 (a) herein.

a) Information contained in medical records gathered and collected for the purpose of enforcing these regulations is confidential in nature and shall not be publicly disclosed by any person obtaining such information by virtue of his office, unless by court order or as otherwise required by law.

Section 18.0 Transfer Agreements, Contracts, or Agreements
18.1 The facility shall have in effect transfer agreements with one or more hospitals for the provision of hospital care or other hospital services to be made available promptly to the residents of the facility, as needed. The written transfer agreement shall ensure:
a) timely transfer or admission of residents between the hospital and the facility, whenever deemed medically appropriate in writing by a physician;
b) interchange of medical and other information necessary or useful in the care and treatment of residents transferred or to determine the kind of care the resident requires that includes, but is not limited to the following:
   i. clear statement of the reason(s) resident is being transferred to the hospital or for consultation;
   ii. name of resident, address, insurance status;
   iii. name of attending physician and his/her telephone number;
   iv. resident's next-of-kin and his/her telephone number;
   v. name of contact staff person at the facility;
   vi. list of all diagnoses and complaints;
   vii. list of all current medications;
   viii. recent x-ray reports and laboratory reports, as applicable;
   ix. existence of any advance directives;
   x. any additional information as cited in the “Continuity of Care” form (“Long Form”) available from the Department; and

c) security and accountability for the resident’s personal effects during transfer.
18.2 Designated nursing facility personnel shall complete the “Continuity of Care” form (“Short Form”) approved by the Department for each resident who is discharged to another health care facility, such as a hospital, or who is discharged home with follow-up home care required. Said form shall be provided to the receiving facility or agency prior to or upon transfer of the resident.
18.3 If the facility does not employ full-time qualified professional personnel to render required services, or obtains services from an outside source, arrangements for such services shall be made through written agreements or contracts.
a) The responsibilities, functions, objectives, terms of agreement, financial arrangements, charges and other pertinent requirements shall be clearly delineated in the terms of any contract negotiated by a facility.
b) All contracts or agreements negotiated by a facility shall be consistent with the policies established in accordance with section 10.4 concerning conflict of interest.
c) Each consultant or outside source providing services to a facility shall submit monthly reports as services are provided. Said reports and contracts shall be kept on file for inspection for a period of no less than three (3) years.

Section 20.0 Uniform Reporting System
20.1 Uniform Reporting System: Each nursing facility shall establish and maintain records and data in such a manner as to make uniform the system of periodic reporting. The manner in which the requirements of this regulation may be met shall be prescribed from time to time in directives promulgated by the Director with the advice of the Health Services Council.
20.2 Each nursing facility shall report to the licensing agency detailed financial and statistical data pertaining to its operations, services, and facilities. Such reports shall be made at such intervals and by such dates as determined by the Director and shall include but not be limited to the following:
a) utilization of nursing services;
b) unit cost of nursing services;
c) charges for rooms and services;
d) financial condition of the facility; and
e) Quality of care.

20.3 The licensing agency is authorized to make the reported data available to any state agency concerned with or exercising jurisdiction over the reimbursement or utilization of nursing facilities.

20.4 The directives promulgated by the Director pursuant to these regulations shall be sent to each facility to which they apply. Such directives shall prescribe the form and manner in which the financial and statistical data required shall be furnished to the licensing agency.

Section 22.0 Infection Control

22.3 A continuing education program on infection control shall be conducted periodically for all staff.

Section 24.0 Nursing Service

24.2 The nursing service shall be under the direction of a Director of Nurses who shall be a registered nurse employed full-time.

a) The Director of Nurses employed full-time in accordance with section 24.2 above shall not be the administrator nor the assistant administrator...

Section 26.0 Special Care Units

Alzheimer and other Dementia Special Care Units or Programs:

26.1 Any facility that provides or offers to provide care or services for residents in a manner as defined in section 1.2 herein shall disclose to the licensing agency and any person seeking placement in such Alzheimer and Other Dementia Special Care Unit/Program the form of specialized care and treatment provided that is in addition to the care and treatment required in the regulations herein.

26.1.1 The information disclosed shall be on a form prescribed by the Department of Health.

26.1.2 The facility shall provide care and services as described in the disclosure form, and consistent with the rules and regulations herein. The information disclosed shall explain the additional care provided in each of the following areas:

a) Philosophy – The special care unit/program’s written statement of its overall philosophy and mission which reflects the needs of residents afflicted with dementia.

b) Pre-Admission, Admission and Discharge – The process and criteria for placement (which shall include a diagnosis of dementia), transfer or discharge from the unit.

c) Assessment, Care Planning and Implementation - The process used for assessment and establishing the plan of care and its implementation, including the method by which the plan of care evolves and is responsive to changes in condition.

d) Staffing Patterns and Training - Staff patterns and training and continuing education programs, which shall emphasize the effective management of the physical and behavioral problems of those with dementia.

e) Physical Environment - The physical environment and design features shall be appropriate to support the functioning and safety of cognitively impaired adult residents.

f) Therapeutic Activities - The frequency and types of resident activities. Therapeutic activities shall be designed specifically for those with dementia.

g) Family Role in Care – The facility shall provide for the involvement of families and family support program.

h) Program Costs - The cost of care and any additional fees.

26.1.3 Any significant changes in the information provided by the nursing facility will be reported to the licensing agency at the time the changes are made.

Rehabilitation Special Care Unit and Subacute Special Care Unit:
26.2 Any facility that provides or offers to provide care for patients or residents by means of a Rehabilitation Special Care Unit or a Subacute Special Care Unit shall be required to disclose to the licensing agency and to any person seeking placement in a Rehabilitation Special Care Unit or a Special Care Unit of a nursing facility the form of specialized care and treatment provided that is in addition to the care and treatment required in the regulations herein.

26.2.1 The information disclosed shall be on a form prescribed by the Department.

26.2.2 The facility shall provide care and services as described in the disclosure form, and consistent with the rules and regulations herein.

26.2.3 Any significant changes in the information provided by the nursing facility shall be reported to the licensing agency at the time the changes are made.

Section 27.0 Dietetic Services

27.3 The responsibilities of the qualified dietitian shall include but not be limited to:

...f) planning and conducting regularly scheduled in-service education programs which shall include training in food service sanitation...

Section 28.0 Pharmaceutical Services

28.7 In Nursing Facilities

a) The pharmaceutical service committee or its equivalent, consisting of not less than a registered pharmacist, a registered nurse, a physician and the administrator, shall:

i. serve as an advisory body on all matters pertaining to pharmaceutical services;

ii. establish a program of accountability for all drugs and biologicals;

iii. develop and review periodically all policies and procedures for safe and effective drug therapy in accordance with section 28.2 herein; and

iv. monitor the service.

Section 30.0 Laboratory and Radiologic Services

30.1 All nursing facilities shall make provisions for laboratory, x-ray and other services to be provided either directly by the facility or per contractual arrangements with an outside provider.

30.2 If the facility provides its own laboratory and x-ray services, these shall meet all applicable statutory and regulatory requirements.

30.3 All services shall be provided only per order of the attending physician who shall be promptly notified of the findings in accordance with a protocol established by the facility. Such a protocol shall describe which laboratory values mandate a call to the resident’s attending physician.

30.4 Signed and dated reports of all findings shall become part of the resident’s medical record.

Section 35.0 Housekeeping

35.9 Facilities contracting with outside resources for housekeeping services shall require conformity with existing regulations.

Section 37.0 Disaster Preparedness

37.1 Each facility shall develop and maintain a written disaster preparedness plan that shall include plans and procedures to be followed in case of fire or other emergencies. The plan shall include provisions for evacuation of the facility in the event of a natural disaster. The plan and procedures shall be developed with the assistance of qualified safety, emergency management, and/or other appropriate experts and shall be coordinated with the local emergency management agency.

37.2 The plan shall include procedures to be followed pertaining to no less than the following: a) fire, explosion, severe weather, loss of power and/or water, flooding, failure of internal
systems and/or equipment, and other calamities; b) transfer of casualties; c) transfer of records; d) location and use of alarm systems, signals and fire fighting equipment; e) containment of fire; f) notification of appropriate persons; g) relocations of residents and evacuation routes; h) feeding of residents; i) handling of drugs and biologicals; j) missing residents; k) back-up or contingency plans to address possible internal systems (e.g., food, power, water, sewage disposal) and/or equipment failures; and l) any other essentials as required by the local emergency management agency.

37.3 A copy of the plan shall be available at every nursing unit.
37.4 Emergency steps of action shall be clearly outlined and posted in conspicuous locations throughout the facility.
37.5 Simulated drills testing the effectiveness of the plan shall be conducted for all shifts at least quarterly. Written reports and evaluation of all drills shall be maintained by the facility.
37.6 All personnel shall receive training in disaster preparedness as part of their employment orientation.
37.7 The administrator of the facility shall notify the licensing agency (Office of Facilities Regulation) immediately by telephone of any unscheduled implementation of any part of the facility’s disaster preparedness plan and shall provide a follow-up report in writing within three (3) business days using the form supplied in Appendix “E” herein.
37.8 Each nursing facility shall agree to enter into a memorandum of agreement with the licensing agency and the local municipality in which the nursing facility is geographically located to participate in a statewide distribution plan for medications and/or vaccines in the event of a public health emergency or disease outbreak.

Section 56.0 Exception
56.1 Modification of any individual standard herein, for experimental or demonstration purposes, or as deemed appropriate by the licensing agency, provided that such modification will not be contrary to the public interest and the public health, or to the health and safety of residents, shall require advance written approval by the licensing agency.

SOUTH CAROLINA
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SECTION 200 - LICENSE REQUIREMENTS AND FEES
201. License Requirements
...B. Compliance.
1. A copy of the licensing regulation for nursing homes in South Carolina and a current copy of R.61-25 shall be maintained in the facility by the licensee.
...F. Issuance and Terms of License. A license is issued by the Department and shall be posted in a conspicuous place in a public area within the facility.
...5. Separate licenses are not required, but may be issued, for separate buildings on the same or adjoining grounds where a single level or type of care is provided.
6. Multiple types of facilities on the same premises shall be licensed separately even though owned by the same entity.
G. Facility Name. No proposed facility shall be named nor shall any existing facility have its name changed to the same or similar name as any other facility licensed in South Carolina. The Department shall determine if names are similar. If an entity owns multiple facilities and elects to use a common name for two (2) or more of the facilities, the geographic area in which the facilities is located may be part of the name.
H. Application...The application shall set forth the full name and address of the facility for which the license is sought and of the owner in the event his or her address is different from that of the facility, the names of the persons in control of the facility.

I. Licensee. The Licensee shall:

1. Have reputable and responsible character;
2. Be knowledgeable of the content of this regulation; and
3. Be responsible for implementing this regulation in the facility.

SECTION 500 - POLICIES AND PROCEDURES

501. General

A. There shall be written policies and procedures addressing the manner in which the requirements of this regulation shall be met. The written policies and procedures shall accurately reflect actual facility practice regarding care, treatment, procedures, services, record keeping and reporting, admission and transfer, physician services, nursing services, social services, resident rights and assurances, medication management, pharmaceutical services, meal service operations, emergency procedures, fire prevention, maintenance, housekeeping and infection control, the operation of the facility, and other special care and procedures as identified in this section. The policies and procedures shall address the provision of any special care offered by the facility that would include how the facility shall meet the specialized needs of the affected residents such as Alzheimer’s disease and/or related dementia, physically or developmentally disabled, in accordance with any laws that pertain to that service offered, e.g., Alzheimer’s Special Care Disclosure Act.

B. Specifically, there shall be written policies and procedures to:

1. Assure that residents do not develop pressure-related wounds unless the resident’s clinical condition demonstrates that they were unavoidable and to address treatment of existing pressure-related wounds;
2. Address resident exit-seeking and elopement, including prevention and actions to be taken in the event of occurrence;
3. Implement advance directives in accordance with S.C. Code Ann. Sections 4477-10, et seq. (1976, as amended), including provisions to inform and provide written information to all adult residents concerning the right to accept or refuse medical treatment and, at the individual’s option, formulate an advance directive. The policies shall not condition treatment or admission upon whether the individual has executed or waived an advance directive;
4. Control the use and application of physical restraints and all facility practices that meet the definition of a restraint, such as bed rails used to keep a resident from getting out of bed;
5. Address the conditions that would be acceptable for the safe operation of a microwave oven in a resident room in accordance with the resident’s ICP. A facility may elect to prohibit microwave ovens in resident rooms.

C. All policies and procedures shall:

1. Establish a time period for review of policies and procedures in writing and such reviews shall be documented;
2. Be revised as appropriate in order to reflect actual facility practice;
3. Be accessible to staff, printed or electronically, at all times.

D. If the facility permits any portion of a resident’s record to be generated by electronic or optical means, there shall be policies and procedures to prohibit the use or authentication by unauthorized users.

SECTION 600 - STAFF/TRAINING

601. General
A. Training requirements and qualifications for the tasks performed shall be in compliance with all State, Federal, and local laws, and current professional organizational standards.

B. Staff members of the facility shall not have a prior conviction or pled no contest (nolo contendere) for child or adult abuse, neglect, or mistreatment, or any other felony. The facility shall coordinate with appropriate abuse-related registries prior to the employment of staff.

C. Direct care staff members, in addition to meal service staff, shall have at least the following qualifications:
   1. Ability to render care and services to residents in an understanding and gentle manner;
   2. Sufficient education to be able to perform their duties;
   3. A working knowledge of regulations applicable to their scope of work;
   4. Be an adult, or, if not an adult, the facility shall assure that there is compliance with State, Federal, and local laws pertaining to the employment of children.

D. There shall be accurate current information maintained regarding all staff members of the facility that shall include:
   1. Name, address and telephone number;
   2. Date of hire;
   3. Past employment, experience, and education;
   4. Professional licensure or registration number or certificate or letter of completion;
   5. Position in the facility and job description;
   6. Documentation of orientation to the facility, including residents' rights, regulation compliance, policies and procedures, job duties, in-service training and on-going education;
   7. Health status, health assessment, and tuberculin testing results;
   8. Evidence that a criminal record check has been completed;
   9. For former staff members, the date of separation;
   10. Date of initial resident contact may be maintained by the facility.

E. Time schedules shall be maintained indicating the numbers and classification of all staff, including relief staff, who work on each shift of duty. The time schedules shall reflect all changes so as to indicate who actually worked.

F. Staff members shall not have an active dependency on a psychoactive substance(s) that would impair his or her ability to perform assigned duties.

G. Staff members shall display identification in accordance with facility policies and procedures that is visible at all times while on duty.

H. When a facility engages a source other than the facility to provide services normally provided by the facility, e.g., staffing, training, recreation, meal service, social services, professional consultant, maintenance, transportation, there shall be a written agreement with the source that describes how and when the services are to be provided, the exact services to be provided, and the requirement that these services are to be provided by qualified individuals. The source shall comply with this regulation in regard to resident care, treatment, services, and rights.

602. Criminal Record Check
Prior to employing or contracting with any individual, the facility shall conduct a criminal record check in accordance with S.C. Code Ann. Article 23, Section 44-7-2910, et seq., (1976, as amended).

603. Administrator
A. Each facility shall have a full-time licensed administrator.
B. The facility administrator shall be licensed as a nursing home administrator in accordance with S.C. Code Ann. Section 40-35-30 (1976, as amended). In addition, all other applicable provisions of S.C. Code Ann. Title 40, Chapter 35 (1976, as amended), shall be followed.
C. The administrator shall exercise judgment that reflects that he or she is in compliance with these regulations and shall demonstrate adequate knowledge of these regulations.
D. A staff member shall be designated, by name or position, in writing, to act in the absence of the administrator, e.g., a listing of the lines of authority by position title, including the names of the individuals filling these positions.
E. The administrator shall have sufficient freedom from other responsibilities and duties to carry out the functions associated with the position.
F. No individual may be the administrator of more than one (1) nursing home.

604. Direct Care Staff

B. Licensed nurse staff members shall be currently and continuously licensed to practice nursing in South Carolina during the period they are staff members. Only individuals appropriately licensed may perform duties requiring a registered or licensed practical nurse.
C. Within eighteen (18) months of the effective date of this regulation, persons working in the facility as nurse aides shall be certified in South Carolina. As an exception, facility nonlicensed/noncertified staff who are enrolled in a nurse aide training and competency evaluation program approved by the S.C. Department of Health and Human Services and who have been working in the facility four (4) months or less are exempt from Section 604.C. Licensed nurses or applicants for such licensure who have been granted a permit to practice nursing in accordance with rules adopted by the South Carolina Board of Nursing are exempt from Section 604.C.

605. Medical Staff

The facility shall have a medical director who is a physician who shall be responsible for implementation of policies and procedures that pertain to the care and treatment of the residents and the coordination of medical care in the facility.

606. Staffing

A. Licensed Nursing Staff. An adequate number of licensed nurses shall be on duty to meet the total nursing needs of residents. Licensed nursing staff shall be assigned to duties consistent with their scope of practice as determined through their licensure and educational preparation.

1. The facility shall designate a registered nurse as a full-time Director of Nursing...

607. Inservice Training (II)

A. Staff members shall be provided the necessary training to perform the duties for which they are responsible.
B. Before performing any duties, all newly-hired staff members shall be oriented to the facility organization and physical plant, specific duties and responsibilities of staff members, and residents’ needs. All staff members shall be instructed in the provisions of S.C. Code Ann. Section 43-35-5 et seq. (1976, as amended), “Omnibus Adult Protection Act” and S.C. Code Ann. Section 44-81-10 et seq. (1976, as amended), “Bill of Rights for Residents of Long-Term Care Facilities” as well as other rights and assurances as required in this regulation.
C. All staff shall be provided inservice training programs that identify training needs related to problems, needs, care of residents and infection control and are sufficient to assure staff’s continuing competency. Training for the tasks each staff member performs shall be conducted in order to provide the care, treatment, procedures, and/or services delineated in Section 1000.
D. All licensed nurses shall possess a valid Healthcare Provider cardio-pulmonary resuscitation (CPR) certificate within six (6) months of their first day on the job in the facility.
E. Those staff members who operate motor vehicles that transport residents shall have a valid driver’s license.
F. Training shall be provided to staff members by appropriate resources, e.g., licensed or registered individuals, video tapes, books, in context with their job duties and responsibilities, prior to their
date of initial resident contact (unless otherwise as noted below) and at a frequency determined by
the facility, but at least annually.

1. All staff members:
   a. Emergency procedures and disaster preparedness to address various types of potential disasters
      such as evacuation, bomb threat, earthquake, flood, hurricane, tornado and others within forty-
      eight (48) hours of their first day on the job in the facility (See Section 1500);
   b. Fire response training (See Section 1603);
   c. Confidentiality of resident information and records and the protection of resident rights (review
      of “Bill of Rights for Residents of Long-Term Care Facilities,” etc.).

2. Direct care staff members, all of the training listed in Section 607.F.1, and:
   a. Management/care of individuals with contagious and/or communicable disease, e.g., hepatitis,
      tuberculosis, HIV infection;
   b. Use of restraints that promote resident safety, including alternatives to physical and chemical
      restraints, in accordance with the provisions of Section 1012 (for designated staff members only);
   c. Prevention of pressure-related wounds;
   d. Aseptic techniques, such as handwashing and scrubbing practices, proper gowning and masking,
      dressing care techniques, disinfecting and sterilizing techniques, and the handling and storage of
      equipment and supplies.

609. Volunteers

A. If the facility has a volunteer program, a facility staff person shall direct the program. Community
   groups such as Boy and Girl Scouts, church groups, civic organizations or individuals that may
   occasionally present programs, activities, or entertainment in the facility shall not be considered
   volunteers. Volunteers shall be subject to the same standards regarding resident confidentiality
   and practice as the facility staff. Volunteers shall consult with licensed staff prior to any changes in
   resident care or treatment. The facility may elect to prohibit volunteers to work in the facility.

B. The licensee is responsible for all the activities that take place in the facility including the
   coordination of volunteer activities.

1. Volunteers shall receive the orientation, training, and supervision necessary to assure resident
   health and safety before performing any duties. The orientation program shall include, but not be
   limited to:
   a. Resident rights;
   b. Confidentiality;
   c. Disaster preparedness;
   d. Emergency response procedures;
   e. Safety procedures and precautions; and
   f. Infection control.

2. There shall be accurate current information maintained regarding all volunteers that shall
   include:
   a. Name, address and telephone number;
   b. Documentation of orientation to the facility, including residents’ rights, regulation compliance, policies
      and procedures, training, and duties;
   c. Date of initial resident contact may be maintained by the facility, if applicable.

1. Facilities shall require that volunteers sign in and out with staff of the facility upon entering or
   leaving the facility. Volunteers shall wear legible name and title badges that are visible at all times
   while on duty.

C. At a minimum, volunteers shall be given information necessary to implement medical and
   physical precautions related to the residents with whom they work and shall respect all aspects of
   confidentiality. Volunteers shall not take the place of qualified staff.
D. Direct care volunteers shall have the ability to render care and services to residents in an understanding and gentle manner.

E. Documentation maintained for direct care volunteers shall include:
   1. A health assessment (in accordance with Section 608) within three (3) months prior to initial date of volunteering or initial resident contact;
   2. Familiarization with the disaster plan (See Section 1502) and documented instructions as to any required actions;
   3. Fire response training (See Section 1603) within seven (7) days of his or her first day as a direct care volunteer and at least annually thereafter;
   4. A criminal record check (See Section 602) completed prior to working as a direct care volunteer;
   5. Determination of TB status (See Section 1803) prior to initial resident contact or his or her first day working as a direct care volunteer;
   6. Annual influenza vaccination and hepatitis B vaccination series (See Section 1806) unless the vaccine is medically contraindicated or the person is offered the vaccination and declined. In either case, the decision shall be documented.

610. Private Sitters

A. If a resident or responsible party has not agreed in writing with the facility to not have a private sitter and chooses to employ a private sitter for use in the facility, the facility may establish a formalized private sitter program that shall be directed by a facility staff member.
   1. The facility shall assure that private sitters have been chosen in accordance with the Bill of Rights for Residents of Long-Term Care Facilities.
   2. The facility shall establish written policies and procedures for the private sitter program that includes an orientation to the facility consisting, at least, of the following:
      a. Residents' rights;
      b. Confidentiality;
      c. Disaster preparedness;
      d. Emergency response procedures;
      e. Safety procedures and precautions; and
      f. Infection control.
   3. There shall be accurate current information maintained regarding private sitters including:
      a. Name, address and telephone number;
      b. Documentation of orientation to the facility, including residents' rights, regulation compliance, policies and procedures, training, and duties;
      c. Date of initial resident contact may be maintained by the facility, if applicable.

B. The facility shall maintain the following documentation regarding private sitters:
   1. A health assessment (in accordance with Section 608) within three (3) months prior to initial resident contact or his or her first day working as a private sitter;
   2. A criminal record check (See Section 602) completed prior to working as a private sitter;
   3. Determination of TB status (See Section 1803) prior to initial resident contact or his or her first day working as a private sitter;
   4. Annual influenza vaccination and hepatitis B vaccination series (See Section 1806).

    D. Private sitters shall sign in and sign out with facility staff upon entering or leaving the facility. Private sitters shall display identification in accordance with facility policies and procedures that is visible at all times while on duty.

SECTION 700 - REPORTING

701. Incidents
...Abuse and suspected abuse, neglect, or exploitation of residents shall also be reported to the South Carolina Long-Term Care Ombudsman Program in accordance with S.C. Code of Law Section 43-35-25 (1976, as amended).

702. Fire/Disasters
A. The Division of Health Licensing shall be notified immediately via telephone or fax regarding any fire, regardless of size or damage that occurs in the facility, and followed by a complete written report to include fire department reports, if any, to be submitted within a time period determined by the facility, but not to exceed seven (7) business days.
B. Any natural disaster in the facility which requires displacement of the residents, or jeopardizes or potentially jeopardizes the safety of the residents, shall be reported to the Division of Health Licensing via telephone or fax immediately, with a complete written report that includes the fire department report from the local fire department, if appropriate, submitted within a time period as determined by the facility, but not to exceed seven (7) business days.

704. Administrator Change
The Division of Health Licensing shall be notified in writing by the licensee within ten (10) days of any change in administrator. The notice shall include at a minimum the name of the newly-appointed individual, the effective date of the appointment, and a copy of the administrator's license.

705. Joint Annual Report
Facilities shall complete and return a “Joint Annual Report” to the Department's Planning and Certificate of Need Division within the time period specified by that Division.

SECTION 800 - RESIDENT RECORDS
801. Content
A. All entries in the resident record shall be legible and complete, and shall be separately authenticated and dated promptly by the individual, identified by name and discipline, who is responsible for ordering, providing or evaluating the service or care furnished. Authentication may include written signatures or computerized or electronic entries. If an entry is signed on a date other than the date it was made, the date of the signature shall also be entered. Although use of initials in lieu of signatures is not encouraged, initials will be accepted provided such initials can be readily identified within the resident record.
B. Contents of the resident record may be stored in separate files, in separate areas within the facility, and the record shall include the following information:
1. Medical history and physical examination;
2. Consent form for treatment signed by the resident or his or her legal representative;
3. Care and services agreement;
4. Healthcare directives and special information, e.g., advance directive information, do-not-resuscitate (DNR) orders, allergies;
5. Incidents involving the resident;
6. Medical treatment;
7. Orders, including telephone and standing orders, for all medication, care, services, therapy, procedures, and diet from physicians or other legally authorized healthcare providers, which shall be completed prior to, or at the time of admission, and subsequently, as warranted;
8. Individual Care Plan;
9. Provisions for routine and emergency medical care, to include the name and telephone number of the resident’s physician;
10. Assessments and progress notes, e.g., dietary, activity, therapy;
11. Record of administration of each dose of medication;
12. Record of the use of restraints, if applicable, including time, type, reason and authority for applying;
13. Treatment, procedure, wound care report (dictated or written into the record after treatment, procedure, or wound care) to include at least:
   a. Description of findings;
   b. Techniques utilized to perform treatments and procedures;
   c. Specimens removed, if applicable;
   d. Name of provider;
14. Progress notes generated by physicians and healthcare professionals;
15. Notes of observation, including temperature, pulse, respiration, blood pressure and weight when indicated by physician’s orders or by a change in the resident’s condition;
16. Special procedures and preventive measures performed, e.g., isolation for symptoms, diagnosis, and/or treatment of infectious conditions including but not limited to tuberculosis, influenza, pneumonia, therapies;
17. Reports of all laboratory, radiological, and diagnostic procedures along with tests performed and the results appropriately authenticated;
18. Consultations by physicians or other healthcare professionals;
19. Photograph of resident, if the resident or his or her responsible party approves;
20. Date and hour of discharge or transfer, as applicable;
21. Discharge and/or transfer summary, including care and condition at discharge or transfer, date and time of discharge or transfer, instructions for self-care, instructions for obtaining post-treatment or procedure emergency care, and signature of physician authorizing discharge or transfer;
22. Date and circumstances of death, as applicable.
C. Except as required by law, records may contain written and interpretative findings and reports of diagnostic studies, tests, and procedures, e.g., interpretations of imaging technology and video tapes without the medium itself.
D. Unauthorized alterations of information in the record are prohibited. Corrections to entry errors shall include the date the correction was made and the signature of the individual making the correction.
E. Records shall be maintained on all outpatients and shall be completed immediately after treatment is rendered. These records shall contain sufficient identification data, a description of what was done and/or prescribed for the outpatient and shall be signed by the attending physician. When an outpatient is admitted as a resident of the facility, all of the outpatient records shall be made a part of his or her permanent resident record.

804. Record Maintenance
A. Organization.
1. The administrator shall designate a staff member the responsibility for the maintenance of resident and outpatient records.
2. Resident and outpatient records shall be properly indexed and filed for ready access by staff members.
B. Accommodations.
1. The licensee shall provide space, supplies, and equipment adequate for the maintenance, protection and storage of resident and outpatient records.
2. The facility shall maintain records pertaining to resident personal funds accounts, as applicable, financial matters, statements of resident rights and responsibilities, and resident possessions (provided that the facility has been notified by the resident or responsible party that items have been added or removed).
3. The licensee shall determine the medium in which information is stored. The information shall be readily retrievable and accessible by staff, as needed.
4. Records of residents and outpatients shall be maintained for at least six (6) years following discharge or death. Facilities that microfilm (or use other processes that accurately reproduce or form a durable medium) inactive records before six (6) years have expired shall process the entire record. Records may be destroyed after six (6) years provided that:
   a. Records of minors must be retained until after the expiration of the period of election following achievement of majority as prescribed by statute; and
   b. The facility retains an index, register, or summary cards providing such basic information as dates of admission and discharge, and name of responsible physician for all records so destroyed.
5. Records of residents and outpatients are the property of the facility and shall not be removed without court order. As an exception, when a resident moves from one licensed facility to another within the same provider network (same licensee), the original record may follow the resident; the sending facility shall maintain documentation of the resident’s transfer and discharge date and identification information. In the event of change of licensee, all resident records or copies of resident records shall be transferred to the new licensee.
6. When a resident is transferred from one facility to another, a transfer summary, to include copies of relevant documents, shall accompany the resident to the receiving facility at the time of transfer or be forwarded immediately after the transfer. Documentation of the information forwarded shall be maintained in the resident record.
7. Upon discharge or death of a resident, the record shall be completed and filed in an inactive file within a time period as determined by the facility, but no later than thirty (30) days after discharge or death.
8. Facilities shall comply with R.61-19 with regard to vital statistics.
C. Access.
   1. The resident and outpatient record is confidential. Records containing protected or confidential health information shall be made available only to individuals granted access to that information, in accordance with State, Federal, and local laws.
   2. A facility may charge a fee for the search and duplication of a resident record in accordance with S.C. Code Ann. Section 44-7-325 (1976, as amended).
D. Copies of the criminal record check results of direct care staff shall be provided to the Department upon request within a reasonable amount of time after receiving the request. A copy of the criminal record check results shall be retained at the facility.
E. Regulation-required documents other than resident records, e.g., fire drills, medication destruction records, activity schedules, firefighting equipment inspections, monthly pharmacist reviews, controlled medication count sheets, emergency generator logs, shall be maintained for a minimum of twelve (12) months or until the next inspection by the Department’s Division of Health Licensing, whichever is longer. Records of menus as served shall be maintained for at least thirty (30) days and available for inspection.

805. Electronic Resident Records
A. Electronic records are subject to all of the standards of this regulation.
B. A facility that maintains electronic records shall:
   1. Retain the hard copy originals of any materials that cannot be electronically stored;
   2. Employ an off-site backup storage system as protection in the event that the on-site system is damaged or destroyed;
3. Use an imaging mechanism that is able to copy documents with signatures;
4. Assure that records, once put in electronic form, are unalterable.
C. Electronic signatures may be used any place in the resident or outpatient record that requires a signature, provided signature identification can be verified and an electronic signature may be legally used. Electronic authorization shall be limited to a unique identifier (confidential code) used only by the individual making the entry to preclude the improper or unauthorized use of any electronic signature.

1000 Resident Care and Services
1008. Laboratory Services
A. Laboratory services required in connection with the care or treatment to be performed shall be provided or arrangements made to obtain such services.
B. Laboratories that examine materials derived from the human body for diagnosis, prevention, or treatment purposes shall be certified by the Centers for Medicare and Medicaid Services (CMS). Some laboratory tests, i.e., blood sugar levels or hemoglobin, may not require the certification; however a Clinical Laboratories Improvement Amendments (CLIA) “Certificate of Waiver” shall be obtained from the Department’s CLIA Program if those tests are performed.
C. Expired laboratory supplies shall be disposed of in accordance with facility policies and procedures.

1013. Discharge/Transfer
F. The facility shall have a written transfer agreement with one (1) or more hospitals that provides reasonable assurance that transfer of residents will be made between the hospital and the facility whenever such transfer is deemed medically appropriate by the attending physician; or, the facility shall have on file documented evidence that it has attempted in good faith to effect a transfer agreement. The transfer agreement shall be dated and signed by authorized officials who are a party to the agreement. The agreement shall provide reasonable assurance of mutual exchange of information necessary or useful in the care and treatment of individuals transferred between the facilities. The agreement may be updated following a change of administrator; the agreement shall be updated following changes in licensee or at any other time as deemed advisable to maintain or further improve continuity of care.

SECTION 1500 - EMERGENCY PROCEDURES/DISASTER PREPAREDNESS
1501. Emergency Care
The facility shall provide for the care of residents in an emergency and make available appropriate equipment and services to render emergency resuscitative and life-support procedures.
1502. Disaster Preparedness
A. All facilities shall develop, by contact and consultation with their county emergency preparedness agency, a suitable written plan for actions to be taken in the event of a disaster and/or emergency evacuation. In the event of mass casualties, the facility shall provide resources as available. The plan shall be updated, as appropriate, annually, or as needed, and rehearsed at least annually. A record of the rehearsal, including its date and time, a summary of actions and recommendations, and the names of participants shall be maintained.
B. The disaster/emergency evacuation plan shall include, but not be limited to:
1. A sheltering plan to include:
   a. Facility occupancy at the time of the disaster;
   b. Name, address and phone number of the sheltering facility(ies) to which the residents will be relocated during a disaster;
c. A letter of agreement signed by an authorized representative of each sheltering facility which shall include: the number of relocated residents that can be accommodated; sleeping, feeding, and medication plans for the relocated residents; and provisions for accommodating relocated staff members and volunteers. The letter shall be updated with the sheltering facility at least every three (3) years and whenever significant changes occur. For those facilities located in Beaufort, Charleston, Colleton, Horry, Jasper, and Georgetown counties, at least one (1) sheltering facility shall be located in a county other than these counties.

2. A transportation plan, to include agreements with entities for relocating residents, which addresses:
   a. The relocation needs of the residents and staff contingent upon the type of disaster/emergency confronted;
   b. Procedures for providing appropriate medical support, food, water and medications during relocation based on the needs and number of the residents;
   c. Estimated time to accomplish the relocation during normal conditions;
   d. Primary and secondary routes to be taken to the sheltering facility.

3. A staffing plan for the relocated residents, to include:
   a. How care will be provided to the relocated residents, including licensed and nonlicensed staff members that will meet the staffing requirements of Section 606 for residents who are relocated;
   b. Prearranged transportation arrangements to ensure staff members are relocated to the sheltering facility;
   c. Co-signed statement by an authorized representative of the sheltering facility if staffing, bedding, or medical supplies are to be provided by the sheltering facility.

C. In instances where there are proposed changes in licensed bed capacity, the disaster/emergency evacuation plan shall be updated to reflect the new licensed bed capacity and submitted to the Division of Health Licensing along with the application for bed capacity change.

D. Only those nursing homes located in the coastal counties of Beaufort, Charleston, Colleton, Horry, Jasper, or Georgetown may request exemption from an emergency evacuation order.
1. Facilities in the above counties may elect to seek an exemption from having to evacuate the facility in the event the Governor issues a Mandatory Evacuation Order for an impending hurricane. Facilities located in Beaufort, Charleston, Colleton, Horry, Jasper, or Georgetown counties may request an exemption from an emergency evacuation order if the facility has previously submitted the following to the Department:
   a. A Critical Data Sheet, updated annually, that certifies emergency power supply is available for a minimum of seventy-two (72) hours, a seventy-two (72) hour supply of food, water, and medical supplies is on site, and that adequate staff will be available and on duty to provide continual care for the residents;
   b. A copy of the engineer's report concerning the wind load the facility should withstand; and
   c. A current approved evacuation plan prior to a declared emergency.
1. Once the prerequisites are met and an emergency has been declared, the facility shall draw down the census of the facility and then contact the Division of Health Licensing to request an exemption from the evacuation order.
2. A facility shall comply with the mandatory evacuation order unless an exemption from evacuation of the facility for a specific storm has been received from the Department.

1503. Licensed Bed Capacity During An Emergency
A. A facility desiring to temporarily admit residents in excess of its licensed bed capacity due to an emergency shall:
1. Request that the Department concur that an emergency situation does exist by contacting the Division of Health Licensing;
2. Determine the maximum number of residents to be temporarily admitted;
3. Establish an anticipated date for discharge of the temporary residents;
4. Outline how and where the temporary residents will be housed; and
5. Contact the county emergency preparedness agency to advise of additional residents.

B. Other issues such as who will staff the care of the temporary residents, physician orders, additional food for the temporary residents, and handling of medications shall be resolved ahead of time by memoranda of agreement, internal policies and procedures, etc.

C. The facility shall notify the Division of Health Licensing in writing when the temporary residents have been discharged.

1504. Emergency Call Numbers
Although the facility may be in a location that has access to “911” services, emergency call data shall be immediately available, posted in a conspicuous place, at least at every staff work area, and shall include, at a minimum, the telephone numbers of fire and police departments, ambulance service, and the Poison Control Center. Other emergency call information shall be available, to include the names, addresses, and telephone numbers of physicians and staff members to be notified in case of emergency.

1505. Continuity of Essential Services
There shall be a written plan to be implemented to assure the continuation of essential resident support services for such reasons as power outage, water shortage, or in the event of the absence from work of any portion of the workforce resulting from inclement weather or other causes.

1506. Use of the Facility or Services in Response to a Public Health Emergency
The Department, in coordination with the guidelines of the State Emergency Operations Plan, may, for such period as the state of public health emergency exists and as may be reasonable and necessary for emergency response, require a nursing home to provide services or the use of its facility if the services are reasonable and necessary to respond to the public health emergency as a condition of licensure, authorization, or the ability to continue doing business as a nursing home. When the Department needs the use or services of the facility to isolate or quarantine individuals during a public health emergency, the management and supervision of the nursing home shall be coordinated with the Department to assure protection of existing residents and compliance with the regulation in accordance with S.C. Code Ann. Section 44-4-310 (1976, as amended).

SECTION 1600 - FIRE PREVENTION

1601. Arrangements for Fire Department Response/Protection
A. Each facility shall develop, in coordination with its supporting fire department and/or disaster preparedness agency, suitable written plans for actions to be taken in the event of fire, i.e., fire plan and evacuation plan.
B. Facilities located outside a service area or range of a public fire department shall arrange for the nearest fire department to respond in case of fire by written agreement with that fire department. A copy of the agreement shall be maintained on file in the facility and a copy shall be forwarded to the Division of Health Licensing. If the agreement is changed, a copy shall be forwarded to the Division of Health Licensing.
C. Fire protection for all facilities shall meet all of the requirements of the South Carolina State Fire Marshal’s Office.

1602. Tests
Fire protection and suppression systems shall be maintained and tested at least annually in accordance with NFPA 10, 13, 14, 15, 25, 70, 72, and 96.

1603. Fire Response Training
A. Each staff member shall receive training within seven (7) days of his or her first day on the job in the facility and at least annually thereafter, addressing at a minimum, the following:
1. Fire plan;
2. Reporting a fire;
3. Use of the fire alarm system;
4. Location and use of fire-fighting equipment;
5. Methods of fire containment;
6. Specific responsibilities, tasks, or duties of each individual when a facility fire occurs.
B. A plan for the evacuation of residents, staff members, and visitors, to include procedures and evacuation routes out of the facility, in case of fire or other emergencies, shall be established and posted in conspicuous public areas throughout the facility.

1604. Fire Drills
A. An unannounced fire drill shall be conducted at least quarterly for all shifts. Records of drills shall be maintained at the facility, indicating the date, time, shift, description, an evaluation of the drill, and the names of staff members directly involved in responding to the drill. Should fire drill requirements be mandated by statute or regulation, then compliance with that statute or regulation shall supersede the provisions of this section.
B. Drills shall be designed and conducted in consideration of and reflecting the content of the fire response training described in Section 1603.

SECTION 1800 - INFECTION CONTROL AND ENVIRONMENT
1801. Staff Practices
B. There shall be an infection control/QI committee that meets at least annually to address infection control issues consisting of the medical director and representatives from at least administration, nursing, dietary, and housekeeping staff to assure compliance with this regulation regarding infection control.

SECTION 1900 - QUALITY IMPROVEMENT PROGRAM
1901. General
There shall be a written, implemented quality improvement program that provides effective self-assessment and implementation of changes designed to improve the care, treatment and services provided by the facility.

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44:04:01:02. Licensure of facilities by classification.
... The most current license issued by the department must be posted on the premises of the facility in a place conspicuous to the public. Each facility address shall show a current license.

44:04:01:03. Name of facility. Each facility must be designated by a pertinent and distinctive name that must be used in applying for a license. The name may not be changed without first notifying the department in writing. No facility may be given a name or advertise in a way that implies services rendered are in excess of the classification for which it is licensed or which would indicate an ownership other than actual.

44:04:01:06. Joint occupancy. The use of a portion of a building for purposes other than that covered by the license may be approved by the department only if it can be shown that joint
occupancy is not detrimental to the welfare of the patients or residents. The area must be open to
inspection by the department.

44:04:01:07. Reports. Each licensed facility, when requested by the department, shall submit to the
department the pertinent data necessary to comply with the requirements of SDCL chapter 34-12
and this article. Each facility shall report to the department within 48 hours of the event any death
resulting from other than natural causes originating on facility property such as accidents, abuse,
negligence, or suicide; any missing patient or resident; and any allegation of abuse or neglect of any
patient or resident by any person. Each facility shall report the results of the investigation within
five working days after the event. Each facility shall also report to the department as soon as
possible any fire with structural damage or where injury or death occurs; any partial or complete
evacuation of the facility resulting from natural disaster; or any loss of utilities, such as electricity,
natural gas, telephone, emergency generator, fire alarm, sprinklers, and other critical equipment
necessary for operation of the facility for more than 24 hours. Each facility shall notify the
department of any anticipated closure or discontinuation of service at least 30 days in advance of
the effective date.

44:04:02:09. Infection control... The facility must provide orientation and continuing education to
all personnel on the facility’s staff on the cause, effect, transmission, prevention, and elimination of
infections.

44:04:03:02. General fire safety. Each licensed health care facility covered under this article must be
constructed, arranged, equipped, maintained, and operated to avoid undue danger to the lives and
safety of its occupants from fire, smoke, fumes, or resulting panic during the period of time
reasonably necessary for escape from the structure in case of fire or other emergency. The fire
alarm system must be sounded each month. A minimum of two staff members must be on duty at
all times. In multilevel facilities, at least one staff member must be on duty on each floor containing
occupied beds. Compliance with this section does not eliminate or reduce the necessity for other
provisions for safety of persons using the structure under normal occupancy conditions.

44:04:04:02. Governing body. Each facility operated by limited liability partnership, a corporation,
or political subdivision must have an organized governing body legally responsible for the overall
conduct of the facility. If the facility is operated by an individual or partnership, the individual or
partnership shall carry out the functions in this chapter pertaining to the governing body. The
governing body shall establish and maintain administration policies, procedures, or bylaws
governing the operation of the facility. The governing body of a hospital shall determine which
categories of practitioners are eligible candidates for appointment to the medical staff and shall
credential and grant admitting or patient care privileges to appointees to the medical staff. The
governing body may appoint members to the medical staff only after considering the
recommendations of the existing members of the medical staff.

44:04:04:03. Administrator. The governing body must designate a qualified administrator to
represent the owner or governing body and to be responsible for the daily overall management of
the facility. The administrator must designate a qualified person to represent the administrator
during the administrator’s absence. The governing body shall notify the department in writing of
any change of administrator. The administrator of a nursing facility must be licensed pursuant to
article 20:49.

44:04:04:04. Personnel. The facility must have a sufficient number of qualified personnel to provide
effective and safe care. Staff members on duty must be awake at all times. Supervisors must be 18
years of age or older. Written job descriptions and personnel policies and procedures must be made available to personnel of all departments and services. The facility may not knowingly employ any person with a conviction for abusing another person. The facility must establish and follow policies regarding special duty or staff members on contract.

44:04:04:05. Personnel training. The facility must have a formal orientation program and an ongoing education program for all personnel. Ongoing education programs must cover the required subjects annually. These programs must include the following subjects:
(1) Fire prevention and response. The facility must conduct fire drills quarterly for each shift. If the facility is not operating with three shifts, monthly fire drills must be conducted to provide training for all staff;
(2) Emergency procedures and preparedness;
(3) Infection control and prevention;
(4) Accident prevention and safety procedures;
(5) Proper use of restraints;
(6) Patient and resident rights;
(7) Confidentiality of patient or resident information;
(8) Incidents and diseases subject to mandatory reporting and the facility's reporting mechanisms;
(9) Care of patients or residents with unique needs; and
(10) Dining assistance, nutritional risks, and hydration needs of residents. Personnel who the facility determines will have no contact with patients or residents are exempt from training required by subdivisions (5), (9), and (10) of this section. Current professional and technical reference books and periodicals must be made available for personnel.

44:04:04:11. Care policies. Each facility must establish and maintain policies, procedures, and practices to govern care, and related medical or other services necessary to meet the patients' or residents' needs. Policies and procedures for the management of adult day care clients and respite care patients or residents in the facilities offering those services shall be established and maintained.

44:04:04:15. Transfer agreements. Each nursing facility must have in effect a transfer agreement with one or more hospitals sufficiently close to provide prompt inpatient hospital care to the facility's residents when needed. The agreement must provide for an interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the facilities. Each specialized hospital and critical access hospital must have in effect a transfer agreement with one or more hospitals to provide services not available on site. The agreement must provide for an interchange of medical and other necessary information; and Each ambulatory surgery center must have in effect a transfer agreement with a hospital sufficiently close to accept emergency transfer of patients.

44:04:04:16. Quality assessment. Each licensed facility shall provide for on-going evaluation of the quality of services provided to patients or residents. Components of the quality assessment evaluation must include establishment of facility standards; interdisciplinary review of patient or resident services to identify deviations from the standards and actions taken to correct deviations; patient or resident satisfaction surveys; utilization of services provided; and documentation of the evaluation and report to the governing body.

44:04:05:07. Medical director required. A critical access hospital and a nursing facility must appoint a physician licensed in South Dakota to serve as a medical director. The medical director shall assure physician services are provided only by qualified caregivers.
44:04:06:03. Director of nursing service. There must be a full-time registered nurse designated as the director of nursing service who is responsible for the organization of the total nursing service and who serves during the day shift. The director may not serve in a dual role as the administrator of the facility and the director of nursing.

44:04:07:16. Required dietary inservice training. The dietary manager or the dietitian in hospitals and nursing facilities, and the person-in-charge of dietary services or the dietitian in assisted living centers shall provide ongoing inservice training for all dietary and food-handling employees. The person-in-charge of any hospital without an in-house dietary department that uses a contracted dietary service shall provide ongoing inservice training for all dietary and food-handling employees. Topics shall include: food safety, handwashing, food handling and preparation techniques, food-borne illnesses, serving and distribution procedures, leftover food handling policies, time and temperature controls for food preparation and service, nutrition and hydration, and sanitation requirements.

44:04:09:01. Record services for hospitals and nursing facilities. All hospitals and nursing facilities must comply with §§ 44:04:09:02 to 44:04:09:05, inclusive.

44:04:09:02. Medical record department. There must be an organized medical record system. A medical record must be maintained for each level of care for each patient or resident admitted to the facility.

44:04:09:03. Medical record department staff. The medical record functions must be performed by persons trained and equipped to facilitate the accurate processing, checking, indexing, filing, and retrieval of all medical records. The individual responsible for the medical records service must have knowledge and training in the field of medical records.

44:04:09:04. Written policies and confidentiality of records. There must be written policies and procedures to govern the administration and activities of the medical record service. They must include policies and procedures pertaining to the confidentiality and safeguarding of medical records, the record content, continuity of a patient's or resident's medical records during subsequent admissions, requirements for completion of the record, and the entries to be made by various authorized personnel.

44:04:09:05. Record content. Each medical record must show the condition of the patient or resident from the time of admission until discharge and must include the following:
(1) Identification data;
(2) Consent forms, except when unobtainable;
(3) History of the patient or resident;
(4) A current overall plan of care;
(5) Report of the initial and periodic physical examinations, evaluations, and all plans of care with subsequent changes;
(6) Diagnostic and therapeutic orders;
(7) Progress notes from all disciplines, including practitioners, physical therapy, occupational therapy, and speech pathology;
(8) Laboratory and radiology reports;
(9) Description of treatments, diet, and services provided and medications administered;
(10) All indications of an illness or an injury, including the date, the time, and the action taken regarding each;
(11) A final diagnosis; and  
(12) A discharge summary, including all discharge instructions for home care.

44:04:09:07. Authentication. A health care facility must ensure entries to the medical or care record are signed or electronically authenticated. If the facility permits any portion of the medical or care record to be generated by electronic or optical means, policies and procedures must exist to prohibit the use of authentication by unauthorized users.

44:04:09:08. Retention of medical or care records. A health care facility must retain medical or care records for a minimum of ten years from the actual visit date of service or resident care. The retention of the record for ten years is not affected by additional and future visit dates. Records of minors must be retained until the minor reaches the age of majority plus an additional two years, but no less than ten years from the actual visit date of service or resident care. Initial, annual, and significant-change resident assessment records, as required in §§ 44:04:06:15 and 44:04:06:16, must be retained for ten years from the actual visit date of resident care. The retention of the record for ten years is not affected by additional and future visit dates.

44:04:09:09. Storage of medical or care records. A health care facility must provide for filing, safe storage, and easy accessibility of medical or care records. The medical or care records must be preserved as original records or in other readily retrievable and reproducible form. Medical or care records must be protected against access by unauthorized individuals. All medical or care records must be retained by the health care facility upon change of ownership.

44:04:09:10. Destruction of medical or care records. After the minimum retention period of ten years from the actual visit date of care outlined in § 44:04:09:08, the medical or care record may be destroyed at the discretion of the health care facility. Before the destruction of the medical or care record, the health care facility must prepare and retain a patient or resident index or abstract. The patient or resident index or abstract must include:  
(1) Name;  
(2) Medical record number;  
(3) Date of birth;  
(4) Summary of visit dates;  
(5) Attending or admitting physician; and  
(6) Diagnosis or diagnosis code. The health care facility must destroy the medical or care record in a way that maintains confidentiality.

44:04:09:11. Disposition of medical or care records on closure of facility or transfer of ownership. If a health care facility ceases operation, the facility must provide for safe storage and prompt retrieval of medical or care records and the patient or resident indexes specified in § 44:04:09:10. The health care facility may arrange storage of medical or care records with another health care facility of the same licensure classification, transfer medical or care records to another health care provider at the request of the patient or resident, relinquish medical records to the patient or resident or the patient's or resident's parent or legal guardian, or arrange storage of remaining medical records with a third party vendor who undertakes such a storage activity. At least 30 days before closure, the health care facility must notify the department in writing indicating the provisions for the safe preservation of medical or care records and their location and publish in a local newspaper the location and disposition arrangements of the medical or care records. If ownership of the health care facility is transferred, the new owner shall maintain the medical or care records as if there was not a change in ownership.
44:04:18:02. Employment of qualified nurse aides required. Nurse aides employed by a nursing facility must meet the following minimum qualifications of training, competency evaluation, registry status, and performance:

1. Successful completion of a training program and a competency evaluation program approved by the department pursuant to §§ 44:04:18:07 and 44:04:18:17;
2. Verification from the department of current registry status or eligibility for inclusion on the registry;
3. Acceptable employment performance as a nurse aide as documented by the aide’s supervisor; and
4. Annual attendance at a minimum of 12 hours of in-service education related to results of performance review and of special resident needs.

44:04:18:03. Exception for employment of unqualified nurse aides. A nursing facility may employ for a maximum of four months an individual to provide nurse aide duties who has not met the qualifications of § 44:04:18:02 if the individual is enrolled in a training and competency evaluation program approved by the department pursuant to §§ 44:04:18:07 and 44:04:18:17 or if the individual can prove that approved training and competency evaluation has been completed and the individual has not yet been included on the registry. The nursing facility must ensure that such an individual actually obtains registry status within the four-month period.

44:04:18:04. Multistate registry verification required. A nursing facility must seek information from every state registry that the facility has reason to believe has information on the individual before allowing the individual to work as a nurse aide.

44:04:18:05. Nursing facility required to maintain records. A nursing facility must maintain employment records that verify the qualifications of the nurse aides as outlined in § 44:04:18:02.

44:04:18:06. Nursing facility required to pay costs of training and competency evaluation. A nursing facility must pay all costs of nurse aide training and competency evaluation or reimburse the nurse aide for the cost incurred in completing the program if the facility employs the aide within twelve months following completion of the training program. Reimbursement may be made during the first twelve months of employment by installments.

44:04:18:07. Approval and reapproval of nurse aide training programs. The department must approve nurse aide training programs. To obtain approval, the entity providing the nurse aide training program must submit to the department an application on a form provided by the department that contains information demonstrating compliance with requirements specified in this chapter. The department shall respond within 90 days after receipt of the application. The department may grant approval for a maximum of two years. At the end of the approval period, the entity must apply for reapproval. As part of the reapproval process, the department shall conduct an unannounced on-site visit to determine compliance with the requirements.

44:04:18:08. Notice of change in approved training program. The entity offering an approved nurse aide training program must submit to the department, within 30 days after the change, any substantive changes made to the program during the two-year approval period. The department shall notify the entity of its approval within 90 days after receipt of the information.
44:04:18:09. Denial or withdrawal of approval of training program. The department may deny or withdraw approval of a nurse aide training program if one of the following conditions applies to the nursing facility within the 24 months preceding the current survey:
(1) The facility has been found to be out of compliance with the provision of care requirements in chapter 44:04:04 or the nursing service requirements in chapter 44:04:06;
(2) The facility has been issued a probationary license;
(3) The facility refuses to permit an unannounced visit by the department;
(4) The facility fails to maintain a 75 percent pass rate on the competency evaluation for the two-year approval period;
(5) There is evidence that the facility has charged the nurse aide a fee for a portion of the training or competency evaluation. The department shall notify the entity in writing of the reason for withdrawal or denial of approval. Nurse aides currently enrolled in a program whose approval is withdrawn may complete the program with that entity.

44:04:18:10. Qualifications of program coordinator. The program coordinator of a nurse aide training program must be a registered nurse. The program coordinator is responsible for the general supervision of the program. General supervision means providing guidance for the program and maintaining ultimate responsibility for the course. The program coordinator must have a minimum of two years of nursing experience, at least one year of which is in the provision of long-term care services. The director of nursing of a facility may serve simultaneously as the program coordinator but may not perform training while serving as the director of nursing.

44:04:18:11. Qualifications of primary instructor. The primary instructor of a nurse aide training program must be a licensed nurse. The primary instructor is the actual teacher of course material. The primary instructor must have a minimum of two years of nursing experience, at least one year of which is in the provision of long-term care services. The primary instructor must have completed a course of instruction in teaching adults or must have experience in teaching adults within the past five years.

44:04:18:12. Qualifications of supplemental personnel. Supplemental personnel may assist with the instruction of nurse aides. One year of experience in the individual's respective field of practice is required.

44:04:18:13. Supervision of students. Students in a nurse aide training program may not perform any services unless they have been trained and found to be proficient by the instructor. Students in a training program may perform services only under the supervision of a licensed nurse.

44:04:18:14. Physical facilities. Classrooms, conference rooms, laboratories, and equipment must be available in the number and size to accommodate the number of nurse aides enrolled in the training program. Programs must provide temperature control, lighting, and clean, safe conditions for instruction.

44:04:18:15. Nurse aide curriculum. The curriculum of the nurse aide training program must address the medical, psychosocial, physical, and environmental needs of the patients or residents served by the nursing facility. Each unit of instruction must include behaviorally stated objectives with measurable performance criteria. The nurse aide training program must consist of at least 75 hours of classroom and clinical instruction, including the following:
(1) Sixteen hours of training in the following areas before the nurse aide has any direct contact with a patient or resident:
(a) Communication and interpersonal skills;
(b) Infection control;
(c) Safety/emergency procedures, including the Heimlich maneuver;
(d) Promoting patients' and residents' independence; and
(e) Respecting patients' and residents' rights;
(2) Sixteen hours of supervised practical training, with enough instructors to ensure that nursing care is provided with effective assistance and supervision. The ratio may not be less than one instructor for each eight students in the clinical setting;
(3) Instruction in each of the following content areas:
(a) Basic nursing skills:
   (i) Taking and recording vital signs;
   (ii) Measuring and recording height and weight;
   (iii) Caring for the patients' or residents' environment;
   (iv) Recognizing abnormal changes in body functioning and the importance of reporting such changes to a supervisor; and
   (v) Caring for patients or residents when death is imminent;
(b) Personal care skills, including the following:
   (i) Bathing;
   (ii) Grooming, including mouth care;
   (iii) Dressing;
   (iv) Toileting;
   (v) Assisting with eating and hydration;
   (vi) Feeding techniques;
   (vii) Skin care; and
   (viii) Transfers, positioning, and turning;
(c) Mental health and social services:
   (i) Modifying aides' behavior in response to patients' or residents' behavior;
   (ii) Awareness of developmental tasks associated with the aging process;
   (iii) How to respond to patients' or residents' behavior;
   (iv) Allowing the patient or resident to make personal choices, providing and reinforcing other behavior consistent with the patient's or resident's dignity; and
   (v) Using the patient's or resident's family as a source of emotional support;
(d) Care of cognitively impaired patients or residents, including the following:
   (i) Techniques for addressing the unique needs and behaviors of individuals with dementia;
   (ii) Communicating with cognitively impaired patients or residents;
   (iii) Understanding the behavior of cognitively impaired patients or residents;
   (iv) Appropriate responses to the behavior of cognitively impaired patients or residents; and
   (v) Methods of reducing the effects of cognitive impairments;
(e) Basic restorative nursing services, including the following:
   (i) Training the patient or resident in self-care according to the patient's or resident's abilities;
   (ii) Use of assistive devices in transferring, ambulation, eating, and dressing;
   (iii) Maintenance of range of motion;
   (iv) Proper turning and positioning in bed and chair;
   (v) Bowel and bladder control care training; and
   (vi) Care and use of prosthetic and orthotic devices;
(f) Residents' rights, including the following:
   (i) Providing privacy and maintaining confidentiality;
   (ii) Promoting the patients' or residents' right to make personal choices to accommodate their needs; and
   (iii) Giving assistance in reporting grievances and disputes;
(iv) Providing needed assistance in getting to and participating in resident and family groups and other activities;
(v) Maintaining care and security of patients' or residents' personal possessions;
(vi) Promoting the patient's or resident's right to be free from abuse, mistreatment, and neglect and understanding the need to report any instances of such treatment to appropriate facility staff;
(vii) Avoiding the need for restraints.

44:04:18:16. Equivalency of education. An individual may meet the 75-hour training requirement by equivalency of education. A nursing facility shall make a request to the department in writing for an equivalency determination, including proof of training with the request.

44:04:18:17. Nurse aide competency evaluation program standards. A nurse aide competency evaluation program must meet the following standards:
(1) The nurse aide must be informed by the facility that a record of successful completion of the evaluation will be included in the registry;
(2) The evaluation must consist of two elements:
   (a) The competency evaluation component may be offered as either a written or oral examination. This component of the evaluation must:
      (i) Include each curriculum requirement specified in § 44:04:18:15;
      (ii) Be developed from a pool of test questions, with no more than 20 percent of prior questions used on a succeeding examination;
      (iii) Use a system that prevents disclosure of the content of the examination; and
      (iv) If oral, be read from a prepared text in a neutral manner;
   (b) The skills demonstration component must consist of a minimum of five tasks randomly selected from a pool of tasks generally performed by nurse aides. The pool of skills must include all of the personal care skills listed in subdivision 44:04:18:15(3)(b). The skills demonstration tasks must be performed on a live person.

44:04:18:18. Competency evaluation program administration standards. The competency evaluation may be administered by a nursing facility. The entity that administers competency evaluations must meet the requirements of this section and must have the approval of the department:
(1) The written or oral examination must be administered by an individual with previous group testing experience;
(2) The skills demonstration must be administered by a registered nurse who has at least one year's experience in providing care for the elderly or the chronically ill and who has taken a skills demonstration rater training course;
(3) The skills demonstration must be conducted in a nursing facility or laboratory setting comparable to the setting in which the nurse aide functions and must accommodate the number of nurse aides enrolled in the competency evaluation program.

44:04:18:19. Nursing facility proctoring of examination. The written, oral, or skills demonstration examination may be conducted in a nursing facility and proctored by facility personnel if the facility obtains department approval before giving the examinations. The nursing facility must ensure that the examination is secure from tampering. Department approval may be withdrawn if there is evidence of tampering. Scoring of the examination must be done by the professional testing company under contract with the department to administer the examination.

44:04:18:20. Notification to individual regarding successful or unsuccessful completion of the competency evaluation program. The facility offering the examination must advise in advance any
individual who takes a competency evaluation that a record of the successful completion of the evaluation will be included in the registry. To be listed in the registry, a nurse aide must pass the written or oral portion and the skills demonstration portion of the competency evaluation with a score of at least 75 percent. If the nurse aide does not achieve a score of 75 percent, the facility must advise the nurse aide of the areas failed. The nurse aide may have two additional opportunities to complete evaluation successfully.

44:04:18:21. Operation of nurse aide registry. The department is accountable for the operation of the nurse aide registry and may designate an entity to maintain the registry. A nurse aide is listed on the registry through application or by endorsement. The department shall provide a copy of all information contained in the registry on an individual upon request. The public may contact the department at South Dakota Department of Health Office of Licensure and Certification 615 East 4th Street Pierre, South Dakota 57501 or by calling 605-773-3356 obtain information from the registry between the hours of 8:00 a.m. and 5:00 p.m. central time, Monday through Friday, except for state and federal holidays.

44:04:18:22. Registry status by application. A nurse aide seeking registry status must submit to the department an application, completed by the program coordinator or primary instructor, documenting successful completion of an approved training program. The entity responsible for scoring the nurse aide competency evaluation program must submit documentation of successful completion of the written or oral examination and the skills demonstration of the competency evaluation to the department within 30 days after the administration of the evaluation.

44:04:18:23. Registry status by endorsement. A nurse aide seeking registry status by endorsement from another state registry must submit to the department the following information:
(1) A completed application;
(2) Written documentation indicating successful completion of another state’s approved nurse aide training and competency evaluation program;
(3) Verification of initial listing on the nurse aide registry in another state;
(4) Verification of listing on a nurse aide registry from the state of most recent employment; And
(5) Documentation of employment as a nurse aide within the last 24 consecutive months.

44:04:18:24. Registry content. The registry contains the following information for each nurse aide who has gained registry status:
(1) The full name of the nurse aide, including maiden name and any surnames used;
(2) The last known home address;
(3) The registration number;
(4) The date the registry status expires;
(5) The date of birth;
(6) The most recent employment;
(7) The date of successful completion of the examination and skills demonstration components of the competency evaluation;
(8) The name and address of the professional testing service that scored the competency evaluations taken by the nurse aide; and
(9) Any disciplinary proceedings against the nurse aide, including findings of abuse, neglect, or misappropriation of patient or resident property as specified in § 44:04:18:30.

44:04:18:25. Renewal of registry status. Registry status expires two years from the date of initial registration. To renew registry status, the nurse aide must submit to the department a verification of employment for a minimum of eight hours during the preceding 24 months. An individual who
has not performed any nursing or nursing-related services for monetary compensation during the preceding 24 consecutive months must complete a new competency evaluation program.

44:04:18:26. Grounds for revocation, denial, or suspension of nurse aide registry status. The department may revoke a nurse aide's current registry status if the department determines after a contested case hearing pursuant to SDCL chapter 1-26 that the nurse aide has violated the meaning of abuse or neglect as those terms are defined in § 44:04:01:01. The department may deny registry status to a nurse aide applying for registration if the nurse aide was convicted of criminal charges related to abuse or neglect of an individual. Registry status may be suspended by the department during the investigation of an allegation of abuse or neglect by a nurse aide following due process as outlined in § 44:04:18:29.

44:04:18:27. Mandatory reporting of allegations. A nursing facility must notify the department in writing, within 48 hours, of any alleged misconduct by a nurse aide related to abuse or neglect of an individual or to misappropriation of a patient's or resident's property.

44:04:18:28. Investigation of allegations. After an allegation of abuse or neglect, the facility must take steps to prevent further incidents of abuse or neglect from occurring, investigate allegations thoroughly, and take any corrective action necessary. The facility must report its findings to the department within five working days. The department, or another agency of state government, may conduct its own investigation in addition to the facility's investigation.

44:04:18:29. Notice and hearing process. The department shall follow the contested case procedure found in SDCL chapter 1-26 if a hearing is conducted:
(1) To determine if a nurse aide has engaged in abuse or neglect of an individual; or
(2) When the department denies a petition to remove a finding of neglect from the registry. If the department has determined abuse or neglect of an individual has occurred, a notice of the right to a hearing will be sent to the nurse aide. The notice shall state the aide has 10 days from receipt of the notice to respond. The notice shall include a waiver of hearing. Failure to return the waiver or failure to request a hearing within 10 days waives the right to a hearing.

44:04:18:30. Documentation of substantiated allegations on registry. If, after a hearing on the matter, the nurse aide is found to have committed abuse or neglect of an individual, the department shall update the registry with documentation within 60 days from the date of the ruling. If a waiver of hearing is received, the department shall update the registry by flagging the nurse aide's name on the registry. The documentation remains on the registry permanently and includes the following:
(1) A summary of the allegation;
(2) A summary of the department's investigative report;
(3) The statement by the nurse aide, if one is provided;
(4) The department's decision;
(5) The waiver of the hearing, if any; and
(6) A date of the hearing, findings of fact, and conclusions of law, and the outcome, if a hearing is held.

44:04:18:31. Procedure to remove of a finding of neglect from registry. A certified nurse aide may petition for a removal of a finding of neglect after one year beginning on the date on which the finding was placed on the certified nurse aide registry. If the department determines the employment and personal history of the certified nurse aide does not reflect a pattern of abusive behavior or neglect and the neglect in the original finding was a singular occurrence, the department may remove the finding from the registry. The department may deny the petition if the
employment and personal history of the certified nurse aide reflects a pattern of abusive behavior or neglect and the neglect involved in the original finding was not a singular occurrence. The department shall follow the procedure as provided in § 44:04:18:29. 

1200-08-06-.02 LICENSING PROCEDURES. (1).... Satellite facilities shall be prohibited. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the nursing home. ...(3) A proposed change of ownership, including a change in a controlling interest, must be reported to the department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the department before the license may be issued. (a) For the purpose of licensing, the licensee of a nursing home has the ultimate responsibility for the operation of the facility, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of the nursing home’s operation is transferred. (b) A change of ownership occurs whenever there is a change in the legal structure by which the nursing home is owned and operated. (c) Transactions constituting a change of ownership include, but are not limited to, the following: 1. Transfer of the facility’s legal title; 2. Lease of the facility’s operations; 3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility. 4. One partnership is replaced by another through the removal, addition or substitution of a partner; 5. Removal of the general partner or general partners, if the facility is owned by a limited partnership; 6. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner’s shares of capital stock are canceled; 7. The consolidation of a corporate facility owner with one or more corporations; or, 8. Transfers between levels of government. (d) Transactions which do not constitute a change of ownership include, but are not limited to, the following: 1. Changes in the membership of a corporate board of directors or board of trustees; 2. Two (2) or more corporations merge and the originally-licensed corporation survives; 3. Changes in the membership of a non-profit corporation; 4. Transfers between departments of the same level of government; or, 5. Corporate stock transfers or sales, even when a controlling interest. (e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the facility. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred. (f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the lessee, who shall continue the operation, retains the same legal form as the former owner. 

1200-08-06-.04 ADMINISTRATION.
(1) The nursing home shall have a full-time (working at least 32 hours per week) administrator licensed in Tennessee, who shall not function as the director of nursing. Any change of administrators shall be reported in writing to the department within fifteen (15) days. The administrator shall designate in writing an individual to act in his/her absence in order to provide the nursing home with administrative direction at all times. The administrator shall assure the provision of appropriate fiscal resources and personnel required to meet the needs of the residents.

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

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

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

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

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

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

(d) On or before the expiration of thirty (30) days after notice of the unexpected loss, the facility shall appoint a temporary administrator to serve until either a permanent administrator is employed or the request for a waiver is considered by the board, whichever occurs first. The temporary administrator shall be any of the following:
   1. A full-time administrator licensed in Tennessee or any other state;
   2. One (1) or more part-time administrators licensed in Tennessee. Part-time shall not be less than twenty (20) hours per week; or,
   3. A full-time candidate for licensure as a Tennessee administrator who has completed the required training and the application process. Such candidate shall be scheduled for the next licensure exam and is eligible for the continued administrator role only with the successful completion of that exam.

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

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

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

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

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

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

1. Provide past work and personal references to be checked by the nursing home; and/or
2. Agree to release and use of any and all information and investigative records necessary for the purpose of verifying whether the individual has been convicted of a criminal offense in the state of Tennessee, to either the nursing home or its agent, to any agency that contracts with the state of Tennessee, to any law enforcement agency, or to any other legally authorized entity; and/or
3. Supply a fingerprint sample and submit to a state criminal history records check to be conducted by the Tennessee Bureau of Investigations, or a state and federal criminal history records check to be conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation; and/or
4. Release any information required for a criminal background investigation by a professional background screening organization or criminal background check service or registry.

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

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

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

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

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

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

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

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

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

...(18) The nursing home shall ensure a framework for addressing issues related to care at the end of life.

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

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

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

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

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

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

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

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

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

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

**1200-08-06-.05 ADMISSIONS, DISCHARGES, AND TRANSFERS.**

...(5) Facilities utilizing secured units must be able to provide survey staff with twelve (12) months of the following performance information specific to the secured unit and its residents:

...(h) Documentation showing that 100% of the staff working on the unit receives and has received annual in-service training which shall include, but not be limited to the following subject areas:

1. Basic facts about the causes, progression and management of Alzheimer’s Disease and related disorders;
2. Dealing with dysfunctional behavior and catastrophic reactions in the residents;
3. Identifying and alleviating safety risks to the resident;
4. Providing assistance in the activities of daily living for the resident; and,
5. Communicating with families and other persons interested in the resident.
(6) The facility shall ensure that no person on the grounds of race, color, national origin, or handicap, will be excluded from participation in, be denied benefits of, or otherwise subjected to discrimination in the provision of any care or service of the facility. The facility shall protect the civil rights of residents under the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973.

1200-08-06-.06 BASIC SERVICES.

(1) Performance Improvement.
(a) The nursing home must ensure that there is an effective, facility-wide performance improvement program to evaluate resident care and performance of the organization.
(b) The performance improvement program must be ongoing and have a written plan of implementation which assures that:
1. All organized services related to resident care, including services furnished by a contractor, are evaluated;
2. Nosocomial infections and medication therapy are evaluated;
3. All services performed in the facility are evaluated as to the appropriateness of diagnosis and treatment; and
4. The facility shall develop and implement a system for measuring improvements in adherence to the hand hygiene program and influenza vaccination program.
(c) The nursing home must have an ongoing plan, consistent with available community and facility resources, to provide or make available services that meet the medically-related needs of its residents.
(d) The facility must develop and implement plans for improvement to address deficiencies identified by the performance improvement program and must document the outcome of the remedial action.
(e) Performance improvement program records are not disclosable, except when such disclosure is required to demonstrate compliance with this section.
(f) Good faith attempts by the performance improvement program committee to identify and correct deficiencies will not be used as a basis for sanctions.

(2) Physician Services.
... (c) Each nursing home shall retain by written agreement a physician to serve as a Medical Director.
(d) The Medical Director shall be responsible for the medical care in the nursing home. The Medical Director shall:
1. Delineate the responsibilities of and communicate with attending physicians to ensure that each resident receives medical care;
2. Ensure the delivery of emergency and medical care when the resident’s attending physician or his/her designated alternate is unavailable;
3. Review reports of all accidents or unusual incidents occurring on the premises, identifying hazards to health and safety and recommending corrective action to the administrator;
4. Make periodic visits to the nursing home to evaluate the existing conditions and make recommendations for improvements;
5. Review and take appropriate action on reports from the Director of Nursing regarding significant clinical developments;
6. Monitor the health status of nursing home personnel to ensure that no health conditions exist which would adversely affect residents; and,
7. Advise and provide consultation on matters regarding medical care, standards of care, surveillance and infection control.
(3) Infection Control.
...(c) The administrator shall assure that an infection control program including members of the medical staff, nursing staff and administrative staff develop guidelines and techniques for the prevention, surveillance, control and reporting of facility infections. Duties of the program shall include the establishment of:
1. Written infection control policies;
2. Techniques and systems for identifying, reporting, investigating and controlling infections in the facility;
3. Written procedures governing the use of aseptic techniques and procedures in the facility;
4. Written procedures concerning food handling, laundry practices, disposal of environmental and resident wastes, traffic control and visiting rules, sources of air pollution, and routine culturing of autoclaves and sterilizers;
5. A log of incidents related to infectious and communicable diseases;
6. Formal provisions to educate and orient all appropriate personnel in the practice of aseptic techniques such as handwashing, proper grooming, masking, dressing care techniques, disinfecting and sterilizing techniques, and the handling and storage of resident care equipment and supplies; and,
7. Continuing education for all facility personnel on the cause, effect, transmission, prevention, and elimination of infections.
(d) The administrator, the medical staff and director of nursing services must ensure that the facility-wide performance improvement program and training programs address problems identified by the infection control program and must be responsible for the implementation of successful corrective action plans in affected problem areas.
...(f) The facility and its employees shall adopt and utilize standard precautions (per CDC) for preventing transmission of infections, HIV, and communicable diseases, including adherence to a hand hygiene program which shall include:
4. Health care worker education programs which may include:
(i) Types of patient care activities that can result in hand contamination;
(ii) Advantages and disadvantages of various methods used to clean hands;
(iii) Potential risks of health care workers’ colonization or infection caused by organisms acquired from patients; and
(iv) Morbidity, mortality, and costs associated with health care associated infections.
(i) The facility shall have an annual influenza vaccination program which shall include at least:
...3. Education of all direct care personnel about the following:
(i) Flu vaccination,
(ii) Non-vaccine control measures, and
(iii) The diagnosis, transmission, and potential impact of influenza;

(4) Nursing Services.
...(b)...The Director of Nursing (DON) must be a licensed registered nurse who has no current disciplinary actions against his/her license.
(c) The Director of Nursing shall have the following responsibilities:
1. Develop, maintain and periodically update:
...(v) Mechanisms for monitoring quality of nursing care, including the periodic review of medical records.
...8. Plan, develop and conduct monthly in-service education programs for nursing personnel and other employees of the nursing home where indicated. An organized orientation program shall be developed and implemented for all nursing personnel.
(5) Medical Records.
(a) The nursing home shall comply with the Tennessee Medical Records Act, T.C.A. §§ 68-11-301, et seq.
(b) The nursing home must maintain a medical record for each resident. Medical records must be accurate, promptly completed, properly filed and retained, and accessible. The facility must use a system of author identification and record maintenance that ensures the integrity of the authentication and protects the security of all record entries.
(c) All medical records, in either written, electronic, graphic or otherwise acceptable form, must be retained in their original or legally reproduced form for a minimum period of at least ten (10) years after which such records may be destroyed. However, in cases of residents under mental disability or minority, their complete facility records shall be retained for the period of minority or known mental disability, plus one (1) year, or ten (10) years following the discharge of the resident, whichever is longer. Records destruction shall be accomplished by burning, shredding or other effective method in keeping with the confidential nature of the contents. The destruction of records must be made in the ordinary course of business, must be documented and in accordance with the facility’s policies and procedures, and no record may be destroyed on an individual basis.
(d) When a nursing home closes with no plans of reopening, an authorized representative of the facility may request final storage or disposition of the facility’s medical records by the department. Upon transfer to the department, the facility relinquishes all control over final storage of the records and the files shall become property of the State of Tennessee.
(e) The nursing home must have a system of coding and indexing medical records. The system must allow for timely retrieval by diagnosis and procedure.
(f) The nursing home must have a procedure for ensuring the confidentiality of resident records. Information from or copies of records may be released only to authorized individuals, and the facility must ensure that unauthorized individuals cannot gain access to or alter resident records. Original medical records must be released by the facility only in accordance with federal and state laws, court orders or subpoenas.
(g) The medical record must contain information to justify admission, support the diagnosis, and describe the resident’s progress and response to medications and services.
(h) All entries must be legible, complete, dated and authenticated according to facility policy.
(i) All records must document the following:
1. Evidence of a physical examination, including a health history, performed no more than thirty (30) days prior to admission or within forty-eight (48) hours following admission;
2. Admitting diagnosis;
3. A dietary history as part of each resident’s admission record;
4. Results of all consultative evaluations of the resident and appropriate findings by clinical and other staff involved in the care of the resident;
5. Documentation of complications, facility acquired infections, and unfavorable reactions to drugs;
6. Properly executed informed consent forms for procedures and treatments specified by facility policy, or by federal or state law if applicable, as requiring written resident consent;
7. All practitioners’ orders, nursing notes, reports of treatment, medication records, radiology and laboratory reports, and vital signs and other information necessary to monitor the resident’s condition;
8. Discharge summary with disposition of case and plan for follow-up care; and,
9. Final diagnosis with completion of medical records within thirty (30) days following discharge.
(j) Electronic and computer-generated records and signature entries are acceptable.

(7) Radiology Services. The nursing home must maintain or have available diagnostic radiologic services according to the needs of the residents. If therapeutic services are also provided, they, as well as the diagnostic services, must meet professionally approved standards for safety and personnel qualifications.
Laboratory Services. The nursing home must maintain or have available, either directly or through a contractual agreement, adequate laboratory services to meet the needs of the residents. The nursing home must ensure that all laboratory services provided to its residents are performed in a facility licensed in accordance with the Tennessee Medical Laboratory Act (TMLA). All technical laboratory staff shall be licensed in accordance with the TMLA and shall be qualified by education, training and experience for the type of services rendered.

Food and Dietetic Services.

...[e] Education programs, including orientation, on-the-job training, inservice education, and continuing education shall be offered to dietetic services personnel on a regular basis. Programs shall include instruction in the use of equipment, personal hygiene, proper inspection, and the handling, preparing and serving of food.

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

1. In order to be admitted to the special care unit:
   a. A diagnosis of dementia must be made by a physician. The specific etiology causing the dementia shall be identified to the best level of certainty prior to admission to the special care unit; and,
   b. The need for admission must be determined by an interdisciplinary team consisting at least of a physician experienced in the management of residents with Alzheimer's Disease and related disorders, a social worker, a registered nurse and a relative of the resident or a resident care advocate.

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

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

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

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

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

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

8. The unit shall be designed, equipped and maintained to promote positive resident response through the use of:
   a. Reduced-glare lighting, wall and floor coverings, and materials and decorations conducive to appropriate sensory and visual stimulation; and,
   b. Meaningful wandering space shall be provided that encourages physical exercise and ensures that residents will not become frustrated upon reaching dead-ends.
(9) The designated units shall provide a minimum of 3.5 hours of direct care to each resident every day including .75 hours of licensed nursing personnel time. Direct care shall not be limited to nursing personnel time and may include direct care provided by dietary employees, social workers, administrator, therapists and other care givers, including volunteers.

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

(a) Basic facts about the causes, progression and management of Alzheimer's Disease and related disorders;
(b) Dealing with dysfunctional behavior and catastrophic reactions in the resident;
(c) Identifying and alleviating safety risks to the resident;
(d) Providing assistance in the activities of daily living for the resident; and,
(e) Communicating with families and other persons interested in the resident.

(11) Each resident shall have a treatment plan developed, periodically reviewed and implemented by an interdisciplinary treatment team consisting at least of a physician experienced in the management of residents with Alzheimer's Disease and related disorders, a registered nurse, a social worker, an activity coordinator and a relative of the resident or a resident care advocate.

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

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

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

1200-08-06-.09 LIFE SAFETY.

...(2) The nursing home shall provide fire protection by the elimination of fire hazards, by the installation of necessary fire fighting equipment and by the adoption of a written fire control plan. Fire drills shall be held at least quarterly for each work shift for nursing home personnel in each separate patient-occupied nursing home building. There shall be a written report documenting the evaluation of each drill and the action recommended or taken for any deficiencies found. Records which document and evaluate these drills must be maintained for at least three (3) years. All fires which result in a response by the local fire department shall be reported to the department within seven (7) days. The report shall contain sufficient information to ascertain the nature and location of the fire, its probable cause and any injuries incurred by any person or persons as a result of the fire. Initial reports by the facility may omit the name(s) of resident(s) and parties involved, however, should the department find the identities of such persons to be necessary to an investigation, the facility shall provide such information.

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

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

(a) The following represent circumstances that could result in an unusual event that is an unexpected occurrence or accident resulting in death, life threatening or serious injury to a patient, not related to a natural course of the patient's illness or underlying condition. The circumstances that could result in an unusual event include, but are not limited to:
procedure related incidents, regardless of setting and within thirty (30) days of the procedure and includes readmissions, which include:

...(xv) elopement from the facility...

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

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

1. strike by the staff at the facility;
2. external disaster impacting the facility;
3. disruption of any service vital to the continued safe operation of the facility or to the health and safety of its patients and personnel; and
4. fires at the facility which disrupt the provision of patient care services or cause harm to patients or staff, or which are reported by the facility to any entity, including but not limited to a fire department, charged with preventing fires.

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

(a) Local fire safety inspections;
(b) Local building code inspections, if any;
(c) Fire marshal reports;
(d) Department licensure and fire safety inspections and surveys;
(e) Federal Health Care Financing Administration surveys and inspections, if any;
(f) Orders of the Commissioner or Board, if any;
(g) Comptroller of the Treasury's audit reports and findings, if any; and,
(h) Maintenance records of all safety and patient care equipment.

1. Routine maintenance shall be administered according to the manufacture's recommended maintenance for the above equipment.
2. Ensure that facility staff or contract personnel are appropriately trained to conduct safety and patient care equipment inspections.

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

1200-08-06-.14 DISASTER PREPAREDNESS.

...(2) Physical Facility and Community Emergency Plans.

(a) Physical Facility (Internal Situations).

1. Every nursing home shall have a current internal emergency plan, or plans, that provides for fires, bomb threats, severe weather, utility service failures, plus any local high risk situations such as floods, earthquakes, toxic fumes and chemical spills. The plan should consider the probability of the types of disasters which might occur, both natural and "man-made".

2. The plan(s) must include provisions for the relocation of persons within the building and/or either partial or full building evacuation. Facilities which do not have sufficient emergency generator capacity to provide a place of refuge for residents during severe hot or cold weather emergencies shall specifically establish an emergency plan to assure a common area (dining room, hallway, or day rooms) is heated or cooled sufficiently to sustain residents during an emergency. This can be accomplished through several approaches including the installation of a transfer switch at the facility to which an emergency generator may be connected to operate a HVAC system for the place of refuge, or transportation of a generator to the facility and direct connection from the generator to emergency portable heating or cooling units. The plan must be coordinated with local...
emergency management agencies that provide emergency generators or heating or cooling units; and facilities are encouraged to enter into private agreements with local generator suppliers, rental agencies or other reliable sources of emergency power. Plans that provide for the relocation of residents to other health care facilities must have written agreements for emergency transfers. The agreements may be mutual, i.e. providing for transfers either way.

3. Copies of the plan(s), either complete or outlines, including specific emergency telephone numbers related to that type of disaster, shall be available to all staff. A copy shall be readily available at all times in the telephone operator’s position or at the security center. Provisions that have security implications may be omitted from the outline versions. Familiarization information shall be included in employee orientation sessions and more detailed instructions must be included in continuing education programs. Records of orientation and education programs must be maintained for at least three (3) years.

4. The plan must provide for additional staffing, medical supplies, blood and other resources which would probably be needed.

5. Each of the following disaster preparedness plans shall be conducted annually prior to the month listed in the plan. Drills are for the purpose of educating staff, resource determination, testing personnel safety provisions and communications with other facilities and community agencies. Records which document and evaluate these drills must be maintained for at least three (3) years.
   (i) Fire Safety Procedures Plan, to be exercised at any time during the year, shall include:
      (I) Minor fires;
      (II) Major fires;
      (III) Fighting the fire;
      (IV) Evacuation procedures;
      (V) Staff functions by department and job assignment; and,
      (VI) Fire drill schedules (fire drills shall be held at least quarterly on each work shift).
   (ii) External disaster procedures plan (for tornado, flood, earthquake), to be exercised prior to March, shall include:
      (I) Staff duties by department and job assignment; and,
      (II) Evacuation procedures.
   (iii) Bomb Threat Procedures Plan, to be exercised at any time during the year:
      (I) Staff duties by department and job assignment; and,
      (II) Search team, searching the premises.

6. The nursing home shall develop and periodically review with all employees a prearranged plan for the orderly evacuation of all residents in case of a fire, internal disaster or other emergency. The plan of evacuation shall be posted throughout the home. Fire drills shall be held at least quarterly for each work shift for nursing home personnel in each separate patient-occupied nursing home building. There shall be a written report documenting the evaluation of each drill and the action recommended or taken for any deficiencies found. Records which document and evaluate these drills must be maintained for at least three (3) years.

(b) Community Emergency (Mass Casualty).

1. Every nursing home, unless exempted due to its limited scope of clinical services, shall have a plan that provides for the reception and treatment, within its capabilities, of medical emergencies resulting from a disaster within its usual service area. The plan should consider the probability of the types of disasters which might occur, both natural and “man-made”.

2. The plan must provide for additional staffing, medical supplies, blood and other resources which would probably be needed. The plan must also provide for the deferral of elective admission patients and also for the early transfer or discharge of some current patients if it appears that the number of casualties will exceed available staffed beds.

3. Copies of the plan(s), either complete or outlines, including specific emergency telephone numbers related to that type of disaster, shall be available to staff who would be assigned non-
routine duties during these types of emergencies. Familiarization information shall be included in employee orientation sessions and more detailed instruction must be included in continuing education programs. Records of orientation and education must be maintained for at least three (3) years.

4. At least one drill shall be conducted each year for the purpose of educating staff, resource determination, and communications with other facilities and community agencies. Records which document and evaluate these drills must be maintained for at least three (3) years.

5. As soon as possible, actual community emergency situations that result in the treatment of more than twenty (20) patients, or fifteen percent (15%) of the licensed bed capacity, whichever is less, must be documented. Actual situations that had education and training value may be substituted for a drill. This includes documented actual plan activation during community emergencies, even if no patients are received.

(c) Emergency Planning with Local Government Authorities.

1. All nursing homes shall establish and maintain communications with the county Emergency Management Agency. This includes the provision of the information and procedures that are needed for the local comprehensive emergency plan. The facility shall cooperate, to the extent possible, in area disaster drills and local emergency situations.

2. Each nursing home must rehearse both the Physical Facility and Community Emergency plan as required in this rule, even if the local Emergency Management Agency is unable to participate.

3. A file of documents demonstrating communications and cooperation with the local agency must be maintained.

1200-08-06-.15 NURSE AIDE TRAINING AND COMPETENCY EVALUATION.

All nurse aide training programs must comply with the federal nurse aide training and competency regulations, promulgated pursuant to the Omnibus Budget Reconciliation Act of 1987, and with federal labor laws, including but not limited to minimum age requirements. Copies of these regulations may be obtained from the department.

(1) Testing service.

(a) The Department shall provide or contract for the provision of nurse aide testing services as follows:

1. Annual publication of testing schedules and sites.

2. Test sites shall be located so that no individual is required to drive farther than thirty (30) miles to reach a test site.

3. Scheduled tests shall be administered, except when no individual is scheduled to test at a particular test site.

4. The number of individuals passing and failing shall be published following each test.

5. The minimum passing grade for each test shall be seventy-five percent (75%) for the written or oral component. The performance demonstration portion of the test shall consist, at minimum, of five performance tasks, which shall be selected randomly for each registrant from a pool of skills evaluation tasks ranked according to degree of difficulty, with at least one task selected from each degree of difficulty. Registrants are required to pass a minimum of five (5) performance tasks.

6. Individuals who fail any portion of the test three (3) consecutive times shall repeat training prior to taking the test again.

(b) Applications to take the test shall be sent by the program coordinator to the appropriate testing agency postmarked no later than thirty (30) days prior to the test date. Requests for special testing needs shall be made to the testing agency at this time.

(c) The department shall provide the board with quarterly reports on the number of individuals passing and failing each test.
(d) A practical and written test will be developed to reflect that a trainee has acquired the minimum competency skills necessary to become a competent and qualified nurse aide. The Nurse Aide Advisory Committee, composed of twelve (12) members with at least three (3) members nominated by the Tennessee Health Care Association, will periodically review testing materials and set criteria for survey visits of the nurse aide programs.
(e) The test will be developed from a pool of questions, only a portion of which is to be used for grading purposes in any one test, not to exceed one hundred (100) questions. A system must be developed which prevents the disclosure of the pool of questions and of the performance demonstration portion of the test.

(2) Training program.
(a) Requests for approval of a nurse aide training program shall be submitted to the department and shall include the following:
   1. Name, address and telephone number of the facility, institution or agency offering the program;
   2. The program coordinator’s name, address, license number and verification of a minimum of two (2) years nursing experience, at least one of which must be in the provision of long-term care facility services;
   3. Statement of course objectives;
   4. Description of course content specifying the number of hours to be spent in the classroom and in clinical settings; and,
   5. In lieu of (3) and (4) above, the fact that the curriculum is previously department-approved.
(b) Notification of any change to any one of the above five (5) items or termination of the program must be submitted to the department within 30 days.
(c) Each training program shall have a pass rate on both written and performance exams of at least 70%. Annual reviews of Nurse Aide Training Programs shall include:
   1. Letter of commendation for exceptional pass rate as evaluated by the department;
   2. Letter of concern for programs having one year of test pass rates below 70%;
   3. Request for plan of program improvement for programs with two consecutive years of test pass rates below 70%;
   4. Request to appear before the Board for programs with two consecutive years of test pass rates below 70%; and
   5. Program is subject to closure after demonstration of a consistent pattern of poor test performance.

(d) Each program coordinator shall be responsible for ensuring that the following requirements are met:
   1. Course objectives are accomplished;
   2. Only persons having appropriate skills and knowledge are selected to conduct any part of the training;
   3. The provision of direct individual care to residents by a trainee is limited to appropriately supervised clinical experiences; a program instructor must be present or readily available on-site during all clinical training hours including direct patient care for the seventy-five (75) hour training program. All activities of daily living (ADL) skills, including but not limited to bathing, feeding, toileting, grooming, oral care, and perineal care, must be taught prior to student performing direct patient care;
   4. The area used for training is well-lighted, well-ventilated and provides for privacy for instruction. Such requirements are not to exceed the requirements for physical space in a nursing facility;
   5. Each trainee demonstrates competence in clinical skills and fundamental principles of resident care;
6. Records are kept to verify the participation and performance of each trainee in each phase of the training program. The satisfactory completion of the training program by each trainee shall be attested to on each trainee's record;
7. Each trainee is issued a certificate of completion which includes at least the name of the program, the date of issuance, the trainee's name and the signature of the program coordinator.
8. The program coordinator shall be responsible for the completion, signing and submission to the department of all required documentation.
(e) Student to teacher ratio must be as follows: 25:1 in classroom and 15:1 for direct patient care training.

(3) Nurse Aide Registry. A nursing home must not use any individual working in a facility as a nurse aide for more than four (4) months unless that individual’s name is included on the Nurse Aide Registry. A facility must not use on a temporary, per diem, leased or any basis other than permanent, any individual who does not meet the requirements of training and competency testing.
(a) The nurse aide registry shall include:
1. The individual’s full name, including a maiden name and any other surnames used;
2. The individual’s last known home address;
3. The individual’s date of birth; and,
4. The date that the individual passed the competency test and the expiration date of the individual’s current registration.
(b) The name of any individual who has not performed nursing or nursing related services for a period of twenty-four (24) consecutive months shall be removed from the Nurse Aide Registry.
(4) Continued Competency. The facility must complete a performance review of each nurse aide employee at least once every 12 months and must provide regular in-service education based on the outcome of these reviews.

TEXAS

Sec. 242.0021. CONTROLLING PERSON.
(a) A person is a controlling person if the person has the ability, acting alone or in concert with others, to directly or indirectly influence, direct, or cause the direction of the management, expenditure of money, or policies of an institution or other person.
(b) For purposes of this chapter, "controlling person" includes:
(1) a management company, landlord, or other business entity that operates or contracts with others for the operation of an institution;
(2) any person who is a controlling person of a management company or other business entity that operates an institution or that contracts with another person for the operation of an institution; and
(3) any other individual who, because of a personal, familial, or other relationship with the owner, manager, landlord, tenant, or provider of an institution, is in a position of actual control or authority with respect to the institution, without regard to whether the individual is formally named as an owner, manager, director, officer, provider, consultant, contractor, or employee of the facility.
(b-1) Notwithstanding any other provision of this section, for purposes of this chapter, a controlling person of an institution or of a management company or other business entity described by Subsection (b)(1) that is a publicly traded corporation or is controlled by a publicly traded corporation means an officer or director of the corporation. The term does not include a shareholder or lender of the publicly traded corporation.
(c) A controlling person described by Subsection (b)(3) does not include a person, such as an employee, lender, secured creditor, or landlord, who does not exercise any influence or control, whether formal or actual, over the operation of an institution.
(d) The department may adopt rules that define the ownership interests and other relationships that qualify a person as a controlling person.

Sec. 242.010. CHANGE OF ADMINISTRATORS.
An institution that hires a new administrator or person designated as chief manager shall:
(1) notify the department in writing not later than the 30th day after the date on which the change becomes effective; and
(2) pay a $20 administrative fee to the department.

Sec. 242.015. LICENSED ADMINISTRATOR.
(a) Each institution must have a licensed nursing facility administrator.
(b) The administrator shall:
(1) manage the institution;
(2) be responsible for:
(A) delivery of quality care to all residents; and
(B) implementation of the policies and procedures of the institution; and
(3) work at least 40 hours per week on administrative duties.

Sec. 242.035. LICENSING CATEGORIES.
(a) The department shall determine the rank of licensing categories.
(b) Unless prohibited by another state or federal requirement, the department shall allow a licensed institution to operate a portion of the institution under the standards of a lower licensing category. The board shall establish procedures and standards to accommodate an institution’s operation under the lower category.

Sec. 242.037. RULES; MINIMUM STANDARDS.
(a) The department shall make and enforce rules and minimum standards to implement this chapter, including rules and minimum standards relating to quality of life, quality of care, and residents’ rights.
...(b) The rules and standards adopted under this chapter may be more stringent than the standards imposed by federal law for certification for participation in the state Medicaid program.
...(i) The minimum standards adopted by the board under this section must require that each institution, as part of an existing training program, provide each registered nurse, licensed vocational nurse, nurse aide, and nursing assistant who provides nursing services in the institution at least one hour of training each year in caring for people with dementia.

Sec. 242.0371. NOTICE OF CERTAIN EMPLOYMENT POLICIES.
(a) An institution licensed under this chapter shall prepare a written statement describing the institution’s policy for:
(1) the drug testing of employees who have direct contact with residents; and
(2) the conducting of criminal history record checks of employees and applicants for employment in accordance with Chapter 250.
(b) The institution shall provide the statement to:
(1) each person applying for services from the institution or the person's next of kin or guardian; and
(2) any person requesting the information.
Sec. 242.0395. REGISTRATION WITH TEXAS INFORMATION AND REFERRAL NETWORK.
(a) An institution licensed under this chapter shall register with the Texas Information and Referral Network under Section 531.0312, Government Code, to assist the state in identifying persons needing assistance if an area is evacuated because of a disaster or other emergency.
(b) The institution is not required to identify individual residents who may require assistance in an evacuation or to register individual residents with the Texas Information and Referral Network for evacuation assistance.
(c) The institution shall notify each resident and the resident’s next of kin or guardian regarding how to register for evacuation assistance with the Texas Information and Referral Network.

Sec. 242.040. CERTIFICATION OF INSTITUTIONS THAT CARE FOR PERSONS WITH ALZHEIMER’S DISEASE AND RELATED DISORDERS.
(a) The department shall establish a system for certifying institutions that meet standards adopted by the board concerning the specialized care and treatment of persons with Alzheimer’s disease and related disorders.
(b) An institution is not required to be certified under this section in order to provide care and treatment of persons with Alzheimer’s disease and related disorders.
(c) The board by rule may adopt standards for the specialized care and treatment of persons with Alzheimer’s disease and related disorders and provide procedures for institutions applying for certification under this section. The rules must provide for annual certification.
(d) The board may establish and charge fees for the certification in an amount necessary to administer this section.
(e) An institution may not advertise or otherwise communicate that the institution is certified by the department to provide specialized care for persons with Alzheimer’s disease or related disorders unless the institution is certified under this section.

Sec. 242.042. POSTING.
(a) Each institution shall prominently and conspicuously post for display in a public area of the institution that is readily available to residents, employees, and visitors:
   (1) the license issued under this chapter;
   (2) a sign prescribed by the department that specifies complaint procedures established under this chapter or rules adopted under this chapter and that specifies how complaints may be registered with the department;
   (3) a notice in a form prescribed by the department stating that licensing inspection reports and other related reports which show deficiencies cited by the department are available at the institution for public inspection and providing the department’s toll-free telephone number that may be used to obtain information concerning the institution;
   (4) a concise summary of the most recent inspection report relating to the institution;
   (5) notice that the department can provide summary reports relating to the quality of care, recent investigations, litigation, and other aspects of the operation of the institution;
   (6) notice that the Texas Board of Nursing Facility Administrators can provide information about the nursing facility administrator;
   (7) any notice or written statement required to be posted under Section 242.072(c);
   (8) notice that informational materials relating to the compliance history of the institution are available for inspection at a location in the institution specified by the sign; and
   (9) notice that employees, other staff, residents, volunteers, and family members and guardians of residents are protected from discrimination or retaliation as provided by Sections 242.133 and 242.1335.
(b) The notice required by Subsection (a)(8) must also be posted at each door providing ingress to and egress from the institution.

(c) The informational materials required to be maintained for public inspection by an institution under Subsection (a)(8) must be maintained in a well-lighted accessible location and must include:
   (1) any information required to be included under Section 242.504; and
   (2) a statement of the institution's record of compliance with this chapter and the rules and standards adopted under this chapter that is updated not less frequently than bi-monthly and that reflects the record of compliance during the period beginning one year before the date the statement is last updated, in the form required by the department.

(d) The notice required by Subsection (a)(9) must be posted in English and a second language as required by department rule.

(e) The department shall post detailed compliance information regarding each institution licensed by the department, including the information an institution is required to make accessible by Subsection (c), on the department's website. The department shall update the website once a month to provide the most current compliance information regarding each institution.

Sec. 242.049. QUALITY IMPROVEMENT.

(a) The department may evaluate data for quality of care in nursing homes.

(b) The department may gather data on a form or forms to be provided by the department to improve the quality of care in nursing homes and may provide information to nursing homes which will allow them to improve and maintain the quality of care which they provide. Data referred to in this section can include information compiled from documents otherwise available under Chapter 552, Government Code, including but not limited to individual survey reports and investigation reports.

(c) All licensed nursing homes in the state may be required to submit information designated by the department as necessary to improve the quality of care in nursing homes.

(d) The collection, compilation, and analysis of the information and any reports produced from these sources shall be done in a manner that protects the privacy of any individual about whom information is given and is explicitly confidential. The department shall protect and maintain the confidentiality of the information. The information received by the department, any information compiled as a result of review of internal agency documents, and any reports, compilations, and analyses produced from these sources shall not be available for public inspection or disclosure, nor are these sources public records within the meaning of Chapter 552, Government Code. The information and any compilations, reports, or analyses produced from the information shall not be subject to discovery, subpoena, or other means of legal compulsion for release to any person or entity except as provided in this section and shall not be admissible in any civil, administrative, or criminal proceeding. This privilege shall be recognized by Rules 501 and 502 of the Texas Rules of Evidence.

(e) The information and reports, compilations, and analyses developed by the department for quality improvement shall be used only for the evaluation and improvement of quality care in nursing homes. No department proceeding or record shall be subject to discovery, subpoena, or other means of legal compulsion for release to any person or entity except as provided in this section and shall not be admissible in any civil, administrative, or criminal proceeding. This privilege shall be recognized by Rules 501 and 502 of the Texas Rules of Evidence.

(f) Notwithstanding Subsection (d), the department shall transmit reports, compilations, and analyses of the information provided by a nursing home to that nursing home, and such disclosure shall not be violative of this section nor shall it constitute a waiver of confidentiality.
(g) A member, agent, or employee of the department may not disclose or be required to disclose a communication made to the department or a record or proceeding of the department required to be submitted under this section except to the nursing home in question or its agents or employees. (h) Nothing in this section is intended to abridge the department’s enforcement responsibilities under this chapter or under any other law. (i) Any information, reports, and other documents produced which are subject to any means of legal compulsion or which are considered to be public information under Subchapter E and the rules adopted under that subchapter shall continue to be subject to legal compulsion and be treated as public information under Subchapter E after the effective date of this Act, even though such information, reports, and other documents may be used in the collection, compilation, and analysis described in Subsections (b) and (d).

Sec. 242.052. DRUG TESTING OF EMPLOYEES.
(a) An institution may establish a drug testing policy for employees of the institution. An institution that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the board or may use another drug testing policy. (b) The board by rule shall adopt a model drug testing policy for use by institutions. The model drug testing policy must be designed to ensure the safety of residents through appropriate drug testing and to protect the rights of employees. The model drug testing policy must: (1) require at least one scheduled drug test each year for each employee of an institution that has direct contact with a resident in the institution; and (2) authorize random, unannounced drug testing for employees described by Subdivision (1).

SUBCHAPTER E. REPORTS OF ABUSE AND NEGLECT
Sec. 242.122. REPORTING OF ABUSE AND NEGLECT.
(a) A person, including an owner or employee of an institution, who has cause to believe that the physical or mental health or welfare of a resident has been or may be adversely affected by abuse or neglect caused by another person shall report the abuse or neglect in accordance with this subchapter. (b) Each institution shall require each employee of the institution, as a condition of employment with the institution, to sign a statement that the employee realizes that the employee may be criminally liable for failure to report those abuses. (c) A person shall make an oral report immediately on learning of the abuse or neglect and shall make a written report to the same agency not later than the fifth day after the oral report is made.

Sec. 242.151. PHYSICIAN SERVICES.
(a) An institution shall have at least one medical director who is licensed as a physician in this state.

Sec. 242.153. DIRECTOR OF NURSING SERVICES. An institution shall have a director of nursing services who shall be a registered nurse.

Sec. 242.182. RESPITE CARE.
(a) An institution licensed under this chapter may provide respite care for an elderly or handicapped person according to a plan of care. (b) The board may adopt rules for the regulation of respite care provided by an institution licensed under this chapter.
Sec. 242.183. PLAN OF CARE. (a) The institution and the person arranging the care must agree on the plan of care and the plan must be filed at the institution before the institution admits the person for the care.

Sec. 242.184. NOTIFICATION. An institution that offers respite care shall notify the department in writing that it offers respite care.

SUBCHAPTER H. CARE FOR RESIDENTS WITH ALZHEIMER'S DISEASE AND RELATED DISORDERS

Sec. 242.202. DISCLOSURE REQUIRED. (a) An institution covered by this subchapter shall provide a disclosure statement disclosing the nature of its care or treatment of residents with Alzheimer's disease and related disorders to:
(1) an individual seeking placement as a resident with Alzheimer's disease or a related disorder;
(2) an individual attempting to place another individual as a resident with Alzheimer's disease or a related disorder; or
(3) a person seeking information about the institution's care or treatment of residents with Alzheimer's disease and related disorders.

(b) The disclosure statement must be displayed with the institution's license as it is posted under Section 242.042.

...(c) The institution must file the disclosure statement with the department as part of the report filed under Section 242.033(d). The department shall verify contents of the disclosure statement as part of the license renewal process.

(d) The disclosure statement must contain the following categories of information:
(1) the institution's philosophy of care;
(2) the preadmission, admission, and discharge process;
(3) resident assessment, care planning, and implementation of the care plan;
(4) staffing patterns, such as resident-to-staff ratios, and staff training;
(5) the physical environment of the institution;
(6) resident activities;
(7) program costs;
(8) systems for evaluation of the institution's programs for residents;
(9) family involvement in resident care; and
(10) the toll-free telephone number maintained by the department for acceptance of complaints against the institution.

(e) The institution must update the disclosure statement as needed to reflect changes in the operation of the institution.

RULE §19.202 Building Approval

Change of ownership. The applicant for a change of ownership license must provide to DHS a copy of a letter notifying the local health authority of the request for a change of ownership. The local health authority may provide recommendations to DHS regarding the status of compliance with local codes, ordinances, or regulations.

RULE §19.204 Application Requirements

(a) Applications. All applications must be made on forms prescribed by and available from DADS.
...(2) Changes to information required in the application must be reported to DADS, as required by §19.1918 of this title (relating to Disclosure of Ownership).

...(4) for a facility which advertises, markets, or otherwise promotes that it provides services to residents with Alzheimer's disease and related disorders, a disclosure statement, using the departmental form, describing the nature of its care or treatment of residents with Alzheimer's disease and related disorders, as required by the Texas Health and Safety Code, §242.202.
(A) Failure to submit the required disclosure statement will result in an administrative penalty in accordance with §19.2112 of this title (relating to Administrative Penalties).
(B) The disclosure statement must contain the following information:
(i) the facility's philosophy of care for residents with Alzheimer's disease and related disorders;
(ii) the preadmission, admission, and discharge process;
(iii) resident assessment, care planning, and implementation of the care plan;
(iv) staffing patterns, such as resident to staff ratios, and staff training;
(v) the physical environment of the facility;
(vi) resident activities;
(vii) program charges;
(viii) systems for evaluation of the facility's program;
(ix) family involvement in resident care; and
(x) the telephone number for DADS' toll-free complaint line.
(C) The disclosure statement must be updated and submitted to DADS as needed to reflect changes in special services for residents with Alzheimer's disease or a related condition.

Change of Ownership License
(a) ... The license holder and new license applicant must notify the Department of Aging and Disability Services before a change of ownership occurs.
(1) Sole proprietor. A change of ownership occurs if:
(A) the sole proprietor who is licensed to operate the facility sells or otherwise transfers its business of operating the facility to an entity not licensed to operate the facility; or
(B) upon the death of the sole proprietor, the facility continues to operate.
(2) General Partnership (as defined in the Texas Business Organization Code, §1.002). A change of ownership occurs if:
(A) a partner of a general partnership that is licensed to operate the facility is added or substituted;
(B) the partnership that is licensed to operate the facility is sold or otherwise transferred to an entity that is not licensed to operate the facility;
(C) the entity that is licensed to operate the facility sells or otherwise transfers its business of operating the facility to an entity that is not licensed to operate the facility;
(D) for any reason other than correction of an error, the federal taxpayer identification number changes; or
(E) the entity that is licensed to operate the facility is terminated and fails or is ineligible to be reinstated, and the facility continues to operate.
(3) Limited Partnership (as defined in the Texas Business Organization Code, §1.002). A change of ownership occurs if:
(A) a general partner of a limited partnership that is licensed to operate the facility is added or substituted;
(B) ownership of the limited partnership that is licensed to operate the facility changes by 50% or more and one or more controlling person is added;
(C) the partnership that is licensed to operate the facility is sold or otherwise transferred to an entity that is not licensed to operate the facility;
(D) the entity that is licensed to operate the facility sells or otherwise transfers its business of operating the facility to an entity that is not licensed to operate the facility;
(E) for any reason other than correction of an error, the federal taxpayer identification number changes; or
(F) the entity that is licensed to operate the facility is terminated and fails or is ineligible to be reinstated, and the facility continues to operate.

(4) Nonprofit organization. A change of ownership occurs if:
(A) the nonprofit organization that is licensed to operate the facility is sold or otherwise transferred to an entity that is not licensed to operate the facility;
(B) the entity that is licensed to operate the facility sells or otherwise transfers its business of operating the facility to an entity that is not licensed to operate the facility;
(C) for any reason other than correction of an error, the federal taxpayer identification number changes; or
(D) the entity that is licensed to operate the facility is terminated and fails or is ineligible to be reinstated, and the facility continues to operate.

(5) For-profit corporation or limited liability company. A change of ownership occurs if:
(A) ownership of the business entity that is licensed to operate the facility changes by 50% or more and one or more controlling person is added;
(B) the business entity that is licensed to operate the facility is sold or otherwise transferred to an entity that is not licensed to operate the facility;
(C) the entity that is licensed to operate the facility sells or otherwise transfers its business of operating the facility to an entity that is not licensed to operate the facility;
(D) for any reason other than correction of an error, the federal taxpayer identification number changes; or
(E) the entity that is licensed to operate the facility is terminated and fails or is ineligible to be reinstated, and the facility continues to operate.

(6) City, county, state or federal government authority, hospital district, or hospital authority. A change of ownership occurs if:
(A) the governmental entity that is licensed to operate the facility sells or otherwise transfers its business of operating the facility to an entity that is not licensed to operate the facility; or
(B) the entity that is licensed to operate the facility is terminated and the facility continues to operate.

(7) Trust, living trust, estate or any other entity type not included in paragraphs (1) - (6) of this subsection. A change of ownership occurs if:
(A) the entity that is licensed to operate the facility is sold or otherwise transferred to an entity that is not licensed to operate the facility;
(B) the entity that is licensed to operate the facility sells or otherwise transfers its business of operating the facility to an entity that is not licensed to operate the facility;
for any reason other than correction of an error, the federal taxpayer identification number changes; or the entity that is licensed to operate the facility is terminated and the facility continues to operate.

(8) For license holders that have multiple-level ownership structures, a change of ownership also occurs if any action described in paragraphs (1) - (7) of this subsection occurs at any level of the license holder's entire ownership structure.

(9) For paragraphs (3)(B) and (5)(A) of this subsection, the substitution of the executor of a decedent’s estate for a decedent is not the addition of a controlling person.

(10) A conversion as described in Subchapter C of Chapter 10 of the Texas Business Organization Code is not a change of ownership if no controlling person is added.

RULE §19.326 Safety Operations
(a) The facility must have a written emergency preparedness and response plan. Procedures to be followed in an internal or external disaster should be attached to the plan. The plan must address, at a minimum, the eight core functions of emergency management, which are: direction and control; warning (how the facility will be notified of emergencies and who they will notify); communication (with whom and by what mechanism); sheltering arrangements; evacuation (destinations, routes); transportation; health and medical needs; and resource management (supplies, staffing, emergency equipment, records). Plans should address those natural, technological, and man-made emergencies that could affect the facility and must be coordinated with the local emergency management coordinator. Information about the local emergency management coordinator may be obtained from the office of the local mayor or county judge.

(1) The facility must maintain the plan and procedures at the nurses station and with department managers within the facility. The facility must ensure that the plan and procedures are reviewed at least annually. Changes in administrator, construction, or emergency phone numbers will require the facility to review and possibly modify the disaster plan. All reviews of disaster plans must be documented.

(2) The facility must include in the disaster plan, evacuation routes and procedures to be followed in the event of fire, explosion, or other disaster. The plan must also include procedures for the prompt transfer of casualties, clinical records, medications, and notification of appropriate persons.

(3) All employees must be familiar with the disaster plan and must be instructed in the location and use of the facility’s alarm systems, fire-fighting equipment, and procedures. The facility must post fire and explosion evacuation routes prominently throughout the facility. The facility must have a fire safety plan within the disaster plan. The fire safety plan must be rehearsed quarterly on each shift with at least one rehearsal conducted each month. A comprehensive fire drill report form must be completed for each rehearsal of the fire safety plan.

(4) In smaller, simple, one story buildings where all exits are obvious, the Texas Department of Human Services (DHS) may not require the posting of evacuation routes.

(5) The facility must have an emergency contingency plan to ensure the residents’ comfort and safety, including the provision of potable water.

(6) Emergency telephone numbers must be clearly posted on or near each phone. Emergency telephone numbers must include the local fire department, ambulance, and police.

(b) The facility must report all fires to DHS on the Fire Report for Long Term Care Facilities Form within 15 days after the fire. The facility must immediately notify DHS by phone of disasters or any fires which caused death or serious injury. Telephone reports must be followed by written reports. Failure of the fire alarm,

(c) Severe weather drills and other emergency drills must be held as needed and as called for by the facility’s policy and procedure manual.

(d) The fire alarm and sprinkler systems must be inspected and tested at least once every three months by a licensed agent. Each quarterly inspection and test must be of the complete system, including smoke dampers and individual sprinkler heads. A standard report form of the inspection must be completed by the agent and kept on file by the facility. The report must include the signature of the person making the inspection and the date of the inspection. The facility must maintain a current contract on file for the services of the inspecting company.

(e) The facility may, at its own discretion, make simple periodic tests of the basic fire alarm system, such as by activating a manual-pull station, particularly when conducting required fire drills. At any time the facility staff verifies or suspects some malfunction of the system, the condition must be immediately investigated and corrected.

RULE §19.601 Resident Behavior and Facility Practice
... (c) Staff treatment of residents. The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents, and misappropriation of residents' property.
(1) The facility must:
(A) not use verbal, mental, sexual, or physical abuse, corporal punishment, or involuntary seclusion; and
(2) not employ individuals who have: been found guilty of
(i) abusing, neglecting, or mistreating residents by a court of law, or
(ii) had a finding entered into the state nurse aide registry concerning abuse, neglect, mistreatment of residents, or misappropriation of their property; and
(iii) been convicted of any crime contained in §250.006, Health and Safety Code; and
(C) report any knowledge it has of actions by a court of law against an employee, which would indicate unfitness for service as a nurse aide or other staff to the state nurse aide registry or licensing authority.
(2) The facility must ensure that all alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, and misappropriation of resident property, are reported immediately to the administrator of the facility and to other officials in accordance with Texas law through established procedures (see §19.602 of this title (relating to Incidents of Abuse and Neglect Reportable to the Texas Department of Human Services and Law Enforcement Agencies by Facilities)).
(3) The facility must have evidence that all alleged violations are thoroughly investigated and must prevent further potential abuse while the investigation is in progress.
(4) The results of all investigations must be reported to the administrator or his designated representative and to other officials in accordance with Texas law (including to the state survey and certification agency) within five workdays of the incident, and if the alleged violation is verified, appropriate corrective action must be taken.

RULE §19.702 Activities
...(c) Activity directors must complete eight hours of approved continuing education or equivalent continuing education units each year. Approval bodies include organizations or associations recognized as such by certified therapeutic recreation specialists or certified activity professionals or registered occupational therapists.

RULE §19.910 Quality Assurance Early Warning System
The Department of Aging and Disability Services (DADS) uses an early warning system to detect conditions that could be detrimental to the health, safety, and welfare of residents.
(1) Quality-of-care monitors are based in regional offices and monitor long-term care (LTC) facilities on visits that may be announced or unannounced and may occur on any day and at any time, including nights, weekends, and holidays.
(2) Priority for monitoring visits is given to LTC facilities with a history of resident care deficiencies.
(3) Quality-of-care monitors assess:
(A) the overall quality of life in the facility; and
(B) specific conditions in the facility directly related to resident care.
(4) The quality-of-care monitor assessment visits include:
(A) observation of the care and services rendered to residents; and
(B) formal and informal interviews with residents, family members, facility staff, resident guests, volunteers, other regular staff, and resident representatives and advocates.
(5) The identity of a resident or a family member of a resident interviewed by a quality-of-care monitor is confidential and may not be disclosed.
(6) The findings of a monitoring visit, both positive and negative, will be provided orally and in writing to the facility administrator or, in the absence of the facility administrator, to the administrator on duty or the director of nursing.
(7) The quality-of-care monitor may recommend to the facility administrator procedural and policy changes and staff training to improve the care or quality of life of residents.
(8) Conditions observed by the quality-of-care monitor that may constitute an immediate threat to the health or safety of a resident will be immediately reported to the regional office supervisor for appropriate action and, as appropriate or as required by law, to law enforcement, adult protective services, other divisions of DADS, or other responsible agencies.

RULE §19.1601 Infection Control
...(5) The Quality Assessment and Assurance Committee as described in §19.1917 of this title (relating to Quality Assessment and Assurance) will monitor the infection control program.

RULE §19.1901 Administration
A nursing facility must 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.
(a) Licensure. A nursing facility (NF) must be licensed by the Texas Department of Human Services (DHS) as described in §19.201 of this title (relating to Criteria for Licensing).
(b) Compliance with federal, state, and local laws and professional standards. The facility must operate and provide services in compliance with all applicable federal, state, and local laws, regulations, and codes, and with accepted professional standards and principles that apply to professionals providing services in such a facility.
(c) Medicaid-certified facilities’ relationship to other Health and Human Services regulations. In addition to compliance with the regulations set forth in these Nursing Facility Requirements for Licensure and Certification, as Medicaid providers, facilities are obliged to meet the applicable provisions of other federal regulations, including but not limited to those pertaining to nondiscrimination on the basis of race, color, or national origin (45 Code of Federal Regulations, Part 80), nondiscrimination on the basis of handicap (45 Code of Federal Regulations, Part 84), nondiscrimination on the basis of age (45 Code of Federal Regulations, Part 91), protection of human subjects of research (45 Code of Federal Regulations, Part 46), and fraud and abuse (42 Code of Federal Regulations, Part 455). Although these regulations are not in themselves considered requirements under 42 Code of Federal Regulations 483, their violation may result in the termination or suspension of payment with federal funds, or the refusal to grant or continue payment with federal funds.

RULE §19.1902 Governing Body
(a) The facility must have a governing body, or designated persons functioning as a governing body that is legally responsible for establishing and implementing policies regarding the management and operation of the facility. The governing body must have periodically updated written policies and procedures that are formally adopted and dated, specifying and governing all services. The policies and procedures must be available to all of the facility’s governing body's members, staff, residents, family or legal representatives of residents, and the public. The governing body must:
   (1) designate a person to exercise the administrator's authority when the facility does not have an administrator. The facility must secure a licensed nursing home administrator within 30 days; and
(2) ensure that a person designated as being in authority notifies the Texas Department of Human Services immediately when the facility does not have an administrator.

(b) The facility must operate under the supervision of a nursing facility administrator who is:
(i) licensed by the Texas Board of Nursing Facility Administrators;
(ii) responsible for management of the facility; and
(iii) required to work at least 40 hours per week on administrative duties.

(c) The administrator must be accountable to the governing body for overall management of the nursing facility.

RULE §19.1903 Required Training of Nurse Aides
See also §19.1929 of this title (relating to Staff Development).

(1) Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(A) Licensed health professional--A physician; physician assistant; nurse practitioner; physical, speech, or occupational therapist; physical or occupational therapy assistant; registered professional nurse; licensed practical nurse; or licensed or certified social worker.

(B) Nurse aide--An individual providing nursing or nursing-related services to residents in a facility under the supervision of a licensed nurse. This definition does not include an individual who is a licensed health professional or a registered dietitian or someone who volunteers such services without monetary compensation.

(2) General rule. A facility must not use any individual working in the facility as a nurse aide for more than four months, on a full-time basis, unless:
that individual is competent to provide nursing and nursing related services; and
that individual:
(i) has completed a training and competency evaluation program, or a competency evaluation program approved by the state as meeting the requirements of 42 Code of Federal Regulations §§483.151-493.154; or
(ii) has been deemed or determined competent as provided in 42 Code of Federal Regulations §483.150(a) and (b).

(3) Nonpermanent employees. A facility must not use on a temporary, per diem, leased, or any basis other than a permanent employee any individual who does not meet the requirements in paragraphs (2)(A) and (B) of this section.

(4) Competency. A facility must not use any individual who has worked less than four months as a nurse aide in that facility unless the individual:

(A) is a full-time employee in a state-approved training and competency evaluation program; or
(B) has demonstrated competence through satisfactory participation in a state-approved nurse aide training and competency evaluation program, or competency evaluation program; or
(C) has been deemed or determined competent as provided in 42 Code of Federal Regulations §483.150(a) and (b).

(5) Registry verification. Before allowing an individual to serve as a nurse aide, a facility must receive registry verification that the individual has met competency evaluation requirements and is not designated in the registry as having a finding concerning abuse, neglect or mistreatment of a resident, or misappropriation of a resident’s property, unless:

(A) the individual is a full-time employee in a training and competency evaluation program approved by the state; or
(B) the individual can prove that he has recently successfully completed a training and competency evaluation program, or competency evaluation program approved by the state and has not yet been included in the registry. Facilities must follow up to ensure that such an individual actually becomes registered.
(6) Multi-state registry verification. Before allowing an individual to serve as a nurse aide, a facility must seek information from every state registry, established under §1819(e)(2)(A) or §1919(e)(2)(A) of the Social Security Act, that the facility believes will include information about the individual.

(7) Required retraining. If, since an individual’s most recent completion of a training and competency evaluation program, there has been a continuous period of 24 consecutive months during none of which the individual provided nursing or nursing-related services for monetary compensation, the individual must complete a new training and competency evaluation program or a new competency evaluation program.

(8) Regular in-service education. The facility must complete a performance review of every nurse aide at least once every 12 months, and must provide regular in-service education based on the outcome of these reviews. The in-service training must:

(A) be sufficient to ensure the continuing competence of nurse aides, but must be no less than 12 hours per year;

(B) address areas of weakness as determined in nurse aides’ performance reviews and may address the special needs of residents as determined by the facility staff; and

(C) for nurse aides providing services to individuals with cognitive impairments, also address the care of the cognitively impaired.

(9) The facility must comply with the nurse aide training and registry rules found in Chapter 94 of this title (relating to Nurse Aides).

RULE §19.1904 Proficiency of Nurse Aides
The facility must ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents’ needs, as identified through resident assessments, and described in the plan of care.

RULE §19.1905 Staff Qualifications
(a) The facility must employ on a full-time, part-time, or consultant basis those professionals necessary to carry out the provisions of these requirements of participation.
(b) Professional staff must be licensed, certified or registered in accordance with applicable state laws.

RULE §19.1906 Use of Outside Resources
(a) If the facility does not employ a qualified professional to furnish a specific service to be provided by the facility, the facility must have that service furnished to residents by a person or agency outside the facility under an agreement described in subsection (b) of this section.
(b) Agreements pertaining to services furnished by outside resources must specify in writing that the facility assumes responsibility for:
obtaining services that meet professional standards and principles; and
the timeliness of the services.
(c) Except for those members of the comprehensive assessment team, the facility allows outside resources access to the clinical records of only those residents who have orders for the service(s) to be provided.

RULE §19.1907 Medical Director
(a) The nursing facility must designate a physician to serve as medical director.
(b) The medical director is responsible for:
(i) implementation of resident care policies (see §19.1922 of this title (relating to Resident Care Policies)); and
The coordination of medical care in the facility.

RULE §19.1908 Laboratory Services
(a) The facility must provide or obtain clinical laboratory services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.
   (1) If the facility provides its own laboratory services, the services must meet the applicable conditions for coverage of the services furnished by laboratories specified in 42 Code of Federal Regulations, Part 493.
   (2) If the facility provides blood bank and transfusion services, it must meet the requirements for laboratories specified in 42 Code of Federal Regulations, Part 493.
   (3) If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory must be approved or licensed to test specimens in the appropriate specialties and/or subspecialties of services in accordance with 42 Code of Federal Regulations, Part 493.
   (4) If the facility does not provide laboratory services on site, it must have an agreement to obtain these services only from a laboratory that meets the requirements of 42 Code of Federal Regulations, Part 493, or from a physician’s office.
(b) The facility must:
   (1) provide or obtain laboratory services only when ordered by the attending physician;
   (2) promptly notify the attending physician of the findings;
   (3) assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance; and
   (4) file in the resident’s clinical record laboratory reports that are dated and contain the name and address of the issuing laboratory.

RULE §19.1909 Radiology and Other Diagnostic Services
(a) The nursing facility must provide or obtain radiology and other diagnostic services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.
   (1) If the facility provides its own diagnostic services, the services must meet the applicable conditions of participation for hospitals contained in 42 Code of Federal Regulations §482.26.
   (2) If the facility does not provide its own diagnostic services, it must have an agreement to obtain these services from a provider or supplier that is approved to provide these services under Medicare.
(b) The facility must:
   (1) provide or obtain radiology and other diagnostic services only when ordered by the attending physician;
   (2) promptly notify the attending physician of the findings;
   (3) assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance; and
   (4) file in the resident’s clinical record signed and dated reports of x-ray and other diagnostic services.

RULE §19.1910 Clinical Records
(a) The facility must maintain clinical records on each resident, in accordance with accepted professional health information management standards and practices, that are:
   (i) complete;
   (i) accurately documented;
   (iii) readily accessible;
   (iv) systematically organized; and
   (v) protected from unauthorized release.
(b) Clinical records must be retained for: five years after medical services end; or for a minor, three years after a resident reaches legal age under Texas law.
(c) The facility must safeguard clinical record information against loss, destruction, or unauthorized use;
(d) The facility must keep confidential all information contained in the resident’s records, regardless of the form or storage method of the records, except when release is required by:
   (i) transfer to another health care institution;
   (ii) law or this chapter;
   (iii) third party payment contract; or
   (iv) the resident.

**RULE §19.1911 Contents of the Clinical Record**
(a) A resident’s clinical record must meet all documentation requirements in the Texas Health and Human Services Commission rule at 1 TAC §371.214 (relating to Resource Utilization Group Classification System).
(b) The clinical record of each resident must contain:
   (1) a face sheet that contains the attending physician’s current mailing address and telephone numbers;
   (2) sufficient information to identify and care for the resident, to include at a minimum:
      (i) full name of resident;
      (ii) full home/mailing address;
      (iii) social security number;
      (iv) health insurance claim numbers, if applicable;
      (v) date of birth; and
      (vi) clinical record number, if applicable;
   (3) a record of the resident’s assessments;
   (4) the comprehensive, interdisciplinary plan of care and services provided (see also §19.802 of this chapter (relating to Comprehensive Care Plans)...
   (5) the results of any Preadmission Screening and Resident Review conducted by DADS;
   (6) signed and dated clinical documentation from all health care practitioners involved in the resident’s care, with each page identifying the name of the resident for whom the clinical care is intended;
   (7) any directives or medical powers of attorney as described in §19.419 of this chapter (relating to Advance Directives);
   (8) discharge information in accordance with §19.803 of this chapter (relating to Discharge Summary (Discharge Plan of Care)) and a physician discharge summary, to include, at least, dates of admission and discharge, admitting and discharge diagnoses, condition on discharge, and prognosis, if applicable;
   (9) at admission or within 14 days after admission, documentation of an initial medical evaluation, including history, physical examination, diagnoses and an estimate of discharge potential and rehabilitation potential, and documentation of a previous annual medical examination;
   (10) authentication of a hospital diagnosis, which may be in the form of a signed hospital discharge summary, a signed report from the resident’s hospital or attending physician, or a transfer form signed by the physician;
   (11) the physician’s signed and dated orders, including medication, treatment, diet, restorative and special medical procedures, and routine care to maintain or improve the resident’s functional abilities (required for the safety and well-being of the resident), which must not be changed either on a handwritten or computerized physician’s order sheet after the orders have been signed by the
physician unless space allows for additional orders below the physician’s signature, including space for the physician to sign and date again;

(12) arrangements for the emergency care of the resident in accordance with §19.1204 of this chapter (relating to Availability of Physician for Emergency Care);

(13) observations made by nursing personnel according to the time frames specified in §19.1010 of this chapter (relating to Nursing Practices) and which facility staff must ensure show at least the following: items as specified on the MDS assessment; and current information, including:

(i) PRN medications and results;
(ii) treatments and any notable results;
(iii) physical complaints, changes in clinical signs and behavior, mental and behavioral status, and all incidents or accidents;
(iv) flow sheets which may include bathing, restraint observation and/or release documentation, elimination, fluid intake, vital signs, ambulation status, positioning, continency status and care, and weight;
(v) the resident’s ability to participate in activities of daily living as defined in §19.1010(e)(1) of this chapter; and
(vi) dietary intake to include deviations from normal diet, rejection of substitutions, and physician’s ordered snacks and/or supplemental feedings;
(vii) the date and hour all drugs and treatments are administered; and
(viii) documentation of special procedures performed for the safety and well-being of the resident.

RULE §19.1912 Additional Clinical Record Service Requirements

(a) Index of admissions and discharges. The facility must maintain a permanent, master index of all residents admitted to and discharged from the facility. This index must contain at least the following information concerning each resident:

(i) name of resident (first, middle, and last);
(ii) date of birth;
(iii) date of admission;
(iv) date of discharge; and
(v) social security, Medicare, or Medicaid number.

(b) Facility closure. In the event of closure of a facility, change of ownership or change of administrative authority, the new management must maintain documented proof of the medical information required for the continuity of care of all residents. This documentation may be in the form of copies of the resident’s clinical record or the original clinical record. In a change of ownership, the two parties will agree and designate in writing who will be responsible for the retention and protection of the inactive and closed clinical records.

(c) Method of recording/correcting information. All resident care information must be recorded in ink or permanent print except for the medication/treatment diet section of the care plan. Correction of errors will be in accordance with accepted health information management standards.

(1) Erasures are not allowed on any part of the clinical record, with the exception of the medication/treatment/diet section of the resident care plan.
(2) Correction of errors will be in accordance with accepted health information management standards.

(d) Required record retention. Periodic thinning of active clinical records is permitted; however, the following items must remain in the active clinical record:

(1) current history and physical;
(2) current physician’s orders and progress notes;
(3) current resident assessment instrument (RAI) and subsequent quarterly reviews; in Medicaid-certified facilities, all RAI and Quarterly Reviews for the prior 15-month period;  
(4) current care plan;  
(5) most recent hospital discharge summary or transfer form;  
(6) current nursing and therapy notes;  
(7) current medication and treatment records;  
(8) current lab and x-ray reports;  
(9) the admission record; and  
(10) the current permanency plan.  
(e) Readmissions.  
(1) If a resident is discharged for 30 days or less and readmitted to the same facility, upon readmission, to update the clinical record, staff must:  
(A) obtain current, signed physician's orders;  
(B) record a descriptive nurse note, giving a complete assessment of the resident's condition;  
(C) include any changes in diagnoses, etc.;  
(D) obtain signed copies of the hospital or transferring facility history and physical and discharge summary. A transfer summary containing this information is acceptable;  
(E) complete a new RAI and update the comprehensive care plan if evaluation of the resident indicates a significant change, which appears to be permanent. If no such change has occurred, then update only the resident comprehensive care plan...  
(2) A new clinical record must be initiated if the resident is a new admission or has been discharged for over 30 days.  
(f) Signatures.  
(1) The use of electronic data transmission of facsimiles (faxing) is acceptable for sending and receiving health care documents, including the transmission of physicians' orders. Long term care facilities may utilize electronic transmission if they adhere to the following requirements:  
(A) The facility must implement safeguards to assure that faxed documents are directed to the correct location to protect confidential health information.  
(B) All faxed documents must be signed by the author before transmission.  
(2) Stamped signatures are acceptable for all health care documents requiring a physician's signature, if the  
(3) The facility must maintain all letters of intent on file and make them available to representatives of the Texas Department of Human Services (DHS) upon request.  
(4) Use of a master signature legend in lieu of the legend on each form for nursing staff signatures of medication, treatment, or flow sheet entries is acceptable under the following circumstances.  
(A) Each nursing employee documenting on medication, treatment, or flow sheets signs his full name, title, and initials on the legend.  
(B) The original master legend is kept in the clinical records office or director of nurses' office.  
(C) A current copy of the legend is filed at each nurses' station.  
(D) When a nursing employee leaves employment with the facility, his name is deleted from the list by lining through it and writing the current date by the name.  
(E) The facility updates the master legend as needed for newly hired and terminated employees.  
(F) The master signature legend must be retained permanently as a reference to entries made in clinical records.  
(g) Destruction of Records. When resident records are destroyed after the retention period is complete, the facility must shred or incinerate the records in a manner which protects confidentiality. At the time of destruction, the facility must document the following for each record destroyed:  
(A) resident name;  
(B) medical record number, if used;
(C) social security number, Medicare/Medicaid number, or the date of birth; and
(D) date and signature of person carrying out disposal.
(h) Confidentiality. The facility must develop and implement policies and procedures to safeguard the confidentiality of medical record information from unauthorized access.
   (1) Except as provided in paragraph (2) of this subsection, the facility must not allow access to a resident’s clinical record unless a physician’s order exists for supplies, equipment, or services provided by the entity seeking access to the record.
   (2) The facility must allow access and/or release confidential medical information under court order or by written authorization of the resident or his or her legal representative (see §19.407 of this title (relating to Privacy and Confidentiality)).
RULE §19.1913 Clinical Records Service Supervisor
The facility must designate in writing a clinical records supervisor who has the authority, responsibility, and accountability for the functions of the clinical records service. The clinical records supervisor must be:
   (1) A registered health information administrator (RHIA) or registered health information technician (RHIT); or
   (2) An individual with experience appropriate to the scope and complexity of services performed as determined by the Texas Department of Human Services, and who receives consultation at a minimum of every 180 days from an (RHIA) or (RHIT).

RULE §19.1914 Disaster and Emergency Preparedness
(a) The facility must have detailed written plans and procedures to meet all potential emergencies and disasters such as fire, severe weather, and missing residents.
(b) The facility must train all employees in emergency procedures when they begin to work in the facility, periodically review the procedures with existing staff, and carry out unannounced staff drills using those procedures.

RULE §19.1915 Transfer Agreement
(a) The facility must have in effect a written transfer agreement with one or more hospitals that reasonably assures that:
   (1) Residents will be transferred from the facility to the hospital and ensured of timely admission to the hospital when transfer is medically appropriate as determined by the attending physician.
   (2) Medical and other information needed for care and treatment of residents, and when the transferring facility deems it appropriate, for determining whether such residents can be adequately cared for in a less expensive setting than either the facility or the hospital, will be exchanged between the institutions.
   (3) For Medicaid-certified facilities, the hospitals must be approved for participation under the Medicare and Medicaid programs.
(b) In addition, to ensure continuity of care, the transfer agreement should:
   (1) provide for prompt diagnostic and other medical services;
   (2) ensure accountability for a resident’s personal effects at the time of transfer;
   (3) specify the steps needed to transfer a resident in a prompt, safe and efficient manner; and
   (4) provide for supplying, at the time of transfer, a summary of administrative, social, medical, and nursing information to the facility to which the resident is transferred.
(c) If the board and/or governing body for a long-term care facility and a hospital are the same, the controlling entity must have written procedures outlining how transfers will occur.
(d) The facility is considered to have a transfer agreement in effect if DHS determines that the facility attempted in good faith to enter into an agreement with a hospital sufficiently close to the
facility to make transfer feasible but could not, and it is in the public interest not to enforce this requirement. The facility must document in writing its good faith effort to enter into an agreement.

**RULE §19.1916 Respite Care**

Facilities offering respite care must meet the requirements of this chapter, except as provided in paragraph (4) of this section.

(1) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(A) Plan of care--A written description of the medical care or the supervision and nonmedical care needed by an individual during respite care.

(B) Respite care--The provision by a facility to an individual, for not more than two weeks for each stay in the facility, of room, board, and care at the level ordinarily provided for permanent residents.

(2) Plan of care. The facility and the individual arranging respite care must agree on the plan of care, and the plan must be filed at the facility before the facility admits the individual.

(A) The plan of care must be signed by:

(i) a licensed physician if the individual needing care requires medical care or treatment; or

(ii) the individual arranging the care if medical care or treatment is not required.

(B) The facility may keep a plan of care for an individual for six months from the date on which it is developed. During that period, the facility may admit the individual as frequently as needed.

(3) Notification. A facility must notify the Texas Department of Human Services (DHS) in writing that it offers respite services.

(4) Inspections. During licensing or certification inspections, or at other times DHS determines necessary, DHS inspects a facility’s records of respite care services, physical accommodations for respite care, and the plan of care records to ensure that the respite care services comply with the certification requirements of this chapter, with the following exceptions.

(A) The clinical record of each respite care resident must contain:

(i) general identifying information necessary to care for the individual and maintain his clinical record;

(ii) resident assessment and care plan according to facility policy;

(iii) progress notes and/or flow sheets which document care and services;

(iv) reports of diagnostic or lab studies;

(v) physician's orders; and

(vi) discharge and readmission information as required by facility policy for respite care services.

(B) Resident assessment requirements of §19.801 of this title (relating to Resident Assessment) apply to respite care services only on the 14th day of care.

(C) The clinical records requirement found at §19.1912(e) of this title (relating to Additional Clinical Record Service Requirements) does not apply.

(5) Suspension. DHS may require an institution to cease providing respite care if DHS determines that the respite care does not meet the requirement of this chapter and that the facility cannot comply with those requirements in the respite care it provides. DHS may suspend the license of a facility that continues to provide respite care after receiving a written order from DHS to cease.

(6) Licensed capacity. When a facility provides respite care:

(A) the total number of individuals receiving services in the facility must not exceed the number of licensed beds; and

(B) any required nurse-to-resident ratio must include any individual receiving respite care services regardless of the number of hours that the individual spends in the facility.

**RULE §19.1917 Quality Assessment and Assurance**
(a) The facility must maintain a Quality Assessment and Assurance Committee consisting of:
the director of nursing services;
a physician designated by the facility; and
at least three other members of the facility’s staff.
(b) The Quality Assessment and Assurance Committee:
(1) meets at least quarterly to identify issues with respect to which quality assessment and
assurance activities are necessary; and
(2) develops and implements appropriate plans of action to correct identified quality deficiencies.
(c) Texas or the Secretary of Health and Human Services may not require disclosure of the records
of the Quality Assessment and Assurance Committee except insofar as such disclosure is related to
the compliance of the committee with the requirements of subsection (b) of this section.
(d) Good faith attempts by the committee to identify and correct quality deficiencies may not be
used as a basis for sanctions.
(e) The Quality Assessment and Assurance Committee must adopt and ensure implementation of a
policy to identify, assess, and develop strategies to control risk of injury to residents and nurses
associated with the lifting, transferring, repositioning, or moving of a resident. The policy must
establish a process that includes:
(1) analysis of the risk of injury to both residents and nurses posed by the resident handling needs
of the resident populations served by the nursing facility and the physical environment in which
resident handling and moving occurs;
(2) annual in-service education of nurses in the identification, assessment, and control of risk of
injury to residents and nurses during resident handling;
(3) evaluation of alternative ways to reduce risks associated with resident handling, including
evaluation of equipment and the environment;
(4) restriction, to the extent feasible with existing equipment and aids, of manual resident
handling or moving of all or most of a resident’s weight to emergency, life-threatening, or otherwise
exceptional circumstances;
(5) collaboration with and an annual report to the nurse staffing committee;
(6) specific procedures for nurses to refuse to perform or be involved in resident handling or
moving that the nurse believes in good faith will expose a resident or a nurse to an unacceptable
risk of injury;
(7) submission of an annual report by the nursing staff to the Quality Assessment and Assurance
Committee on activities related to the identification, assessment, and development of strategies to
control risk of injury to residents and nurses associated with the lifting, transferring, repositioning,
or moving of a resident; and
(8) in developing architectural plans for constructing or remodeling a nursing facility or a unit of a
nursing facility in which resident handling and moving occurs, consideration of the feasibility of
incorporating resident handling equipment or the physical space and construction design needed to
incorporate that equipment at a later date.

RULE §19.1918 Disclosure of Ownership
(a) The facility must comply with the disclosure requirements of 42 Code of Federal Regulations,
§420.206 and §455.104.
(b) The facility must provide written notice to Facility Enrollment, Long-Term Care-Regulatory,
Texas Department of Human Services (DHS) at the time of change if a change occurs in:
(1) persons with an ownership or control interest, as defined in 42 Code of Federal Regulations,
§420.201 and §455.101;
(2) the officers, directors, agents or managing employees;
(3) the corporation, association, or other company responsible for the management of the facility;
(4) the facility’s administrator or director of nursing; or
(5) the controlling person.
(c) The notice specified in subsection (b) of this section must include the identity of each new individual or company.
(d) Failure to notify Facility Enrollment within 30 days of a change specified in subsection (b) will result in a $500 administrative penalty. If the notice is postmarked within the 30-day period, 15 days will be added to the time period to receive the notice.

RULE §19.1920 Operating Policies and Procedures
(a) The facility must have an administrative policy and procedure manual that outlines the general operating policies and procedures of the facility. The manual must include policies and procedures related to admission and admission agreements, resident care services, refunds, transfers and discharges, receiving and responding to complaints and recommendations, and protection of residents’ personal property and civil rights. A copy of this manual must be made available for review upon request to each physician, staff member, resident, and resident’s next of kin or guardian and to the public.
(b) The facility must have written personnel policies and procedures that are explained to employees during initial orientation and are readily available to them after that time.
(c) The facility must ensure that personnel records are correct and contain sufficient information to support placement in the assigned position (including a resume of training and experience). When appropriate, a current copy of the person’s license or permit must be in the file.
(d) Upon request of the Texas Department of Human Services (DHS), the facility must make available financial records to demonstrate the facility’s compliance with applicable state laws and standards relating to licensing.

RULE §19.1921 General Requirements for a Nursing Facility
...(c) The term "hospital" may not be used as part of the name of a nursing facility unless it has been classified and duly licensed as a hospital by the appropriate state agency.
(e) ...The following items must be posted:
(1) the facility license;
(2) a complaint sign provided by DADS giving the toll-free telephone number;
(3) a notice in a form prescribed by DADS that inspection and related reports are available at the facility for public inspection;
(4) a concise summary prepared by DADS of the most recent inspection report;
(5) a notice of DADS' toll-free telephone number 1-800-458-9858 to request summary reports relating to the quality of care, recent investigations, litigation or other aspects of the operation of the facility that are available to the public;
(6) a notice that DADS can provide information about the nursing facility administrator at 512-438-2015;
(7) if a facility has been ordered to suspend admissions, a notice of the suspension, which must be posted also on all doors providing public ingress to and egress from the facility;
(8) a statement of resident rights using a form DADS provides;
(9) a notice that employees, other staff, residents, volunteers, and family members and guardians of residents are protected from discrimination or retaliation as provided by the Health and Safety Code, §242.133 and §242.1335; and that the facility has available for public inspection a copy of the Health and Safety Code, Chapter 242, Subchapter E;
(10) for a facility that advertises, markets, or otherwise promotes that it provides services to residents with Alzheimer’s disease and related disorders, a disclosure statement describing the
nature of its care or treatment of residents with Alzheimer’s disease and related disorders in accordance with §19.204(b)(4) of this chapter (relating to Application Requirements); 
(11) at each entrance to the facility, a sign that states that a person may not enter the premises with a concealed handgun and that complies with Penal Code §30.06; and
(12) daily for each shift, the current number of licensed and unlicensed nursing staff directly responsible for resident care in the facility. In addition, the nursing facility must make the information required to be posted available to the public upon request.
(f) A facility that advertises, markets, or otherwise promotes that it provides services to residents with Alzheimer’s disease and related disorders must give the required department disclosure statement to an individual:
(1) with Alzheimer's disease or a related disorder, seeking placement as a resident;
(2) attempting to place another individual as a resident with Alzheimer's disease or a related disorder; or
(3) seeking information about the facility's care or treatment of residents with Alzheimer's disease or a related disorder.
(g) The reports referenced in subsection (e)(3) of this section must be maintained in a well-lighted, accessible location and must include:
(1) a statement of the facility's compliance record that is updated at least bi-monthly and reflects at least one year’s compliance record, in a form required by DADS; and
(2) if a facility has been cited for a violation of residents’ rights, a copy of the citation, which must remain in the reports until any regulatory action with respect to the violation is complete and DADS has determined that the facility is in full compliance with the applicable requirement.
...(i) A copy of the Health and Safety Code, Chapter 242, must be available for public inspection at the facility.
...(k) Each facility must comply with the provisions of the Health and Safety Code, Chapter 250 (relating to Nurse Aide Registry and Criminal History Checks of Employees and Applicants for Employment in Certain Facilities Serving the Elderly or Persons with Disabilities).
(I) Before a facility hires an unlicensed employee, the facility must search the employee misconduct registry (EMR) established under §253.007, Health and Safety Code, and the DADS nurse aide registry (NAR) to determine whether the individual is designated in either registry as unemployable. Both registries can be accessed on the DADS Internet website.
(m) A facility is prohibited from hiring or continuing to employ a person who is listed in the EMR or NAR as unemployable.
(n) A facility must provide notification about the EMR to an employee in accordance with §93.3 of this title (relating to Employment and Registry Information).
(o) In addition to the initial search of the EMR and NAR, a facility must:
(1) conduct a search of the NAR and EMR to determine if an employee of the facility is listed as unemployable in either registry as follows:
    (A) for an employee most recently hired before September 1, 2009, by August 31, 2011, and at least every twelve months thereafter; and
    (B) for an employee most recently hired on or after September 1, 2009, at least every twelve months; and
(2) keep a copy of the results of the initial and annual searches of the NAR and EMR in the employee’s personnel file.

**RULE §19.1922 Resident Care Policies**
(a) The facility must have written policies to govern the nursing care and related medical or other services provided. The written policies must include plans for promoting self-care and independence.

(b) Resident care policies are developed by the medical director and by professional personnel, including one or more physicians, licensed or registered nurses, a registered pharmacist, and the licensed nursing home administrator. The advisory group must review the policies at least annually and update them as necessary.

**RULE §19.1924 Financial Records**

(a) Nursing facility staff must maintain current financial records in accordance with recognized fiscal and accounting procedures. The facility must ensure that records clearly identify each charge and payment made on behalf of each resident residing in the facility. The facility must clearly state in its records to whom charges were made and for whom payment was received. Medicaid-certified facilities must also comply with the following requirements.

(b) The facility must make financial records and supporting documents available at any time within working hours and without prior notification for review by the Texas Department of Human Services, the Department of Health and Human Services, and the Texas attorney general's Medicaid Fraud Control Unit.

(c) The facility must keep the financial records in the facility for a minimum of three years and 90 days after the termination of the contract period or for three years after the end of the federal fiscal year in which services were provided if there was a provider agreement/contract with no specific termination date in effect. The facility must also keep for the same period of time supporting fiscal documents and other records necessary to ensure claims for federal matching funds

**RULE §19.1926 Medicaid Hospice Services**

(a) When a nursing facility (NF) contracts for hospice services for residents, the nursing facility must:

1. have a written contract for the provision of arranged services, which must be signed by authorized representatives of the NF and hospice and must include the following:
   A. the services to be provided;
   B. a stipulation that hospice-related services performed by NF staff may be provided only with the express authorization of the hospice;
   C. how the contracted services are to be coordinated, supervised, and evaluated by the hospice and the NF;
   D. delineation of the roles of the hospice and the NF in the admission process, recipient and family assessment, and the interdisciplinary team case conferences; a requirement for documentation of services furnished; and the qualifications of the personnel providing the services;

2. provide room and board services, which include the performance of personal care services, including assistance in the activities of daily living, administration of medication, socializing activities, maintaining the cleanliness of a resident's room, and supervision and assisting in the use of durable medical equipment and prescribed therapies;

3. immediately notify the hospice of any significant changes in the hospice recipient's condition;

4. have joint procedures with the hospice provider for ordering medications that ensure the proper payor is billed and for reconciling billing between NF and hospice, including:
   a. contacting the hospice prior to filling a new prescription; and
   b. ensuring that drugs unrelated to the terminal illness are ordered through the Vendor Drug program; and
(5) ensure that hospice documentation is a part of the current clinical record, which, at a minimum, must include the current and past:
(A) Texas Medicaid Hospice Recipient Election/Cancellation form;
(B) MDS assessment;
(C) Physician Certification of Terminal Illness form;
(D) Medicare Election Statement, if dually eligible;
(E) verification that the recipient does not have Medicare Part A;
(F) hospice interdisciplinary assessments;
(G) hospice plan of care; and
(H) current interdisciplinary notes, which include the following:
   (i) nurses notes and summaries;
   (ii) physician orders and progress notes; and
   (iii) medication and treatment sheets during the hospice certification period.
(b) The NF and hospice must ensure that the coordinated plan of care reflects the participation of the hospice, the NF, the recipient, and the recipient’s legal representative to the extent possible. The plan of care must include directives for managing pain and other uncomfortable symptoms, and must be revised and updated as necessary to reflect the recipient's current status.
(c) The recipient has the right to refuse any services from the nursing facility and the hospice provider.
(d) The hospice retains overall professional management responsibility for directing the implementation of the plan of care related to the terminal illness and related conditions, which includes:
   (1) designation of a hospice registered nurse to coordinate the implementation of the plan of care;
   (2) provision of substantially all core services (physician, nursing, medical social work, and counseling services) that must be routinely provided directly by the hospice employees, and cannot be delegated to the NF, as outlined under 42 Code of Federal Regulations §418.80;
   (3) provision of drugs and medical supplies as needed for palliation and management of the terminal illness and related conditions; and
   (4) involvement of NF personnel in assisting with the administration of prescribed therapies in the plan of care only to the extent that the hospice would routinely use the services of a hospice patient’s family or caregiver in the home setting.
(e) The hospice may arrange to have non-core hospice services provided by the NF if the hospice assumes professional management responsibility for the services and assures these services are performed in accordance with the policies of the hospice and the recipient's plan of care.
(b) The NF and hospice must ensure that the coordinated plan of care reflects the participation of the hospice, the NF, the recipient, and the recipient's legal representative to the extent possible. The plan of care must include directives for managing pain and other uncomfortable symptoms, and must be revised and updated as necessary to reflect the recipient's current status.
(c) The recipient has the right to refuse any services from the nursing facility and the hospice provider.
(d) The hospice retains overall professional management responsibility for directing the implementation of the plan of care related to the terminal illness and related conditions, which includes:
   (1) designation of a hospice registered nurse to coordinate the implementation of the plan of care;
   (2) provision of substantially all core services (physician, nursing, medical social work, and counseling services) that must be routinely provided directly by the hospice employees, and cannot be delegated to the NF, as outlined under 42 Code of Federal Regulations §418.80;
   (3) provision of drugs and medical supplies as needed for palliation and management of the terminal illness and related conditions; and
(4) involvement of NF personnel in assisting with the administration of prescribed therapies in the plan of care only to the extent that the hospice would routinely use the services of a hospice patient’s family or caregiver in the home setting.

(e) The hospice may arrange to have non-core hospice services provided by the NF if the hospice assumes professional management responsibility for the services and assures these services are performed in accordance with the policies of the hospice and the recipient’s plan of care.

RULE §19.1928 Volunteer Program
(a) The facility must promote a volunteer program designed to assist in meeting the social and emotional needs of the residents.

(b) A volunteer council may be utilized to solicit community involvement in the volunteer program.

RULE §19.1929 Staff Development
Each facility must implement and maintain programs of orientation, training, and continuing in-service education to develop the skills of its staff, as described in §19.1903 of this title (relating to Required Training of Nurse Aides).

(1) As part of orientation and annually, each employee must receive instruction regarding:
(A) Human Immunodeficiency Virus (HIV), as outlined in the educational information provided by the Texas Department of Health Model Workplace Guidelines. At a minimum the HIV curriculum must include:
   (i) modes of transmission;
   (ii) methods of prevention;
   (iii) behaviors related to substance abuse;
   (iv) occupational precautions;
   (v) current laws and regulations concerning the rights of an acquired immune deficiency syndrome/HIV infected individual; and
   (vi) behaviors associated with HIV transmission which are in violation of Texas law; and
   (B) restraint reduction and the prevention of falls through competency-based training. Facilities also may choose to train on behavior management, including prevention of aggressive behavior and de-escalation techniques.

(2) Each registered nurse, licensed vocational nurse, and nurse aide (nurse assistant) who provides nursing services must receive at least one hour of training each year in caring for people who have dementia.

(3) Nursing staff, licensed nurses, and nurse aides must receive annual in-service training which includes components, appropriate to their job responsibilities, from one or more of the following categories:
   (A) communication techniques and skills useful when providing geriatric care, such as skills for communicating with the hearing impaired, visually impaired and cognitively impaired; therapeutic touch; and recognizing communication that indicates psychological abuse;
   (B) assessment and nursing interventions related to the common physical and psychological changes of aging for each body system;
   (C) geriatric pharmacology, including treatment for pain management and sleep disorders;
   (D) common emergencies of geriatric residents and how to prevent them, for example, falls, choking on food or medicines, injuries from restraint use; recognizing sudden changes in physical condition, such as stroke, heart attack, acute abdomen, and acute glaucoma; and obtaining emergency treatment; common mental disorders with related nursing implications; and
ethical and legal issues regarding advance directives, abuse and neglect, guardianship, and confidentiality.

... (5) Minimum continuing in-service education requirements are listed in subparagraphs (A)-(B) of this paragraph. Attendance at relevant outside training may be used to satisfy the in-service education requirement. The facility must keep in-service records for each employee listed. The minimum requirements are:

   (A) licensed personnel--two hours per quarter; and
   (B) nurse aides--12 hours annually. For the purpose of this paragraph, a medication aide is considered a nurse aide and must receive the same continuing in-service education. This in-service education does not qualify as continuing education units required for renewal of a medication aide permit.

   (6) A rural hospital participating in the Medicaid Swing Bed Program as specified in §19.2326 of this title (relating to Medicaid Swing Bed Program for Rural Hospitals) is not required to meet the requirements of this section, if the swing beds are used for no more than one 30-day length of stay per year, per resident.

RULE §19.2204 Voluntary Certification of Facilities for Care of Persons with Alzheimer’s Disease

(a) A facility may apply for certification as a facility that provides specialized care for Alzheimer’s disease and related disorders either at the time of the initial application for a license or at any time subsequent to the issuance of a license under this chapter.

(b) Application must be made on forms prescribed by the Texas Department of Human Services (DHS). The application fee must accompany the application as provided in §19.216(c) of this title (relating to License Fees).

(c) A facility licensed under this chapter is not required to apply for certification under this section in order to provide care and treatment of persons with Alzheimer’s disease and related disorders.

(d) A facility may not advertise or otherwise communicate that the facility is certified by DHS to provide specialized care for persons with Alzheimer’s disease or related disorders unless the facility is certified under this subchapter.

RULE §19.2206 General Requirements for a Certified Facility

(a) Resident admission. The facility must admit and retain only residents whose needs can be met through service from the facility staff, or in cooperation with community resources or other providers under contract.

(b) Allowable number of residents. Each certificate must specify the maximum allowable number of residents to be cared for at any one time in the certified area. No greater number of residents must be kept in the certified area than is authorized by the certificate.

(c) Nullification of certificate. When a certificate becomes null and void, the facility must remove the certificate from display and advertising, and the certificate must be surrendered to DHS on request. A certificate is nontransferable and nonassignable; therefore, a certificate existing at the time of change of ownership becomes null and void.

(d) Display of certificate. A certificate must be displayed in a prominent location for public view. The facility may advertise as long as the certificate is in effect; however, the type of advertising must be such that the advertising can be withdrawn if the certificate becomes null and void. Upon removal of the certificate it is the responsibility of the facility to inform interested persons of the revised status. The certificate is the property of DHS.

(e) Cancellation of certificate. A certificate must be canceled if DHS finds that the certified unit is not in compliance with applicable laws and rules.
(f) Effective period of certificate. A certificate is valid for one year from the effective date of approval by DHS.

RULE §19.2208 Standards for Certified Alzheimer's Facilities
(a) General requirements.
(1) Residents eligible for admission to Alzheimer's units will have a diagnosis of Alzheimer's disease or related dementing disorders. The need for admission to the Alzheimer's unit must be documented by the attending physician.
(2) Security and safety measures are provided to prevent the residents from harming themselves or leaving designated indoor or outdoor areas without supervision by staff members or other responsible escort. Policies will also be provided to prevent abuse of the rights and property of other residents.
(3) Understanding that security measures to prevent wandering may infringe on resident rights, care must be exercised in the use of physical restraint or barriers, or chemical restraint. The specific purpose and time-limited orders for any additional physical or chemical restraint must be written and renewed according to facility policy. The frequency of such renewal must not exceed 60 days.
(4) Activity and recreational programs will be provided and utilized to the maximum extent possible for all residents in order to promote physical well being and help with behavior management. The program must be tailored to the individual resident’s needs, being appropriate for his specific impairment and stage of disease.
(5) Residents are provided privacy in treatment and in care for his or her personal needs.
(b) Staff.
(1) All assigned staff members and consultants to the unit must have documented training in the care and handling of Alzheimer's residents, including at least:
   (A) eight hours of orientation to cover the following:
      (i) facility Alzheimer’s policies;
      (ii) etiology and treatment of dementias;
      (iii) stages of Alzheimer's disease;
      (iv) behavior management; and
      (v) communication; and
   (B) four hours of the required annual continuing education must be in Alzheimer's disease or related disorders.
(2) A social worker, licensed or temporarily licensed by the State of Texas, must be utilized as Community/Family Support Coordinator whose functions must include:
   (A) evaluation of resident’s initial social history on admission;
   (B) utilization of community resources;
   (C) conducting quarterly family support group meetings; and
   (D) identification and utilization of existing Alzheimer’s network.
(3) Specially trained staff will be maintained and assigned exclusively to the Alzheimer’s unit. Although emergency scheduling may require substitution of staff, every effort should be made to provide residents with familiar staff members in order to minimize resident confusion. Staff training will meet at least the minimum requirements in subsection (a)(2) of this section.

RULE §19.2308 Change of Ownership
(a) Definition. An ownership change is defined in §19.210(c) of this title (relating to Temporary Change of Ownership). For purposes of this section, prior owner is defined as the legal entity with a Medicaid contract for the facility before the change of ownership. The new owner is the legal entity to which DADS has assigned the contract (in accordance with 42 CFR §442.14 and subsection (d) of
this section). The effective date of the ownership change is the effective date of the new owner's license for the facility.
(b) Notice of ownership change. The prior owner must give DADS written notice of a change of ownership at least 30 days before the effective date of the change. If written notice of the change is not received 30 days before the agreed change date, DADS is not responsible for payments made to the prior owner or new owner that do not reflect the established change date. DADS will not make a duplicate payment. It is the responsibility of the prior and new owner to make arrangements between themselves for such contingencies.

UTAH
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R432-001 General Health Care Facility Rules
R432-1-4. Identification Badges.
(1) Health care facilities and agencies shall ensure that the following persons, shall wear an identification badge:
(a) professional and non-professional employees who provide direct care to patients; and
(b) volunteers.
(2) The identification badge shall include the following:
(a) the person's first or last name; however, the badge does not have to reveal the persons full name; and
(b) the person's title or position, in terms generally understood by the public.

R432-002 General Licensing Provisions
R432-2-6. Application.
...(3) The applicant shall submit the following:
(a) a list of all officers, members of the boards of directors, trustees, stockholders, partners, or other persons who have a greater than 25 percent interest in the facility;
(b) the name, address, percentage of stock, shares, partnership, or other equity interest of each person; and
(c) a list, of all persons, of all health care facilities in the state or other states in which they are officers, directors, trustees, stockholders, partners, or in which they hold any interest.

(1) As used in this section, an "owner" is any person or entity:
(a) ultimately responsible for operating a health care facility; or
(b) legally responsible for decisions and liabilities in a business management sense or that bears the final responsibility for operating decisions made in the capacity of a governing body.
(2) The owner of the health care facility does not need to own the real property or building where the facility operates.
(3) A property owner is also an owner of the facility if he:
(a) retains the right or participates in the operation or business decisions of the enterprise;
(b) has engaged the services of a management company to operate the facility; or
(c) takes over the operation of the facility.
(4) A licensed provider whose ownership or controlling ownership interest has changed must submit a Request for Agency Action/License Application and fees to the department 30 days prior to the proposed change.

**R432-004 General Construction**

R432-4-4. Site Location.
(1) The site of the licensed health care facility shall be accessible to both community and service vehicles, including fire protection apparatus.
(2) Facilities shall ensure that public utilities are available.

R432-4-12. Mixed Occupancies.
(1) Health care occupancies must be separated from non-health care occupancies in accordance with requirements of the local jurisdiction.
(2) If separation of occupancies is not practical, the most restrictive occupancy requirements apply to the building.

**R432-150. Nursing Care Facility**

R432-150-5. Scope of Services.
...(3) Respite services may be provided in nursing care facilities.
... (f) The facility must have written respite care policies and procedures that are available to staff.
(4) Hospice care may only be arranged and provided by a licensed hospice agency in accordance with R432-750. The facility shall be licensed as a hospice if it provides hospice care.
(5) A nursing care facility may provide terminal care.

R432-150-6. Adult Day Care Services.
(1) Nursing Care Facilities may offer adult day care and are not required to obtain a license from Utah Department of Human Services. If a facility provides adult day care, it shall submit policies and procedures for Department approval.

The facility must have a governing body, or designated persons functioning as a governing body.
(1) The governing body must establish and implement policies regarding the management and operation of the facility.
(2) The governing body shall institute bylaws, policies and procedures relative to the general operation of all facility services including the health care of the residents and the protection of resident rights.
(3) The governing body must appoint the administrator in writing.

(1) The administrator must comply with the following requirements.
(a) The administrator must be licensed as a health facility administrator by the Utah Department of Commerce pursuant to Title 58, Chapter 15.
(b) The administrator's license shall be posted in a place readily visible to the public.
(c) The administrator may supervise no more than one nursing care facility.
(d) The administrator shall have sufficient freedom from other responsibilities to permit attention to the management and administration of the facility.
(e) The administrator shall designate, in writing, the name and title of the person who shall act as administrator in any temporary absence of the administrator. This person shall have the authority and freedom to act in the best interests of resident safety and wellbeing. It is not the intent of this
paragraph to permit an unlicensed de facto administrator to supplant or replace the designated, licensed administrator.

(2) The administrator's responsibilities must be defined in a written job description on file in the facility. The job description shall include at least the following responsibilities:
(a) complete, submit, and file all records and reports required by the Department;
(b) act as a liaison between the licensee, medical and nursing staffs, and other supervisory staff of the facility;
(c) respond to recommendations made by the quality assurance committee;
(d) implement policies and procedures governing the operation of all functions of the facility; and
(e) review all incident and accident reports and document the action taken or reason for no action.

(3) The administrator shall ensure that facility policies and procedures reflect current facility practice, and are revised and updated as needed.

(4) The administrator shall secure and update contracts for required professional services not provided directly by the facility.
(a) Contracts shall document the following:
   (i) the effective and expiration date of contract;
   (ii) a description of goods or services provided by the contractor to the facility;
   (iii) a statement that the contractor shall conform to the standards required by Utah law or rules;
   (iv) a provision to terminate the contract with advance notice;
   (v) the financial terms of the contract;
   (vi) a copy of the business or professional license of the contractor; and
   (vii) a provision to report findings, observations, and recommendations to the administrator on a regular basis.
(b) Contracts shall be signed, dated and maintained for review by the Department.

(5) The administrator shall maintain a written transfer agreement with one or more hospitals to facilitate the transfer of residents and essential resident information. The transfer agreement must include:
(a) criteria for transfer;
(b) method of transfer;
(c) transfer of information needed for proper care and treatment of the resident transferred;
(d) security and accountability of personal property of the resident transferred;
(e) proper notification of hospital and responsible person before transfer;
(f) the facility responsible for resident care during the transfer; and
(g) resident confidentiality.

R432-150-9. Medical Director.
(1) The administrator must retain by formal agreement a licensed physician to serve as medical director or advisory physician according to resident and facility needs.
(2) The medical director or advisory physician shall:
(a) be responsible for the development of resident care policies and procedures including the delineation of responsibilities of attending physicians;
(b) review current resident care policies and procedures with the administrator;
(c) serve as a liaison between resident physicians and the administrator;
(d) review incident and accident reports at the request of the administrator to identify health hazards to residents and employees and;
(e) act as consultant to the director of nursing or the health services supervisor in matters relating to resident care policies.

R432-150-10. Staff and Personnel.
(1) The administrator shall employ personnel who are able and competent to perform their respective duties, services, and functions.
(a) The administrator, director of nursing or health services supervisor, and department supervisors shall develop job descriptions for each position including job title, job summary, responsibilities, qualifications, required skills and licenses, and physical requirements.
(b) All personnel must have access to facility policy and procedure manuals and other information necessary to effectively perform duties and carry out responsibilities.
(c) All personnel must be licensed, certified or registered as required by the Utah Department of Commerce. A copy of the license, certification or registration shall be maintained for Department review.

(2) The facility shall maintain staffing records, including employee performance evaluations, for the preceding 12 months.
...(5) The facility shall plan and document in-service training for all personnel.
(a) The following topics shall be addressed at least annually:
(i) fire prevention;
(ii) review and drill of emergency procedures and evacuation plan;
(iii) the reporting of resident abuse, neglect or exploitation to the proper authorities;
(iv) prevention and control of infections;
(v) accident prevention and safety procedures including instruction in body mechanics for all employees required to lift, turn, position, or ambulate residents; and proper safety precautions when floors are wet or waxed;
(vi) training in Cardiopulmonary Resuscitation (CPR) for licensed nursing personnel and others as appropriate;
(vii) proper use and documentation of restraints;
(viii) resident rights;
(ix) A basic understanding of the various types of mental illness, including symptoms, expected behaviors and intervention approaches; and
(x) confidentiality of resident information.
(6) Any person who provides nursing care, including nurse aides and orderlies, must work under the supervision of an RN or LPN and shall demonstrate competency and dependability in resident care.
(a) A facility may not have an employee working in the facility as a nurse aide for more than four months, on full-time, temporary, per diem, or other basis, unless that individual has successfully completed a State Department of Education-approved training and testing program.
(b) The facility shall verify through the nurse aide registry prior to employment that nurse aide applicants do not have a verified report of abuse, neglect, or exploitation. If such a verified report exists, the facility may not hire the applicant.
(c) If an individual has not performed paid nursing or nursing related services for a continuous period of 24 consecutive months since the most recent completion of a training and competency evaluation program, the facility shall require the individual to complete a new training and competency evaluation program.
(d) The facility shall conduct regular performance reviews and regular in-service education to ensure that individuals used as nurse aides are competent to perform services as nurse aides.
(7) The facility may utilize volunteers in the daily activities of the facility provided that volunteers are not included in the facility's staffing plan in lieu of facility employees.
(a) Volunteers shall be supervised and familiar with resident’s rights and the facility’s policies and procedures.
(b) Volunteers who provide personal care to residents shall be screened according to facility policy and under the direct supervision of a qualified employee.
(8) An employee who reports suspected abuse, neglect, or exploitation shall not be subject to retaliation, disciplinary action, or termination by the facility for making the report.

(1) The administrator must implement a well-defined quality assurance plan designed to improve resident care. The plan must:
(a) include a system for the collection of data indicators;
(b) include an incident reporting system to identify problems, concerns, and opportunities for improvement of resident care;
(c) implement a system to assess identified problems, concerns and opportunities for improvement; and
(d) implement actions that are designed to eliminate identified problems and improve resident care.
(2) The plan must include a quality assurance committee that functions as follows:
(a) documents committee meeting minutes including all corrective actions and results;
(b) conducts quarterly meetings and reports findings, concerns and actions to the administrator and governing body; and
(c) coordinates input of data indicators from all provided services and other departments as determined by the resident plan of care and facility scope of services.
(3) Incident and accident reports shall:
(a) be available for Department review;
(b) be numbered and logged in a manner to account for all filed reports; and
(c) have space for written comments by the administrator or medical director.
(4) Infection reporting must be integrated into the quality assurance plan and must be reported to the Department in accordance with R386-702, Communicable Disease Rule.

...(2) The facility must have written policies and procedures regarding the proper use of restraints. ...(c) Restraints must not unduly hinder evacuation of the resident in the event of fire or other emergency.

...(14) The quality assurance committee must monitor medication errors to ensure that:
(a) the facility does not have medication error rates of five percent or greater;
(b) residents are free of any significant medication errors.

R432-150-18. Laboratory Services.
(1) The facility must provide laboratory services in accordance with the size and needs of the facility.
(2) Laboratory services must comply with the requirements of the Clinical Laboratory Improvement Amendments of 1988 (CLIA). CLIA inspection reports shall be available for Department review.

(1) If the nursing care facility provides its own radiology services, these facility must comply with R432-100-21, Radiology Services, in the General Acute Hospital Rule.
...(b) Specialized rehabilitative services may only be provided by therapists licensed in accordance with Utah law.
...(3) The facility must provide or arrange for regular and emergency dental care for residents.
(a) Dental care provisions shall include:
... (c) presentation of oral hygiene in-service programs by knowledgeable persons...

(1) The facility must implement a medical records system to ensure complete and accurate retrieval and compilation of information.
(2) The administrator must designate an employee to be responsible and accountable for the processing of medical records.
(a) The medical records department must be under the direction of a registered record administrator, RRA, or an accredited record technician, ART.
(b) If an RRA or ART is not employed at least part time, the facility must consult with an RRA or ART according to the needs of the facility, but not less than semi-annually.
(3) The resident medical record and its contents must be retained, stored and safeguarded from loss, defacement, tampering, and damage from fires and floods.
(a) Medical records must be protected against access by unauthorized individuals.
(b) Medical records must be retained for at least seven years. Medical records of minors must be kept until the age of eighteen plus four years, but in no case less than seven years.
(4) The facility must maintain an individual medical record for each resident. The medical record must contain written documentation of the following:
(a) records made by staff regarding daily care of the resident;
(b) informative progress notes by staff to record changes in the resident’s condition and response to care and treatment in accordance with the care plan;
(c) a pre-admission screening;
(d) an admission record with demographic information and resident identification data;
(e) a history and physical examination up-to-date at the time of the resident's admission;
(f) written and signed informed consent;
(g) orders by clinical staff members;
(h) a record of assessments, including the comprehensive resident assessment, care plan, and services provided;
(i) nursing notes;
(j) monthly nursing summaries;
(k) quarterly resident assessments;
(l) a record of medications and treatments administered;
(m) laboratory and radiology reports;
(n) a discharge summary for the resident to include a note of condition, instructions given, and referral as appropriate;
(o) a service agreement if respite services are provided;
(p) physician treatment orders; and
(q) information pertaining to incidents, accidents and injuries.
(r) If a resident has an advanced directive, the resident’s record must contain a copy of the advanced directive.
(5) All entries into the medical record must be authenticated including date, name or identifier initials, and title of the person making the entries
(6) Resident respite records must be maintained within the facility.

(1) The facility must ensure the safety and well-being of residents and make provisions for a safe environment in the event of an emergency or disaster. An emergency or disaster may include utility interruption, explosion, fire, earthquake, bomb threat, flood, windstorm, epidemic, and injury.
(2) The facility must develop an emergency and disaster plan that is approved by the governing board. 
(a) The facility's emergency plan shall delineate:
(i) the person or persons with decision-making authority for fiscal, medical, and personnel management;
(ii) on-hand personnel, equipment, and supplies and how to acquire additional help, supplies, and equipment after an emergency or disaster;
(iii) assignment of personnel to specific tasks during an emergency;
(iv) methods of communicating with local emergency agencies, authorities, and other appropriate individuals;
(v) individuals who shall be notified in an emergency in order of priority; and
(vi) methods of transporting and evacuating residents and staff to other locations.
(b) The facility must have available at each nursing station emergency telephone numbers including responsible staff persons in the order of priority.
(c) The facility must document resident emergencies and responses, emergency events and responses, and the location of residents and staff evacuated from the facility during an emergency.
(d) The facility must conduct and document simulated disaster drills semi-annually.
(3) The administrator must develop a written fire emergency and evacuation plan in consultation with qualified fire safety personnel.
(a) The evacuation plan must delineate evacuation routes, location of fire alarm boxes, fire extinguishers, and emergency telephone numbers of the local fire department.
(b) The facility must post the evacuation plan in prominent locations in exit access ways throughout the building.
(c) The written fire or emergency plan must include fire containment procedures and how to use the facility alarm systems and signals.
(d) Fire drills and fire drill documentation must be in accordance with the State of Utah Fire Prevention Board, R710-4.

R432-200-2. Purpose. [small health care facilities]
This rule allows services at varying levels of health care intensity to be provided in structures that depart from the traditional institutional setting. Health care may be delivered in a less restrictive, residential, or home-like setting. Small health care facilities are categorized as Level I, Level II, Level III, or Level IV according to the resident’s ability or capability for self-preservation.

R432-200-3. Compliance. [small health care facilities]
All small health care facilities shall be in full compliance at the time of licensure. All Medicare and Medicaid certified facilities must comply with Title XVIII and Title XIX regulations.

R432-200-7. Administration and Organization. [small health care facilities]
(1) Organization. Each facility shall be operated by a licensee.
(2) Duties and Responsibilities. The licensee shall be responsible for compliance with Utah law and licensure requirements and for the organization, management, operation, and control of the facility. Responsibilities shall include at least the following:
(a) Comply with all federal, state and local laws, rules, and regulations;
(b) Adopt and institute by-laws, policies and procedures relative to the general operation of the facility including the health care of the residents and the protection of their rights;
(c) Adopt a policy that states the facility will not discriminate on the basis of race, color, sex, religion, ancestry or national origin in accordance with Section 13-7-1;
(d) Appoint, in writing, a qualified administrator to be responsible for the implementation of facility by-laws and policies and procedures, and for the overall management of the facility;
(e) Secure and update contracts for professional and other services;
(f) Receive and respond, as appropriate, to the annual licensure inspection report by the Department;
(g) Notify the Department, in writing, at least 30 days prior to, but not later than five days after, a change of administrator. The notice shall include the name of the new administrator and the effective date of the change.

(3) Administrator.
(a) Administrator's Appointment.
Each facility shall appoint, in writing, an administrator professionally licensed by the Utah Department of Commerce in a health care field.
(b) A copy of the administrator's license or credentials shall be posted alongside the facility's license in a place readily visible to the public.
(c) The administrator shall act as the administrator of no more than four small health care facilities (or a maximum of 60 beds) at any one time.
(d) The administrator shall have sufficient freedom from other responsibilities and shall be on the premises of the facility a sufficient number of hours in the business day (at least four hours per week for each six residents) and as necessary to properly manage the facility and respond to appropriate requests by the Department.
(e) The administrator shall designate, in writing, the name and title of the person who shall act as administrator in his absence. This person shall have sufficient power, authority, and freedom to act in the best interests of resident safety and well-being. It is not the intent of this paragraph to permit an unlicensed de facto administrator to supplant or replace the designated, licensed administrator.

(4) Administrator Responsibilities. The administrator shall have the following responsibilities:
(a) Complete, submit and file all records and reports required by the Department;
(b) Act as a liaison among the licensee, medical and nursing staff, and other supervisory staff of the facility, as appropriate, and respond to recommendations of the quality assurance committee;
(c) Assure that employees are oriented to their job functions and receive appropriate in-service training;
(d) Implement policies and procedures for the operation of the facility;
(e) Hire and maintain the required number of licensed and non-licensed staff as specified in these rules to meet the needs of residents;
(f) Maintain facility staffing records for 12 months;
(g) Secure and update contracts required for professional and other services not provided directly by the facility;
(h) Verify all required licenses and permits of staff and consultants at the time of hire and effective date of contract;
(i) Review all incident and accident reports and take appropriate action.

(5) Medical Director.
The administrator of each facility shall retain, by formal agreement, a licensed physician to serve as medical director or advisory physician on a consulting basis according to the residents' and facility's needs.

(6) Medical Director Responsibilities.
The medical director or advisory physician shall have responsibility for at least the following:
(a) Review or develop written resident-care policies and procedures including the delineation of responsibilities of attending physicians;
(b) Review resident-care policies and procedures annually with the administrator;
(c) Serve as liaison between the resident's physician and the administrator;
(d) Serve as a member of the quality assurance committee (see R432-200-10);
(e) Review incident and accident reports at the request of the administrator to identify health hazards to residents and employees;
(f) Act as consultant to the health services supervisor in matters relating to resident-care policies.

(7) Staff and Personnel.
(a) Organization.
The administrator shall employ qualified personnel who are able and competent to perform their respective duties, services, and functions.
(b) Qualifications and Orientation.
(i) The administrator shall develop job descriptions including job title, job summary, responsibilities, qualifications, required skills and licenses, and physical requirements for each position or employee.
(ii) Periodic employee performance evaluations shall be documented.
(iii) All personnel shall have access to the facility's policies and procedures manuals, resident-care policies, therapeutic manuals, and other information necessary to effectively perform their duties and carry out their responsibilities.
...(9) In-service Training.
There shall be planned and documented in-service training for all facility personnel. The following topics shall be addressed annually:
(a) Fire prevention (see R432-200-11);
(b) Accident prevention and safety procedures including instruction in the following:
   (i) Body mechanics for all employees required to lift, turn, position, or ambulate residents;
   (ii) Proper safety precautions when floors are wet or waxed;
   (iii) Safety precautions and procedures for heat lamps, hot water bottles, bathing and showering temperatures;
(c) Review and drill of emergency procedures and evacuation plan (See R432-20011);
(d) Prevention and control of infections (see R432-150-25);
(e) Confidentiality of resident information;
(f) Residents' rights;
(g) Behavior Management and proper use and documentation of restraints;
(h) Oral hygiene and first aid; and
(i) Training in the principles of Cardiopulmonary Resuscitation (CPR) for licensed nursing personnel and others as appropriate;
(j) Training in habilitative care;
(k) Reporting abuse, neglect and exploitation.

R432-200-9. Contracts and Agreements.[small health care facilities]
(2) Transfer Agreements.
(a) The licensee shall maintain, a written transfer agreement with one or more hospitals (or nearby health facilities) to facilitate the transfer of residents and essential resident information.
(b) The transfer agreement shall include provisions for:
   (i) Criteria for transfer;
   (ii) Appropriate methods of transfer;
   (iii) Transfer of information needed for proper care and treatment of the individual being transferred;
   (iv) Security and accountability of the personal property of the individual being transferred;
   (v) Proper notification of the hospital and next of kin or responsible person before transfer.

R432-200-10. Quality Assurance. [small health care facilities]
(1) The administrator shall monitor the quality of services offered by the facility through the formation of a committee that addresses infection control, pharmacy, therapy, resident care, and safety, as applicable.

(2) The committee shall include the administrator, consulting physician or medical director, health services supervisor, and consulting pharmacist. Special program directors and maintenance and housekeeping personnel shall serve as necessary.

(3) The committee shall meet quarterly and keep minutes of the proceedings.

(4) Infection Control Requirements. See R432-150-11.

(5) Pharmacy Requirements. Based on the services offered, the committee shall:
(a) Monitor the pharmaceutical services in the facility;
(b) Recommend changes to improve pharmaceutical services;
(c) Evaluate medication usage; and
(d) Develop and review pharmacy policies and procedures annually, and recommend changes to the administrator and licensee.

(6) Resident Care Requirements. Based on the services offered, the committee shall address the following:
(a) Review, at least annually, the facility's resident care policies including rehabilitative and habilitative programs, as appropriate.
(b) Make recommendations to the medical director and advisory physician as appropriate;
(c) Review recommendations from other facility committees to improve resident care.

(7) Safety Requirements. Based on the services offered, the committee shall address the following:
(a) Review all incident and accident reports and recommend changes to the administrator to prevent or reduce their reoccurrence;
(b) Review facility safety policies and procedures, at least annually, and make recommendations;
(c) Establish a procedure to inspect the facility periodically for hazards. An inspection report shall be filed with the Committee.

R432-200-11. Emergency and Disaster.[ small health care facilities]

(1) Facilities have the responsibility to assure the safety and well-being of their residents in the event of an emergency or disaster. An emergency or disaster may include utility interruption, explosion, fire, earthquake, bomb threat, flood, windstorm, or epidemic.

(2) Policies and Procedures.
(a) The licensee and the administrator shall be responsible for the development of a plan, coordinated with state and local emergency or disaster authorities, to respond to emergencies and disasters.
(b) The written plan shall be distributed to all facility staff to assure prompt and efficient implementation.
(c) The plan shall be reviewed and updated to conform with local emergency plans, at least annually, by the administrator and the licensee.
(d) The plan shall be available for review by the Department.

(3) Staff and residents shall receive education, training, and drills to respond in an emergency.
(a) Drills and training shall be documented and comply with applicable laws and regulations.
(b) The name of the person in charge and names and telephone numbers of emergency medical personnel, agencies, and emergency transport systems shall be posted.

(4) Emergency Procedures. The facility's response procedures shall address the following:
(a) Evacuation of occupants to a safe place within the facility or to another location;
(b) Delivery of essential care and services to facility occupants by alternate means;
(c) Delivery of essential care and services when additional persons are housed in the facility during an emergency;
(d) Delivery of essential care and services to facility occupants when staff is reduced by an emergency;
(e) Maintenance of safe ambient air temperatures within the facility;
(i) Emergency heating plans must have the approval of the local fire department.
(ii) An ambient air temperature of 58 degrees F (14 degrees C) or less constitutes an imminent danger to the health and safety of the residents in the facility. The person in charge shall take immediate and appropriate action in the best interests of the resident.
(5) Emergency Plan.
(a) The facility’s emergency plan shall delineate:
(i) The person or persons with decision-making authority for fiscal, medical, and personnel management;
(ii) On-hand personnel, equipment, and supplies and how to acquire additional help, supplies, and equipment after an emergency or disaster;
(iii) Assignment of personnel to specific tasks during an emergency;
(iv) Methods of communicating with local emergency agencies, authorities, and other appropriate individuals;
(v) The individuals who shall be notified in an emergency in the order of priority. Telephone numbers shall be accessible to staff at each nurse’s station;
(vi) Methods of transporting and evacuating residents and staff to other locations;
(vii) Conversion of facility for emergency use.
(b) Documentation of emergency events and responses and a record of residents and staff evacuated from the facility to another location shall be kept. Any resident emergency shall be documented in the resident’s record.
(c) Drills shall be held semi-annually for all residents and staff.
(d) There shall be regular in-service training on disaster preparedness.
(6) Fire Emergencies.
(a) The licensee and administrator shall develop a written fire-emergency and evacuation plan in consultation with qualified fire safety personnel.
(b) An evacuation plan delineating evacuation routes, location of fire alarm boxes, fire extinguishers, and emergency telephone numbers of the local fire department shall be posted throughout the facility.
(c) The written fire-emergency plan shall include fire-containment procedures and how to use alarm systems and signals.
(d) Fire and internal disaster drills shall be held, at least quarterly, under varied conditions for each shift.
(i) The actual evacuation of residents during a drill is optional except in a facility caring for residents who are capable of self-preservation.
(ii) The actual evacuation of residents during a drill on the night shift is optional.

R432-200-15. Nursing Care. [small health care facilities]
(b) All licensed nursing personnel shall maintain current Utah licenses to practice nursing.
(2) Responsibilities of the Health Services Supervisor.
The health services supervisor shall have the following responsibilities and comply with R432-1-3(55):
...(j) Coordinate resident services through the quality assurance committees (see R432-200-10);
...(n) Plan and conduct documented orientation and in-service programs for staff.

R432-200-25. Laboratory and Radiology Services. [small health care facilities]
(1) The facility shall make provision for laboratory and radiology services.
(2) See R432-150-18, Laboratory Services, and R432-150-23, Ancillary Health Services.
R432-200-26. Dental Services. [small health care facilities]  
The facility shall make provision for annual and emergency dental care for residents. Such provisions shall include:  
...(2) Presenting oral hygiene in-service programs by knowledgeable persons to both staff and residents...

R432-200-27. Specialized Rehabilitative Services. [small health care facilities]  
...(2) Personnel.  
(a) Specialized rehabilitative services shall be provided by qualified licensed therapists in accordance with Utah law and accepted practices.

R432-200-28. Medical Records. [small health care facilities]  
(1) Organization  
(a) Medical records shall be complete, accurately documented, and systematically organized to facilitate retrieval and compilation.  
(b) There shall be written policies and procedures to accomplish these purposes.  
(c) The medical record service shall be under the direction of a registered record administrator (RRA) or an accredited record technician (ART).  
(d) If an RRA or an ART is not employed at least part-time, the facility shall consult at least annually with an RRA or ART according to the needs of the facility.  
(e) A designated individual in the facility shall be responsible for day-to-day record keeping.  
(2) Retention and Storage.  
(a) Provision shall be made for the filing, safe storage, and easy accessibility of medical records.  
(i) The record and its contents shall be safeguarded from loss, defacement, tampering, fires, and floods.  
(ii) Records shall be protected against access by unauthorized individuals.  
(b) Medical records shall be retained for at least seven years after the last date of resident care. Records of minors shall be retained until the minor reaches age 18 or the age of majority plus an additional two years. In no case shall the record be retained less than seven years.  
(c) All resident records shall be retained within the facility upon change of ownership.  
(d) When a facility ceases operation, provision shall be made for appropriate safe storage and prompt retrieval of all medical records.  
(3) Release of Information.  
(a) There shall be written procedures for the use and removal of medical records and the release of information.  
(b) Medical records shall be confidential.  
(i) Information may be disclosed only to authorized persons in accordance with federal, state, and local laws.  
(ii) Requests for other information which may identify the resident (including photographs) shall require the written consent of the resident or guardian if the resident is judged incompetent.  
(c) Authorized representatives of the Department may review records to determine compliance with licensure rules and standards.  
(4) Physician or Licensed Practitioner Documentation  
Rubber-stamp signatures may be used in lieu of the written signature of the physician or licensed practitioner if the facility retains the signator’s signed statement acknowledging ultimate responsibility for the use of the stamp and specifying the conditions for its use.  
(5) Medical Record.  
(a) Records shall be permanent (typewritten or hand written legibly in ink) and capable of being photocopied.
(b) Records shall be kept for all residents admitted or accepted for treatment and care.
(c) Records shall be kept current and shall conform to good medical and professional practice based on the service provided to each resident.
(d) All records of discharged residents shall be completed and filed within 60 days of discharge.
(e) All entries shall be authenticated including date, name or identified initials, and title of persons making entries.
(6) Contents of the Medical Record
A facility shall maintain an individual medical record for each resident which shall include:
(a) Admission record (face sheet) including the resident’s name; social security number; age at admission; birth date; date of admission; name, address, telephone number of spouse, guardian, authorized representative, person or agency responsible for the resident; and name, address, and telephone number of the attending physician;
(b) Admission and subsequent diagnoses and any allergies;
(c) Reports of physical examinations signed and dated by the physician;
(d) Signed and dated physician orders for drugs, treatments, and diet;
(e) Signed and dated progress notes including but not limited to:
(i) Records made by staff regarding the daily care of the resident;
(ii) Informative progress notes by appropriate staff recording changes in the resident’s condition. Progress notes shall describe the resident’s needs and response to care and treatment, and shall be in accord with the plan of care;
(iii) Documentation of administration of all "PRN" medications and the reason for withholding scheduled medications;
(iv) Documentation of use of restraints in accordance with facility policy including type of restraint, reason for use, time of application, and removal;
(v) Documentation of oxygen administration;
(vi) Temperature, pulse, respiration, blood pressure, height, and weight notations, when required;
(vii) Laboratory reports of all tests prescribed and completed;
(viii) Reports of all x-rays prescribed and completed;
(ix) Records of the course of all therapeutic treatments;
(x) Discharge summary including a brief narrative of conditions and diagnoses of the resident and final disposition;
(xi) A copy of the transfer form when the resident is transferred to another health care facility;
(xii) Resident-care plan.

VERMONT
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1. GENERAL PROVISIONS
1.1 Statement of Purpose and Scope
It is the purpose of these rules to implement state and federal law governing the licensing, operation, and standard of care in nursing homes located in the State of Vermont. Compliance with these rules will help each resident attain or maintain the highest practicable physical, mental and psychosocial well-being in accordance with a comprehensive assessment and plan of care and prevailing standards of care, and will promote a standard of care that assures that the ability of each resident to perform activities of daily living does not diminish unless the resident’s ability is diminished solely as a result of a change in the resident’s clinical condition.

2. NURSING FACILITY LICENSING
2.7 Special Care Units
(a) The facility must obtain approval from the licensing agency prior to establishing and operating a Special Care Unit. Approval will be based on a demonstration that the Unit will provide specialized services to a specific population.
(b) A request for approval must include all of the following:
   (1) a statement outlining the philosophy and purpose of the unit, including a description of the form of care, program or scope of services to be provided that distinguishes it as being especially applicable to or suitable for residents;
   (2) a definition of the categories of residents to be served;
   (3) a description of the organizational structure of the unit consistent with the unit's philosophy, purpose and scope of services;
   (4) a description and identification of physical environment;
   (5) the criteria for admission, continued stay and discharge which shall also include any criteria used for moving residents within the facility, into or out of a unit; and
   (6) a description of unit staffing to include:
      (i) staff qualifications,
      (ii) orientation,
      (iii) in-service education and specialized training, and
      (iv) medical management and credentialing as necessary.
... (d) Dementia units shall meet the following staffing and staff training requirements:
   (1) Dementia units must provide initial training in addition to general facility training to include eight hours of classroom orientation for all employees assigned to the unit and an additional eight hours of clinical orientation to all nursing employees assigned to the unit. The eight hours of classroom work must include:
      (i) A general overview of Alzheimer's disease and related dementia;
      (ii) Communication basics;
      (iii) Creating a therapeutic environment;
      (iv) Activity focused care;
      (v) Dealing with difficult behaviors; and
      (vi) Family issues.
   (2) Ongoing in-service training shall be provided to all nursing and non-nursing staff, including volunteers, who have any direct contact with residents of the unit. Staff training shall occur at least quarterly. The facility will maintain records of all staff training provided and the qualifications of the presenter. Training over 12 months must include the following subjects:
      (i) Alzheimer's disease and related dementias, including but not limited to, possible causes, general statistics, risk factors, diagnosis, stages and symptoms, and current treatments and research trends;
      (ii) Communication, including training related to communication losses that result with dementia, non-verbal techniques, techniques to enhance communication, validation as an approach, and environmental factors that affect communication;
      (iii) Ways to create a therapeutic environment, including safety issues, effective strategies for providing care, background noise, staff behavior, and consistency;
      (iv) Activity-focused care, including personal care, nutrition and dining, structured leisure, and sexuality;
      (v) Dealing with difficult behaviors, including but not limited to, strategies to deal with common behavioral issues such as wandering, sundowning, combativeness, paranoia and ignoring self-care; and
      (vi) Family issues such as grief, loss education and support.
(e) Failure to provide the care, treatment, program or scope of services set forth in the request for approval from the licensing agency shall constitute a violation of these rules.
(f) Facilities with existing special care units shall comply with the requirements of subsections (b) and (d) on the date on which the rules take effect. Such facilities shall meet the requirements of subsection (c) as soon as practicable, but no later than six months from the effective date of the rules. Facilities that cannot come into compliance within that time period may request a variance pursuant to section 1.5 of these rules.

2.9 Reports to the Licensing Agency
The following reports must be filed with the licensing agency:
(a) At any time a fire occurs in the home, regardless of the size or damage, the licensing agency and the Department of Labor and Industry must be notified by the next business day. A written report must be submitted to both departments by the next business day. A copy of the report shall be kept on file in the facility.
(b) Any untimely death that occurs as a result of an untoward event, such as an accident that results in hospitalization, equipment failure, use of restraint, etc., shall be reported to the licensing agency by the next business day, followed by a written report that details and summarizes the event.
(c) Any unexplained or unaccounted for absence of a resident for a period of more than 30 minutes shall be reported promptly to the licensing agency. A written report must be submitted by the close of the next business day.
(d) Any breakdown or cessation to the facility's physical plant that has a potential for harm to the residents, such as a loss of water, power, heat or telephone communications, etc., for four hours or more, shall be reported within 24 hours to the licensing agency.

3. RESIDENTS' RIGHTS
3.1 Nursing Facility Policies and Procedures
(a) The governing body of the facility shall establish written policies and procedures regarding the rights and responsibilities of residents.
(b) Through the administrator, the governing body is responsible for on-going development of and adherence to procedures implementing such policies.

3.17 Freedom from Restraints and Abuse
...(d) Staff treatment of residents.
(1) The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property.
(2) The facility must not use verbal, mental, sexual or physical abuse, corporal punishment, or involuntary seclusion.
(3) A nursing facility shall not employ individuals who have been:
   (i) found guilty of abusing, neglecting, exploiting or mistreating residents by a court of law; or
   (ii) have had a finding entered into the Vermont State Nurse Assistants Registry or the Vermont Adult Abuse Registry concerning abuse, neglect, exploitation or mistreatment of residents or misappropriation of their property.
(4) A nursing facility shall report any knowledge it has of actions by a court of law against an employee, which would indicate unfitness for service as a nurse aide or other facility staff to the Vermont State Nurse Assistants Registry or the appropriate licensing authority and the licensing agency. Actions by a court of law which indicate unfitness for service include a charge of abuse, neglect or exploitation substantiated against an employee or conviction of an offense for actions related to bodily injury, theft or misuse of funds or property, or other crimes inimical to the public welfare, in any jurisdiction within or outside the State of Vermont.
(f) The facility must ensure that all alleged violations involving mistreatment, neglect, exploitation, or abuse, including injuries of unknown source and misappropriation of resident property are
reported immediately to the administrator of the facility and the licensing agency and Adult Protective Services in accordance with 33 V.S.A. Chapter 69.

(g) The facility must have evidence that all alleged violations are thoroughly investigated, and must prevent further potential abuse while the investigation is in progress.

(h) The results of all investigations must be reported to the administrator or his or her designated representative and to the licensing agency in accordance with 33 V.S.A. Chapter 69, and if the alleged violation is verified, appropriate corrective action must be taken.

7.13 Nursing Services
...(c) Registered Nurse.
...(2) The facility must designate a registered nurse to serve as the director of nursing on a full time basis.

9. ADMINISTRATION
The facility must 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.

9.1 Licensure
(a) A facility must be licensed pursuant to 33 V.S.A. §§ 7103, 7105 and Section 2 of these rules.
(b) Compliance with Federal, State and local laws and professional standards. The facility must 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 such a facility.
(1) For standards governing the facility's water supply and sewage disposal, contact should be made with the state Department of Environmental Conservation.
(2) For standards governing construction and equipment of facilities, reference Guidelines for Construction and Equipment of Hospital and Medical Facilities, current edition.

9.2 Governing Body
(a) The facility must have a governing body, or designated persons functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operation of the facility; and
(b) The governing body shall appoint the administrator who shall be:
(1) licensed by the State of Vermont; and
(2) responsible for the management of the facility

10. NURSE AIDE TRAINING
10.1 Nurse Aide Registration
General Rule. A facility must not use an individual working in the facility as a nurse aide for more than 4 months, on a full time basis, unless that individual:
(a) is included on the Vermont State Nurse Assistants Registry; and
(b) is competent to provide nursing and nursing related services.

10.2 Non-Permanent Employees
A facility must not use on a temporary, per diem, leased or any basis other than a permanent employee any individual who does not meet the requirements in subsection 10.1.

10.3 Competency
A facility must not use any individual who has worked less than 4 months as a nurse aide in that facility unless the individual:
(a) is a full-time employee enrolled in a state approved training and competency evaluation program;
(b) has demonstrated competence through satisfactory participation in a state-approved nurse aide training and competency evaluation program; or
(c) is included on the Vermont State Nurse Assistants Registry.

10.4 Registry Verification
(a) Before allowing an individual to serve as a nurse aide, a facility must receive verification from the Vermont State Nurse Assistants Registry that the individual has met competency evaluation requirement unless:
(1) the individual is a full time employee in a training and competency evaluation program approved by the state; or
(2) the individual can prove that he or she has recently successfully completed a training and competency evaluation program or competency evaluation program approved by the state and has not yet been included in the registry. Facilities must follow up to ensure that such an individual actually becomes registered.
(b) Multi-State Registry Verification. Before allowing an individual to serve as a nurse aide, a facility must seek information from every State registry, established under 42 U.S.C. §§1395i-3(e)(2)(A) or 1396r(e)(2)(A), which the facility believes will include information on the individual.

10.5 Required Retraining
If, since an individual's most recent completion of a training and competency evaluation program, there has been a continuous period of 24 consecutive months during none of which the individual provided nursing or nursing-related services for monetary compensation, the individual must complete a new training and competency evaluation program or a new competency evaluation program.

10.6 Regular In-Service Education
(a) Performance reviews. The facility must complete a performance review of every nurse aide at least once every 12 months, and must provide regular in-service education based on the outcome of these reviews.
(b) In-service training. The in-service training must:
(1) be sufficient to ensure the continuing competence of nurse aides, but must be no less than 12 hours per year.
(2) address areas of weakness as determined in nurse aide’s performance reviews and may address special needs of residents as determined by the facility staff; and
(3) for nurse aides providing services to individuals with cognitive impairments, also address the care of the cognitively impaired.

10.7 Proficiency of Nurse Aides
The facility must ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents’ needs, as identified through resident assessments and described in the plan of care.

10.8 Developmental Services
Individuals providing specialized services to residents with development disabilities do not meet the definition of a nurse aide.

11. PROFESSIONAL STAFF
11.1 Professional Qualifications
Professional staff must be licensed, certified, or registered in accordance with applicable laws.
11.2 Use of Outside Resources
(a) If the facility does not employ a qualified professional person to furnish a specific service to be provided by the facility, the facility must have that service furnished to residents by a person or agency outside the facility under an arrangement as described in 42 U.S.C. §1395x(w) or an agreement as described in subsection 11.2(b).
(b) Arrangements as described in 42 U.S.C. §1395x(w) or agreements pertaining to services furnished by outside resources must specify in writing that the facility assumes responsibility for:
(1) obtaining services that meet professional standards and principles that apply to professionals providing services in such a facility; and
(2) the timeliness of the services.

11.3 Medical Director
(a) The facility must designate a physician to serve as medical director.
(b) The medical director is responsible for:
(1) implementation of resident care policies; and
(2) the coordination of medical care in the facility.

12. LABORATORY, RADIOLOGY, AND OTHER DIAGNOSTIC SERVICES
12.1 Laboratory Services
(a) The facility must provide or obtain laboratory services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.
(b) If the facility provides its own laboratory services, the services must meet the applicable requirements for laboratories specified in 42 C.F.R. Part 493.
(c) If the facility provides blood bank and transfusion services, it must meet the applicable requirements for laboratories specified in 42 C.F.R. Part 493.
(d) If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory must be certified in the appropriate specialties and sub-specialties of services in accordance with the requirements of 42 C.F.R. Part 493.
(e) If the facility does not provide laboratory services on site, it must have an agreement to obtain these services from a laboratory that meets the applicable requirements of 42 C.F.R. Part 493.
(f) The facility must:
(1) provide or obtain laboratory services only when ordered by the attending physician;
(2) promptly notify the attending physician of findings;
(3) assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance;
(4) file in the resident’s clinical record laboratory reports that are dated and contain the name and address of the testing laboratory; and
(5) ensure that transportation costs associated with obtaining laboratory services are not charged to a Medicaid recipient’s personal needs allowance.

12.2 Radiology and Other Diagnostic Services
(a) The facility must provide or obtain radiology and other diagnostic services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.
(b) If the facility provides its own diagnostic services, the services must meet the applicable conditions of participation for hospitals contained in 42 C.F.R. §482.26.
(c) If the facility does not provide its own diagnostic services, it must have an agreement to obtain these services from a provider or supplier that is approved to provide these services under Medicare.
(d) The facility must:
(1) provide or obtain radiology and other diagnostic services only when ordered by the attending physician;
(2) promptly notify the attending physician of the findings;
(3) assist the resident in making transportation arrangements to and from the source of the service, if the resident needs assistance;
(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; and
(5) ensure that the transportation costs associated with obtaining radiology and other diagnostic services are not charged to a Medicaid recipient's personal needs allowance.

13. CLINICAL RECORDS
13.1 Records Maintenance and Retention
(a) The facility must maintain clinical records on each resident in accordance with accepted professional standards and practices that are:
(1) complete;
(2) accurately documented;
(3) readily accessible; and
(4) systematically organized.
(b) All of an individual's clinical records must be retained for the longer of the following time periods:
(1) eight years from the date of discharge or death; or
(2) for a minor, three years after a resident reaches 18 years of age.
(c) The facility must safeguard clinical record information against loss, destruction or unauthorized use.
(d) The facility must ensure that each clinical record contains a recent photograph of the resident, unless the resident objects.
13.2 Confidentiality
The facility must keep confidential all information contained in the resident's records, regardless of the form or storage method of the records, except when release is required by:
(a) transfer to another health care institution;
(b) law;
(c) third party payment contract; or
(d) the resident.
13.3 Contents The clinical record must contain:
(a) sufficient information to identify the resident;
(b) a record of the resident's assessments;
(c) the plan of care and services provided;
(d) the results of any preadmission screening conducted by the state; and
(e) progress notes.

14. DISASTER AND EMERGENCY PREPAREDNESS
14.1 Written Plans
The facility must have detailed written plans and procedures, approved by the Department of Labor and Industry, to meet all potential emergencies and disasters, such as fire, severe weather, and missing residents.
14.2 Employee Training
The facility must train all employees in emergency procedures when they begin to work in the facility, periodically review the procedures with existing staff, and carry out unannounced staff drills using those procedures. Procedures shall include:
(a) At least an annual review of the facility disaster plan;
(b) Periodic staff instruction in disaster drills and information updates;
(c) Quarterly staff fire drills for all shifts; and
(d) Maintenance of written records and evaluations of all drills.

15. TRANSFER AGREEMENTS
15.1 Agreement with Hospital
The facility must have in effect a written transfer agreement with one or more hospitals approved for participation under the Medicare and Medicaid programs that reasonably assures that:
(a) residents will be transferred from the facility to the hospital, and ensured of timely admission to the hospital, when transfer is medically appropriate as determined by the attending physician; and
(b) medical and other information needed for care and treatment of residents, and, when the transferring facility deems it appropriate, for determining whether such residents can be adequately cared for in a less expensive setting than either the facility or the hospital, will be exchanged between the institutions.

16. QUALITY ASSESSMENT AND ASSURANCE
16.1 Quality Assessment Committee
(a) A facility must maintain a quality assessment and assurance committee consisting of:
(1) the director of nursing services;
(2) the medical director; and
(3) at least 3 other members of the facility's staff.
(b) The quality assessment and assurance committee must:
(1) meet at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary; and
(2) develop and implement appropriate plans of action to correct identified quality deficiencies.
16.2 Disclosure of Records
The State may not require disclosure of the records of such committee except insofar as such disclosure is related to the compliance of such committee with the requirements of this section.
16.3 Sanctions Good faith attempts by the committee to identify and correct quality deficiencies cannot be used as a basis for sanctions.

17. DISCLOSURE OF OWNERSHIP
17.1 Initial Disclosure The facility must comply with the disclosure requirements in subsection 2.5(b).
17.2 On-going Disclosure
The facility must provide written notice to the state agency responsible for licensing the facility, at the time of any change, if a change occurs in:
(a) persons with an ownership or control interest of 5% or more, or who have been convicted of Medicaid fraud;
(b) the officers, directors, agents or managing employees;
(c) the corporation, association or other company responsible for the management of the facility; or
(d) the facility’s administrator or director of nursing.
12 VAC 5-371-30. License.
...C. A separate license shall be required for nursing facilities maintained on separate premises, even though they are owned or are operated under the same management.
D. Every nursing facility shall be designated by a permanent and appropriate name. The name shall not be changed without first notifying the OLC.
...F. Nursing facility units located in and operated by hospitals shall be licensed under Regulations for the Licensure of Hospitals in Virginia (12 VAC 5-410-10). Approval for such units shall be included on the annual license issued to each hospital.

A. No person shall own, establish, conduct, maintain, manage, or operate any nursing facility, as defined in ‘32.1-123 of the Code of Virginia, without having obtained a license.
B. The nursing facility must comply with:
1. These regulations (12 VAC 5-371-10);
2. Other applicable federal, state or local laws and regulations; and
3. Its own policies and procedures.
C. The nursing facility shall submit, or make available, reports and information necessary to establish compliance with these regulations and applicable statutes.
D. The nursing facility shall submit, in a timely manner as determined by the center, and implement a written plan of action to correct any noncompliance with these regulations identified during an inspection. The plan shall include:
1. Description of the corrective action or actions to be taken;
2. Date of completion for each action; and
3. Signature of the person responsible for the operation.
E. The nursing facility shall permit representatives from the OLC to conduct inspections to:
1. Verify application information;
2. Determine compliance with this chapter;
3. Review necessary records; and
4. Investigate complaints.
F. The current license from the department shall be posted in a place clearly visible to the general public.
G. The nursing facility shall not operate more resident beds than the number for which it is licensed.
H. The nursing facility shall fully disclose its admission policies, including any preferences given, to applicants for admission.
I. The nursing facility shall identify its operating elements and programs, the internal relationship among these elements and programs, and the management or leadership structure.

12 VAC 5-371-120. Governing body.
A. The nursing facility shall have a governing body that is legally responsible for the management of the operation.
B. The governing body shall adopt written bylaws that describe the organizational structure and establish authority and responsibility in accordance with applicable laws, including a:
1. Statement of purpose;
2. Description of the functions of the governing body members, officers and committees;
3. Description of the method of adoption, implementation, and periodic review of policies and procedures; and
4. Description of the methods to be utilized to assure compliance with this chapter.

C. The governing body shall disclose the names and addresses of any individual or entity that holds 5% or more ownership interest in the operation of the nursing facility.

D. When the governing body is not the owner of the physical plant, the governing body shall disclose the name and address of the individual or entity responsible for the alterations, modifications, maintenance and repairs to the building.

E. The governing body shall notify the OLC in writing 30 days in advance of changes affecting the accuracy of the license. Changes affecting the accuracy of the license are:

1. Any proposed change in management contract or lease agreement to operate the nursing facility;
2. Implementing any proposed addition, deletion, or change in nursing facility services whether or not licensure is required;
3. Selling the facility; or
4. A change in ownership.

12 VAC 5-371-130. Administrator.

A. The governing body shall appoint an individual, on a full time basis, to serve as its onsite agent, responsible for the day-to-day administration and management.

B. The governing body shall provide the center with evidence that the individual appointed as administrator is:

1. Currently licensed by the Virginia Board of Long Term Care Administrators; or
2. Holds a current administrator’s license in another state and has filed an application for license with the Virginia Board of Long Term Care Administrators.

C. Within five working days of the effective date of termination of the administrator's employment, the governing body shall notify the OLC, in writing, of the name and qualifications of the replacement administrator of record or the acting administrator.

D. The governing body shall appoint a qualified administrator within 90 days of the effective date of the termination of the previously qualified administrator, and shall provide the OLC with written notification of the administrator's name, license number, and effective date of employment. An additional 30-day extension may be granted if a written request provides documentation that the individual designated as administrator is awaiting the final licensing decision of the Virginia Board of Long Term Care Administrators.

E. The governing body shall assure that administrative direction is provided at all times. The governing body, the administrator, or the chief executive officer shall designate, in writing, a qualified individual to act as the alternate nursing home administrator in the absence of the administrator of record.

12 VAC 5-371-140. Policies and procedures.

A. The nursing facility shall implement written policies and procedures approved by the governing body.

B. All policies and procedures shall be reviewed at least annually, with recommended changes submitted to the governing body for approval.

C. A written record of the annual policy review, including at least the review dates, participants, recommendations and action dates of the governing body, shall be maintained.

D. Administrative and operational policies and procedures shall include, but are not limited to:

1. Administrative records;
2. Admission, transfer and discharge;
3. Medical direction and physician services;
4. Nursing direction and nursing services;
5. Pharmaceutical services, including drugs purchased outside the nursing facility;
6. Dietary services;
7. Social services;
8. Activities services;
9. Restorative and rehabilitative resident services;
10. Contractual services;
11. Clinical records;
12. Resident rights and grievances;
13. Quality assurance and infection control;
14. Safety and emergency preparedness procedures; and
15. Professional and clinical ethics, including:
   a. Confidentiality of resident information;
   b. Truthful communication with residents;
   c. Observance of appropriate standards of informed consent and refusal of treatment; and
   d. Preservation of resident dignity, with special attention to the needs of the aged, the cognitively
      impaired, and the dying.
E. Personnel policies and procedures shall include, but are not limited to:
1. Written job descriptions that specify authority, responsibility, and qualifications for each job
   classification;
2. An on-going plan for employee orientation, staff development, in-service training and continuing
   education;
3. An accurate and complete personnel record for each employee including:
   a. Verification of current professional license, registration, or certificate or completion of a
      required approved training course;
   b. Criminal record check;
   c. Verification that the employee has reviewed or received a copy of the job description;
   d. Orientation to the nursing facility, its policies and to the position and duties assigned;
   e. Completed continuing education program approved for the employee as determined by the
      outcome of the annual performance evaluation;
   f. Annual employee performance evaluations; and
   g. Disciplinary action taken.
4. Employee health-related information retained in a file separate from personnel files.
F. Financial policies and procedures shall include, but not be limited to:
1. Admission agreements;
2. Methods of billing:
   a. Services not included in the basic daily or monthly rate;
   b. Services delivered by contractors of the nursing facility; and
   c. Third party payers;
3. Resident or designated representative notification of changes in fees and charges;
4. Correction of billing errors and refund policy;
5. Collection of delinquent resident accounts; and
6. Handling of resident funds.
G. Policies shall be made available for review, upon request, to residents and their designated
   representatives.
H. Policies and procedures shall be readily available for staff use at all times.

12 VAC 5-371-150. Resident rights.
A. The nursing facility shall develop and implement policies and procedures that ensure resident's
   rights as defined in ' 32.1-138 and 32.1-138.1 of the Code of Virginia.
B. The procedures shall:


**12 VAC 5-371-170. Quality assessment and assurance.**
A. The nursing facility shall maintain a quality assessment and assurance committee consisting of at least the following individuals:
1. The director of nursing services;
2. A physician designated by the facility; and
3. At least three other members of the facility staff one of whom demonstrates an ability to represent the rights and concerns of residents.
B. The quality assessment and assurance committee shall:
1. Meet at least quarterly to identify issues which would improve quality of care and services provided to residents; and
2. Develop and implement appropriate plans of action to correct identified deficiencies.
C. The nursing facility shall document compliance with these requirements.

C. The infection control program addressing the surveillance, prevention and control of facility wide infections shall include:
3. Training of staff in proper handwashing techniques, according to accepted professional standards, to prevent cross contamination...
10. Staff education regarding infection risk-reduction behavior.

**12 VAC 5-371-190. Safety and emergency procedures.**
A. A written emergency preparedness plan shall be developed, reviewed, and implemented when needed. The plan shall address responses to natural disasters, as well as fire or other emergency which disrupts the normal course of operations. The plan shall address provisions for relocating residents and also address staff responsibilities for:
1. Alerting emergency personnel and sounding alarms;
2. Implementing evacuation procedures including the evacuation of residents with special needs;
3. Using, maintaining and operating emergency equipment;
4. Accessing resident emergency medical information; and
5. Utilizing community support services.
B. All staff shall participate in periodic emergency preparedness training.
C. Staff shall have documented knowledge of, and be prepared to implement, the emergency preparedness plan in the event of an emergency.
D. At least one telephone shall be available in each area to which residents are admitted and additional telephones or extensions as are necessary to ensure availability in case of need.
E. In the event of a disaster, fire, emergency or any other condition that may jeopardize the health, safety and well-being of residents, the organization shall notify the OLC of the conditions and status of the residents and the licensed facility as soon as possible.
F. The nursing facility shall have a policy on smoking.

**12 VAC 5-371-200. Director of nursing.**
A. Each nursing facility shall employ a full-time director of nursing to supervise the delivery of nursing services. The individual hired shall be a registered nurse licensed by the Virginia Board of Nursing.
B. The duties and responsibilities of the director of nursing shall include, but are not limited to:
3. Participating in the employment of nursing personnel, including: ...(iv) orientation, (v) in-service education...
9. Recommending and coordinating the training needs of nursing staff with the individual responsible for in-service training.


F. Before allowing a nurse aide to perform resident care duties, the nursing facility shall verify that the individual is:
   1. A certified nurse aide in good standing;
   2. Enrolled full-time in a nurse aide education program approved by the Virginia Board of Nursing; or
   3. Has completed a nurse aide education program or competency testing, but has not yet been placed on the nurse aide registry.

G. Any person employed to perform the duties of a nurse aide on a permanent full-time, part-time, hourly, or contractual basis must be registered as a certified nurse aide within 120 days of employment.

H. Nurse aides employed or provided by a temporary personnel agency shall be certified to deliver nurse aide services.

12 VAC 5-371-230. Medical direction.

A. Each nursing facility shall have a written agreement with one or more physicians licensed by the Virginia Board of Medicine to serve as medical director.

B. The duties of the medical director shall include, but are not limited to:
   1. Advising the administrator and the director of nursing on medical issues, including the criteria for residents to be admitted, transferred or discharged from the nursing facility;
   2. Advising on the development and execution of policies and procedures that have a direct effect upon the quality of medical and nursing care delivered to residents;
   3. Acting as liaison and consulting with the administrator and the attending physician on matters regarding medical and nursing care policies and procedures of the nursing facility;
   4. Advising and providing consultation to the nursing facility staff regarding communicable diseases, infection control and isolation procedures, and serving as liaison with local health officials;
   5. Providing temporary physician services when the admitting physician is not the attending physician, in order to assure that the resident has temporary medical orders;
   6. Providing physician services in case of emergency in the event that the resident’s attending physician cannot be reached; and
   7. Advising on the development and execution of an employee health program, which shall include provisions for determining that employees are free of communicable diseases according to current acceptable standards of practice.

12 VAC 5-371-260. Staff development and inservice training.

A. All full time, part-time and temporary personnel shall receive orientation to the facility commensurate with their function or job-specific responsibilities.

B. All resident care staff shall receive annual inservice training commensurate with their function or job-specific responsibilities in at least the following:
   1. Special needs of residents as determined by the facility staff;
   2. Prevention and control of infections;
   3. Fire prevention or control and emergency preparedness;
   4. Safety and accident prevention;
   5. Restraint use, including, alternatives to physical and chemical restraints;
   6. Confidentiality of resident information;
7. Understanding the needs of the aged and disabled;
8. Resident rights, including personal rights, property rights and the protection of privacy, and procedures for handling complaints;
9. Care of the cognitively impaired;
10. Basic principles of cardiopulmonary resuscitation for licensed nursing staff and the Heimlich maneuver for nurse aides; and

C. The nursing facility shall have an ongoing training program that is planned and conducted for the development and improvement of skills of all personnel.

D. The nursing facility shall maintain written records indicating the content of and attendance at each orientation and in service training program.

E. The nursing facility shall provide inservice programs, based on the outcome of annual performance evaluations, for nurse aides.

F. Nurse aide inservice training shall consist of at least 12 hours per anniversary year.

G. The nursing facility shall provide training on the requirements for reporting adult abuse, neglect, or exploitation and the consequences for failing to make such a required report to all its employees who are licensed to practice medicine or any of the healing arts, serving as a hospital resident or intern, engaged in the nursing profession, working as a social worker, mental health professional or law-enforcement officer and any other individual working with residents of the nursing facility.

12 VAC 5-371-310. Diagnostic services.
A. The nursing facility shall provide, or arrange for under written agreement, laboratory, x-ray and other diagnostic services, as ordered by a physician.

B. The nursing facility shall notify the attending physician of the results of diagnostic services.


D. The dietitian's duties shall include the following:

3. Assisting in planning and conducting regularly scheduled inservice training that includes, but is not limited to:
   a. Therapeutic diets;
   b. Food preparation requirements; and
   c. Principles of sanitation.


A. The nursing facility shall maintain an organized clinical record system in accordance with recognized professional practices. Written policies and procedures shall be established specifying content and completion of clinical records.

B. Clinical records shall be confidential. Only authorized personnel shall have access as specified in §8.01-413 and § 32.1-127.1:03 of the Code of Virginia.

C. Records shall be safeguarded against destruction, fire, loss or unauthorized use.

D. Overall supervisory responsibility for assuring that clinical records are maintained, completed and preserved shall be assigned to an employee of the nursing facility. The individual shall have work experience or training which is consistent with the nature and complexity of the record system and be capable of effectively carrying out the functions of the job.

E. An accurate and complete clinical record shall be maintained for each resident and shall include, but not be limited to:

1. Resident identification;
2. Designation of attending physician;
3. Admitting information, including resident medical history, physical examination and diagnosis;
4. Physician orders, including all medications, treatments, diets, restorative and special medical procedures required;
5. Progress notes written at the time of each visit;
6. Documented evidence of assessment of resident’s needs, establishment of an appropriate treatment plan, and interdisciplinary plan of care;
7. Nurse’s notes written in chronological order and signed by the individual making the entry;
8. All symptoms and other indications of illness or injury, including date, time, and action taken on each shift;
9. Medication and treatment record, including all medications, treatments and special procedures performed;
10. Copies of radiology, laboratory and other consultant reports; and
11. Discharge summary.

F. Verbal orders shall be immediately documented in the clinical record by the individual authorized to accept the orders, and shall be countersigned.

G. Clinical records of discharged residents shall be completed within 30 days of discharge.

H. Clinical records shall be kept for a minimum of five years after discharge or death, unless otherwise specified by state or federal law.

I. Permanent information kept on each resident shall include:
   1. Name;
   2. Social security number;
   3. Date of birth;
   4. Date of admission and discharge; and
   5. Name and address of guardian, if any.

J. Clinical records shall be available to residents and legal representatives, if they wish to see them.

K. When a nursing facility closes, the owners shall make provisions for the safekeeping and confidentiality of all clinical records.

12 VAC 5-371-400. Unique design solutions.
A. All unique design solutions shall be described with outcome measures. This shall be reviewed in cooperation with the OLC.
B. The description and outcome measures shall be a part of the material used to review the design solution at the time of the facility survey.
C. All unique design solutions, unless specifically excluded by contract, shall comply with Parts II (12 VAC 5-371-110 et seq.) and III (12 VAC 5-371-200 et seq.) of this chapter.

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388-97-0020 Nursing facility care.
The nursing facility must provide items, care, and services in accordance with this chapter and with federal regulations under 42 C.F.R. § 483.1 through 483.206, or successor laws, and other applicable federal requirements.
Prevention of abuse.

(1) Each resident has the right to be free from verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion.

(2) The nursing home must develop and implement written policies and procedures that:
   (a) Prohibit abandonment, abuse, and neglect of residents, financial exploitation, and misappropriation of resident property; and
   (b) Require staff to report possible abuse, and other related incidents, as required by chapter 74.34 RCW, and for skilled nursing facilities and nursing facilities as required by 42 C.F.R. § 483.13.

(3) The nursing home must not allow staff to:
   (a) Engage in verbal, mental, sexual, or physical abuse;
   (b) Use corporal punishment;
   (c) Involuntarily seclude, abandon, neglect, or financially exploit residents; or
   (d) Misappropriate resident property.

(4) The nursing home must report any information it has about an action taken by a court of law against an employee to the department’s complaint resolution unit and the appropriate department of health licensing authority, if that action would disqualify the individual from employment as described in RCW 43.43.842.

(5) The nursing home must ensure that all allegations involving abandonment, abuse, neglect, financial exploitation, or misappropriation of resident property, including injuries of unknown origin, are reported immediately to the department, other applicable officials, and the administrator of the facility. The nursing home must:
   (a) Ensure that the reports are made through established procedures in accordance with state law including chapter 74.34 RCW, and guidelines developed by the department; and
   (b) Not have any policy or procedure that interferes with the requirement of chapter 74.34 RCW that employees and other mandatory reporters file reports directly with the department, and also with law enforcement, if they suspect sexual or physical assault has occurred.

(6) The nursing home must:
   (a) Have evidence that all alleged violations are thoroughly investigated;
   (b) Prevent further potential abandonment, abuse, neglect, financial exploitation, or misappropriation of resident property while the investigation is in progress; and
   (c) Report the results of all investigations to the administrator or his designated representative and to other officials in accordance with state law and established procedures (including the state survey and certification agency) within five working days of the incident, and if the alleged violation is verified appropriate action must be taken.

(7) When a mandated reporter has:
   (a) Reasonable cause to believe that a vulnerable adult has been abandoned, abused, neglected, financially exploited, or a resident’s property has been misappropriated, the individual mandatory reporter must immediately report the incident to the department’s aging and disability services administration (ADSA);
   (b) Reason to suspect that a vulnerable adult has been sexually or physically assaulted, the individual mandatory reporter must:
      (i) Immediately report the incident to the department’s aging and disability services administration (ADSA);
      Notify local law enforcement in accordance with the provisions of chapter 74.34 RCW.
Under RCW 74.34.053, it is:
   (a) A gross misdemeanor for a mandated reporter knowingly to fail to report as required under this section; and
   (b) A misdemeanor for a person to intentionally, maliciously, or in bad faith make a false report of alleged abandonment, abuse, financial exploitation, or neglect of a vulnerable adult.
(9) The nursing home must not employ individuals who are disqualified under the requirements of WAC 388-97-1820.

388-97-1040 Dementia care.
(1) A nursing home must ensure that it provides residents with dementia with an environment designed to attain or maintain the highest level of functioning and well-being possible, taking into consideration the resident’s medical condition and functional status. Therefore, the nursing home must:
(a) Have a program designed to meet the identified needs of the residents;
(b) Develop and implement program policies and procedures; and
(c) Train all staff, who have resident contact, in the special needs and care approaches applicable to residents with dementia. This training must be ongoing and consistent with requirements under WAC 388-97-1680 (2)(b).

388-97-1080 Nursing services.
...(2) The nursing home must:
...(b) Have a full time director of nursing service who is a registered nurse.

388-97-1160 Dietary personnel.
The nursing home...must:
(1) Employ a qualified dietitian either full-time, part-time or on a consultant basis who must:
...(c) Provide services which include:
...(iii) Inservice training...

388-97-1300 Pharmacy services.
...(4) The nursing home must ensure:
(a) Education and training for nursing home staff by the licensed pharmacist on drug-related subjects including, but not limited to:
(i) Recognized and accepted standards of pharmacy practice and applicable pharmacy laws and rules;
(ii) Appropriate monitoring of residents to determine desired effect and undesirable side effects of drug regimens; and
(iii) Use of psychotropic drugs.

388-97-1620 General administration.
(1) The nursing home must 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.
(2) The nursing home must:
(a) Be licensed under chapter 18.51 RCW;
(b) Operate and provide services in compliance with:
(i) All applicable federal, state and local laws, regulations, and codes;
(ii) Accepted professional standards and principles that apply to professionals providing services in nursing homes; and
(c) Have a governing body or designated individuals functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operation of the nursing home.

(3) The governing body of the nursing home must appoint the administrator who:
(a) Is licensed by the state;
(b) Is responsible for management of the nursing home;
(c) Keeps the licensee informed of all surveys and notices of noncompliance;
(d) Complies with all requirements of chapter 18.52 RCW, and all regulations adopted under that chapter;
(e) Is an on-site, full-time individual in active administrative charge at the premises of only one nursing home, a minimum of four days and an average of forty hours per week. Exception: On-site, full-time administrator with small resident populations or in rural areas will be defined as an individual in active administrative charge at the premises of only one nursing home:
(i) A minimum of four days and an average of twenty hours per week at facilities with one to thirty beds; or
(ii) A minimum of four days and an average of thirty hours per week at facilities with thirty-one to forty-nine beds.

(4) Nursing homes temporarily without an administrator may operate up to four continuous weeks under a responsible individual authorized to act as nursing home administrator designee.
(a) The designee must be qualified by experience to assume designated duties; and
(b) The nursing home must have a written agreement with a nursing home administrator, licensed in the state of Washington, who must be readily available to consult with the designee.
(c) The nursing home may make a written request to the department's designated aging and disability services administration field office for an extension of the four weeks by stating why an extension is needed, how a resident's safety or well-being is maintained during an extension and giving the estimated date by which a full-time, qualified nursing home administrator will be on-site.

(5) The nursing home must employ on a full-time, part time or consultant basis those professionals necessary to carry out the requirements of this chapter.

(6) If the nursing home does not employ a qualified professional individual to furnish a specific service to be provided by the nursing home, the nursing home must:
(a) Have that service furnished to residents by an individual or agency outside the nursing home under a written arrangement or agreement; and
(b) Ensure the arrangement or agreement referred to in (a) of this subsection specifies in writing that the nursing home assumes responsibility for:
(i) Obtaining services that meet professional standards and principles that apply to professionals providing services in nursing homes; and
(ii) The timeliness of services.

(7) The nursing home must:
(a) Report to the local law enforcement agency and the department any individual threatening bodily harm or causing a disturbance which threatens any individual's welfare and safety;
(b) Identify, investigate, and report incidents involving residents, according to department established nursing home guidelines; and
(c) Comply with "whistle blower" rules as defined in chapter 74.34 RCW.

(8) The department will:
(a) Investigate complaints, made to the department according to established protocols including protocols described in RCW 74.39A.060;
(b) Take action against a nursing home that is found to have used retaliatory treatment toward a resident or employee who has voiced grievances to nursing home staff or administration, or lodged a good faith complaint with the department; and
(c) Report to local law enforcement:
(i) Any mandated reporter that knowingly fails to report in accordance with WAC 388-970640; and
(ii) Any person that intentionally, maliciously or in bad faith makes a false report of alleged abandonment, abuse, financial exploitation, or neglect of a vulnerable adult.
(9) Refer also to WAC 388-97-1840, Retaliation.

388-97-1640 Required notification and reporting.
(1) The nursing home must immediately notify the department’s aging and disability services administration of:
(a) Any allegations of resident abandonment, abuse, or neglect, including substantial injuries of an unknown source, financial exploitation and misappropriation of a resident's property;
(b) Any unusual event, having an actual or potential negative impact on residents, requiring the actual or potential implementation of the nursing home’s disaster plan. These unusual events include but are not limited to those listed under WAC 388-97-1740 (1)(a) through (k), and could include the evacuation of all or part of the residents to another area of the nursing home or to another address; and
(c) Circumstances which threaten the nursing home's ability to ensure continuation of services to residents.
(2) Mandated reporters must notify the department and law enforcement as directed in WAC 388-97-0640, and according to department established nursing home guidelines.
(3) The nursing home must notify the department’s aging and disability services administration of:
...(c) An actual or proposed change of ownership (CHOW).

388-97-1660 Staff and equipment.
(1) The nursing home must ensure that:
(a) Sufficient numbers of appropriately qualified and trained staff are available to provide necessary care and services safely under routine conditions, as well as fire, emergency, and disaster situations...
...(2) The nursing home must ensure that any employee giving direct resident care, excluding professionally licensed nursing staff:
(a) Has successfully completed or is a student in a DSHS-approved nursing assistant training program; and
(b) Meets other requirements applicable to individuals performing nursing related duties in a nursing home, including those which apply to minors.
(3) The nursing home must ensure:
(a) Students in an DSHS-approved nursing assistant training program:
(i) Complete training and competency evaluation within four months of beginning work as a nursing assistant;
(ii) Complete at least sixteen hours of training in communication and interpersonal skills, infection control, safety/emergency procedures including the Heimlich maneuver, promoting residents' independence, and respecting residents' rights before any direct contact with a resident; and
(iii) Wear name tags which clearly identify student or trainee status at all times in all interactions with residents and visitors in all nursing homes, including the nursing homes in which the student completes clinical training requirements and in which the student is employed.
(b) Residents and visitors have sufficient information to distinguish between the varying qualifications of nursing assistants; and
(c) Each employee hired as a nursing assistant applies for registration with the department of health within three days of employment in accordance with chapter 18.88A RCW.

388-97-1680 Staff development.
(1) The nursing home must have a staff development program that is under the direction of a designated registered nurse or licensed practical nurse.

(2) The nursing home must:
   (a) Ensure each employee receives initial orientation to the facility and its policies and is initially assigned only to duties for which the employee has demonstrated competence;
   (b) Ensure all employees receive appropriate inservice education to maintain a level of knowledge appropriate to, and demonstrated competence in, the performance of ongoing job duties consistent with the principle of assisting the resident to attain or maintain the highest practicable physical, mental, and psychosocial well-being. To this end, the nursing home must:
      (i) Assess the specific training needs of each employee and address those needs; and
      (ii) Determine the special needs of the nursing home's resident population which may require training emphasis.
   (c) Comply with other applicable training requirements, such as, but not limited to, the bloodborne pathogen standard.

388-97-1700 Medical director.
(1) The nursing home must designate a physician to serve as medical director.
(2) The medical director is responsible for:
   (a) Implementation of resident care policies; and
   (b) The coordination of medical care in the facility.

388-97-1720 Clinical records.
(1) The nursing home must:
   (a) Maintain clinical records on each resident in accordance with accepted professional standards and practices that are:
      (i) Complete;
      (ii) Accurately documented;
      (iii) Readily accessible; and
      (iv) Systematically organized.
   (b) Safeguard clinical record information against alteration, loss, destruction, and unauthorized use; and
   (c) Keep confidential all information contained in the resident's records, regardless of the form or storage method of the records, except when release is required by:
      (i) Transfer to another health care institution;
      (ii) Law;
      (iii) Third party payment contract; or
      (iv) The resident.
(2) The nursing home must ensure the clinical record of each resident includes at least the following:
   (a) Resident identification and sociological data, including the name and address of the individual or individuals the resident designates as significant;
   (b) Medical information required under WAC 388-97-1260;
   (c) Physician's orders;
   (d) Assessments;
   (e) Plans of care;
   (f) Services provided;
   (g) In the case of the medicaid-certified nursing facility, records related to preadmission screening and resident review;
(h) Progress notes;
(i) Medications administered;
(j) Consents, authorizations, releases;
(k) Allergic responses;
(l) Laboratory, X-ray, and other findings; and
(m) Other records as appropriate.

3. The nursing home must:
   (a) Designate an individual responsible for the record system who:
       (i) Has appropriate training and experience in clinical record management; or
       (ii) Receives consultation from a qualified clinical record practitioner, such as a registered health
            information administrator or registered health information technician.
   (b) Make all records available to authorized representatives of the department for review and
duplication as necessary; and
   (c) Maintain the following:
       (i) A master resident index having a reference for each resident including the health record
           number, if applicable; full name; date of birth; admission dates; and discharge dates; and
       (ii) A chronological census register, including all admissions, discharge, deaths and transfers, and
           noting the receiving facility. The nursing home must ensure the register includes discharges for
           social leave and transfers to other treatment facilities in excess of twenty-four hours.

4. The nursing home must ensure the clinical record of each resident:
   (a) Is documented and authenticated accurately, promptly and legibly by individuals giving the
       order, making the observation, performing the examination, assessment, treatment or providing
       the care and services.
       (i) "Authenticated" means the authorization of a written entry in a record by signature, including
           the first initial and last name and title, or a unique identifier allowing identification of the
           responsible individual; and:
       (ii) Documents from other health care facilities that are clearly identified as being authenticated at
           that facility will be considered authenticated at the receiving facility; and
       (iii) The original or a durable, legible, direct copy of each document will be accepted.
   (b) Contains appropriate information for a deceased resident including:
       (i) The time and date of death;
       (ii) Apparent cause of death;
       (iii) Notification of the physician and appropriate resident representative; and
       (iv) The disposition of the body and personal effects.

5. In cases where the nursing home maintains records by computer rather than hard copy, the
   nursing home must:
   (a) Have in place safeguards to prevent unauthorized access; and
   (b) Provide for reconstruction of information.

6. The nursing home licensee must:
   (a) Retain health records for the time period required in RCW 18.51.300:
       (i) For a period of no less than eight years following the most recent discharge of the resident;
       except
       (ii) That the records of minors must be retained for no less than three years following the
            attainment of age eighteen years, or ten years following their most recent discharge, whichever is
            longer.
   (b) In the event of a change of ownership, provide for the orderly transfer of clinical records to the
       new licensee;
   (c) In the event a nursing home ceases operation, make arrangements prior to cessation, as
       approved by the department, for preservation of the clinical records. The nursing home licensee
       must provide a plan for preservation of clinical records to the department’s designated local aging
and adult administration (AASA) office no later than seven days after the date of notice of nursing home closure as required by WAC 388-97-162 (8) and (9) unless an alternate date has been approved by the department.

(d) Provide a resident access to all records pertaining to the resident as required under WAC 388-97-0300(2).

388-97-1740 Disaster and emergency preparedness.

(1) The nursing home must develop and implement detailed written plans and procedures to meet potential emergencies and disasters. At a minimum the nursing home must ensure these plans provide for:

(a) Fire or smoke;
(b) Severe weather;
(c) Loss of power;
(d) Earthquake;
(e) Explosion;
(f) Missing resident, elopement;
(g) Loss of normal water supply;
(h) Bomb threats;
(i) Armed individuals;
(j) Gas leak, or loss of service; and
(k) Loss of heat supply.

(2) The nursing home must train all employees in emergency procedures when they begin and carry out unannounced staff drills using those procedures.

(3) The nursing home must ensure emergency plans:

(a) Are developed and maintained with the assistance of qualified fire, safety, and other appropriate experts as necessary;
(b) Are reviewed annually; and
(c) Include evacuation routes prominently posted on each unit.

388-97-1760 Quality assessment and assurance.

(1) The nursing home must maintain a process for quality assessment and assurance. The department may not require disclosure of the records of the quality assessment and assurance committee except in so far as such disclosure is related to ensuring compliance with the requirements of this section.

(2) The nursing home must ensure the quality assessment and assurance process:

(a) Seeks out and incorporates input from the resident and family councils, if any, or individual residents and support groups; and
(b) Reviews expressed concerns and grievances.

388-97-1780 Policies and procedures.

(1) The nursing home must develop and implement written policies and procedures, including those specified in RCW 74.42.430, for all services provided in the facility.

388-97-1800 Criminal history disclosure and background inquiries.

(1) As used in this section, the term "nursing home" includes a nursing facility and a skilled nursing facility.

(2) The nursing home must:
(a) Have a valid criminal history background check for any individual employed, directly or by contract, or any individual accepted as a volunteer or student who may have unsupervised access to any resident; and
(b) Repeat the check every two years.

(3) A nursing home licensed under chapter 18.51 RCW must make a background inquiry request to one of the following:
(a) The Washington state patrol;
(b) The department;
(c) The most recent employer licensed under chapters 18.51, 18.20, and 70.128 RCW provided termination of that employment was within twelve months of the current employment application and provided the inquiry was completed by the department or the Washington state patrol within the two years of the current date of application; or
(d) A nurse pool agency licensed under chapter 18.52C RCW, or hereafter renamed, provided the background inquiry was completed by the Washington state patrol within two years before the current date of employment in the nursing home.

(4) A nursing home may not rely on a criminal background inquiry from a former employer, including a nursing pool, if the nursing home knows or has reason to know that the individual applying for the job has, or may have, a disqualifying conviction or finding.

(5) Nursing homes must:
(a) Request a background inquiry of any individual employed, directly or by agreement or contract, or accepted as a volunteer or student; and
(b) Notify appropriate licensing or certification agency of any individual resigning or terminated as a result of a criminal conviction or a civil adjudication proceeding.

(6) Before a nursing home employs any individual, directly or by contract, or accepts any individual as a volunteer or student, a nursing home must:
(a) Inform the individual that the nursing home must make a background inquiry and require the individual to sign a disclosure statement, under penalty or perjury and in accordance with RCW 43.43.834;
(b) Inform the individual that he or she may request a copy of the results of the completed background inquiry described in this section; and
(c) Require the individual to sign a statement authorizing the nursing home, the department, and the Washington state patrol to make a background inquiry; and
(d) Verbally inform the individual of the background inquiry results within seventy-two hours of receipt.

(7) The nursing home must establish procedures ensuring that:
(a) The individual is verbally informed of the background inquiry results within seventy-two hours of receipt;
(b) All disclosure statements and background inquiry responses and all copies are maintained in a confidential and secure manner;
(c) Disclosure statements and background inquiry responses are used for employment purposes only;
(d) Disclosure statements and background inquiry responses are not disclosed to any individual except:
(i) The individual about whom the nursing home made the disclosure or background inquiry;
(ii) Authorized state employees including the department's licensure and certification staff, resident protection program staff and background inquiry unit staff;
(iii) Authorized federal employees including those from the Department of Health and Human Services, Centers for Medicare and Medicaid Services;
(iv) The Washington state patrol auditor; and
(v) Potential employers licensed under chapters 18.51, 18.20, and 70.128 RCW who are making a request as provided for under subsection (1) of this section.

(8) A record of findings be retained by the nursing home for twelve months beyond the date of employment termination.

(9) The nursing home must not employ individuals who are disqualified under the requirements of WAC 388-97-1820.

388-97-1880 Short-term care, including respite services and adult day or night care.

(1) The nursing home may provide short-term care to individuals which include:

(a) Respite services to provide relief care for families or other caregivers of individuals with disabilities which must:

(i) Provide short-term care and supervision in substitution for the caregiver;

(ii) Be for short-term stays up to a maximum of thirty-one days; and

(iii) Not be used as a short-term placement pending the individual’s admission to the nursing home.

(b) Adult day or night care to provide short-term nursing home care:

(i) Not to exceed sixteen hours each day; and

(ii) May be on a regular or intermittent basis.

(3) The nursing home providing respite services, and adult day or night care must:

(a) Develop and implement policies and procedures consistent with this section;

(b) Ensure that individuals receiving short-term services under respite or adult day or night care are treated and cared for in accordance with the rights and choices of long-term residents, except for transfer and discharge rights which are provided under the program for short-term services which covers the individual in the nursing home;

(c) Have appropriate and adequate staff, space, and equipment to meet the individual’s needs without jeopardy to the care of regular residents;

(d) Before or at the time of admission, obtain sufficient information to meet the individual’s anticipated needs...

388-97-4160 Initial nursing home license.

(2) All information requested on the license application must be provided. At minimum, the nursing home license application will require the following information:

...(e) The name and address of all nursing homes that the proposed licensee or any partner, officer, director, managerial employee, or owner of five percent or more of the proposed licensee has been affiliated with in the past ten years.

388-97-4280 Change of ownership.

...(3) When a change of ownership is contemplated, the current licensee must notify the department and all residents and their representatives at least sixty days prior to the proposed date of transfer. The notice must be in writing and contain the following information as specified in RCW 18.51.530:

(a) Name of the proposed licensee;

(b) Name of the managing entity;

(c) Names, addresses, and telephone numbers of department personnel to whom comments regarding the change may be directed;

(d) Names of all officers and the registered agent in the state of Washington if proposed licensee is a corporation; and

(e) Names of all general partners if proposed licensee is a partnership.

74.42.220 Contracts for professional services from outside the agency.
(1) If the facility does not employ a qualified professional to furnish required services, the facility shall have a written contract with a qualified professional or agency outside the facility to furnish the required services. The terms of the contract, including terms about responsibilities, functions, and objectives, shall be specified. The contract shall be signed by the administrator, or the administrator’s representative, and the qualified professional.

(2) All contracts for these services shall require the standards in RCW 74.42.010 through 74.42.570 to be met.

74.42.350 Organization chart.
The facility shall have and keep current an organization chart showing:
(1) The major operating programs of the facility;
(2) The staff divisions of the facility;
(3) The administrative personnel in charge of the programs and divisions; and
(4) The lines of authority, responsibility, and communication of administrative personnel.

74.42.420 Resident record system.
The facility shall maintain an organized record system containing a record for each resident. The record shall contain:
(1) Identification information;
(2) Admission information, including the resident's medical and social history;
(3) A comprehensive plan of care and subsequent changes to the comprehensive plan of care;
(4) Copies of initial and subsequent periodic examinations, assessments, evaluations, and progress notes made by the facility and the department;
(5) Descriptions of all treatments, services, and medications provided for the resident since the resident’s admission;
(6) Information about all illnesses and injuries including information about the date, time, and action taken; and
(7) A discharge summary.
Resident records shall be available to the staff members directly involved with the resident and to appropriate representatives of the department. The facility shall protect resident records against destruction, loss, and unauthorized use. The facility shall keep a resident’s record after the resident is discharged as provided in RCW 18.51.300.

74.42.460 Organization plan and procedures.
The facility shall have a written staff organization plan and detailed written procedures to meet potential emergencies and disasters. The facility shall clearly communicate and periodically review the plan and procedures with the staff and residents. The plan and procedures shall be posted at suitable locations throughout the facility.

74.42.640 Quality assurance committee.
(1) To ensure the proper delivery of services and the maintenance and improvement in quality of care through self-review, each facility may maintain a quality assurance committee that, at a minimum, includes:
(a) The director of nursing services;
(b) A physician designated by the facility; and
(c) Three other members from the staff of the facility.
(2) When established, the quality assurance committee shall meet at least quarterly to identify issues that may adversely affect quality of care and services to residents and to develop and implement plans of action to correct identified quality concerns or deficiencies in
(3) To promote quality of care through self-review without the fear of reprisal, and to enhance the objectivity of the review process, the department shall not require, and the long-term care ombudsman program shall not request, disclosure of any quality assurance committee records or reports, unless the disclosure is related to the committee's compliance with this section, if:
   (a) The records or reports are not maintained pursuant to statutory or regulatory mandate; and
   (b) The records or reports are created for and collected and maintained by the committee.
(4) The department may request only information related to the quality assurance committee that may be necessary to determine whether a facility has a quality assurance committee and that it is operating in compliance with this section.
(5) Good faith attempts by the committee to identify and correct quality deficiencies shall not be used as a basis for imposing sanctions.
(6) If the facility offers the department documents generated by, or for, the quality assurance committee as evidence of compliance with nursing facility requirements, the documents are protected as quality assurance committee documents under subsections (7) and (9) of this section when in the possession of the department. The department is not liable for an inadvertent disclosure, a disclosure related to a required federal or state audit, or disclosure of documents incorrectly marked as quality assurance committee documents by the facility.
(7) Information and documents, including the analysis of complaints and incident reports, created specifically for, and collected and maintained by, a quality assurance committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the care that is the basis of the civil action whose involvement was independent of any quality improvement committee activity; and (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of their participation in the quality assurance committee activities.
(8) A quality assurance committee under subsection (1) of this section, RCW 18.20.390, 70.41.200, 4.24.250, or 43.70.510 may share information and documents, including the analysis of complaints and incident reports, created specifically for, and collected and maintained by, the committee, with one or more other quality assurance committees created under subsection (1) of this section, RCW 18.20.390, 70.41.200, 4.24.250, or 43.70.510 for the improvement of the quality of care and services rendered to nursing facility residents. Information and documents disclosed by one quality assurance committee to another quality assurance committee and any information and documents created or maintained as a result of the sharing of information and documents shall not be subject to the discovery process and confidentiality shall be respected as required by subsections (7) and (9) of this section, RCW 18.20.390 (6) and (8), 43.70.510(4),70.41.200 (3), and 4.24.250(1). The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and state privacy laws.
(9) Information and documents, including the analysis of complaints and incident reports, created specifically for, and collected and maintained by, a quality assurance committee are exempt from disclosure under chapter 42.56 RCW.
(10) Notwithstanding any records created for the quality assurance committee, the facility shall fully set forth in the resident's records, available to the resident, the department, and others as
permitted by law, the facts concerning any incident of injury or loss to the resident, the steps taken by the facility to address the resident’s needs, and the resident outcome.
(11) A facility operated as part of a hospital licensed under chapter 70.41 RCW may maintain a quality assurance committee in accordance with this section which shall be subject to the provisions of subsections (1) through (10) of this section or may conduct quality improvement activities for the facility through a quality improvement committee under RCW 70.41.200 which shall be subject to the provisions of RCW 70.41.200(9).

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...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.

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,
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.
4.16.c.7. 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.

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.


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.

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.

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.
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.

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.

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Subchapter I — General
HFS 132.14 Licensure.
(1) CATEGORIES. Nursing homes shall elect one of the following categories of licensure:
   (a) Skilled nursing facility; or
   (b) Intermediate care facility.
...(3) REQUIREMENTS FOR LICENSURE. (a) In every application the license applicant shall provide the following information:
   ..2. The identities of all persons or business entities having any ownership interest whatsoever in the facility, whether direct or indirect, and whether the interest is in the profits, land or building, including owners of any business entity which owns any part of the land or building;
   ..4. In the case of a change of ownership, disclosure of any relationship or connection between the old licensee and the new licensee, and between any owner or operator of the old licensee and the owner or operator of the new licensee, whether direct or indirect.
Subchapter IV — Management
HFS 132.41 Administrator.
(1) STATUTORY REFERENCE.
Section 50.04 (2), Stats., requires that a nursing home be supervised by an administrator licensed under ch. 456, Stats. Supervision shall include, but not be limited to, taking all reasonable steps to provide qualified personnel to assure the health, safety, and rights of the residents.
(2) FULL-TIME ADMINISTRATOR. Every nursing home shall be supervised full-time by an administrator licensed under ch. 456, Stats., except:
(a) Multiple facilities. If more than one nursing home or other licensed health care facility is located on the same or contiguous property, one full-time administrator may serve all the facilities;
(b) Small homes. A facility licensed for 50 beds or less shall employ an administrator for at least 4 hours per day on each of 5 days per week. No such administrator shall be employed in more than 2 nursing homes or other health care facilities.
(3) ABSENCE OF ADMINISTRATOR. A person present in and competent to supervise the facility shall be designated to be in charge whenever there is not an administrator in the facility, and shall be identified to all staff.
(4) CHANGE OF ADMINISTRATOR.
(a) Termination of administrator. Except as provided in par. (b), no administrator shall be terminated unless recruitment procedures are begun immediately.
(b) Replacement of administrator. If it is necessary immediately to terminate an administrator, or if the licensee loses an administrator for other reasons, a replacement shall be employed or designated as soon as possible within 120 days of the vacancy.
(c) Temporary replacement. During any vacancy in the position of administrator, the licensee shall employ or designate a person competent to fulfill the functions of an administrator.
(d) Notice of change of administrator. When the licensee loses an administrator, the licensee shall notify the department within 2 working days of loss and provide written notification to the department of the name and qualifications of the person in charge of the facility during the vacancy and the name and qualifications of the replacement administrator, when known.

HFS 132.42 Employees.
...(2) QUALIFICATIONS AND RESTRICTIONS. No person under 16 years of age shall be employed to provide direct care to residents. An employee less than 18 years of age who provides direct care to residents must work under the direct supervision of a nurse.
...(5) VOLUNTEERS. Facilities may use volunteers provided that the volunteers receive the orientation and supervision necessary to assure resident health, safety, and welfare.

HFS 132.43 Abuse of residents.
(1) CONSIDERATE CARE AND TREATMENT. Residents shall receive considerate care and treatment at all times consistent with s. 50.09 (1) (e), Stats.
(2) RESIDENT ABUSE. No one may abuse a resident.

HFS 132.44 Employee development.
(1) NEW EMPLOYEES.
(a) Orientation for all employees. Except in an emergency, before performing any duties, each new employee, including temporary help, shall receive appropriate orientation to the facility and its policies, including, but not limited to, policies relating to fire prevention, accident prevention, and
emergency procedures. All employees shall be oriented to residents' rights under s. HFS 132.31 and to their position and duties by the time they have worked 30 days.

(2) CONTINUING EDUCATION. (a) Nursing inservice. The facility shall require employees who provide direct care to residents to attend educational programs designed to develop and improve the skill and knowledge of the employees with respect to the needs of the facility's residents, including rehabilitative therapy, oral health care, and special programming for developmentally disabled residents if the facility admits developmentally disabled persons. These programs shall be conducted as often as is necessary to enable staff to acquire the skills and techniques necessary to implement the individual program plans for each resident under their care.

(b) Dietary inservice. Educational programs shall be held periodically for dietary staff, and shall include instruction in the proper handling of food, personal hygiene and grooming, and nutrition and modified diet patterns served by the facility.

(3) MEDICATION ADMINISTRATION. Before persons, other than nurses and practitioners, are authorized under s. HFS 132.60 (5) (d) 1. to administer medications, they shall be trained in a course approved by the department.

HFS 132.45 Records.

(1) GENERAL. The administrator or administrator's designee shall provide the department with any information required to document compliance with ch. HFS 132 and ch. 50, Stats., and shall provide reasonable means for examining records and gathering the information.

(2) PERSONNEL RECORDS. A separate record of each employee shall be maintained, be kept current, and contain sufficient information to support assignment to the employee's current position and duties.

(3) MEDICAL RECORDS — STAFF. Duties relating to medical records shall be completed in a timely manner.

(4) MEDICAL RECORDS — GENERAL.

(a) Availability of records. Medical records of current residents shall be stored in the facility and shall be easily accessible, at all times, to persons authorized to provide care and treatment. Medical records of both current and past residents shall be readily available to persons designated by statute or authorized by the resident to obtain the release of the medical records.

(b) Organization. The facility shall maintain a systematically organized records system appropriate to the nature and size of the facility for the collection and release of resident information.

(c) Unit record. A unit record shall be maintained for each resident and day care client.

(d) Indexes.

1. A master resident index shall be maintained.

2. A disease index shall be maintained which indexes medical records at least by final diagnosis.

(e) Maintenance. The facility shall safeguard medical records against loss, destruction, or unauthorized use, and shall provide adequate space and equipment to efficiently review, index, file, and promptly retrieve the medical records.

(f) Retention and destruction. 1. The medical record shall be completed and stored within 60 days following a resident's discharge or death.

2. An original medical record and legible copy or copies of court orders or other documents, if any, authorizing another person to speak or act on behalf of this resident shall be retained for a period of at least 5 years following a resident's discharge or death. All other records required by this chapter shall be retained for a period of at least 2 years.

3. Medical records no longer required to be retained under subd. 2. may be destroyed, provided:

a. The confidentiality of the information is maintained; and
b. The facility permanently retains at least identification of the resident, final diagnosis, physician, and dates of admission and discharge. This may be achieved by way of the indexes required by par. (d).

4. A facility shall arrange for the storage and safekeeping of records for the periods and under the conditions required by this paragraph in the event the facility closes.

5. If the ownership of a facility changes, the medical records and indexes shall remain with the facility.

(g) Records documentation.
1. All entries in medical records shall be legible, permanently recorded, dated, and authenticated with the name and title of the person making the entry.
2. A rubber stamp reproduction or electronic representation of a person’s signature may be used instead of a handwritten signature, if:
   a. The stamp or electronic representation is used only by the person who makes the entry; and
   b. The facility possesses a statement signed by the person, certifying that only that person shall possess and use the stamp or electronic representation.
3. Symbols and abbreviations may be used in medical records if approved by a written facility policy which defines the symbols and abbreviations and which controls their use.

(5) MEDICAL RECORDS — CONTENT. Except for persons admitted for short-term care, to whom s. HFS 132.70 (7) applies, each resident’s medical record shall contain:

(a) Identification and summary sheet.

(b) Physician’s documentation.
   1. An admission medical evaluation by a physician or physician extender, including:
      a. A summary of prior treatment;
      b. Current medical findings;
      c. Diagnoses at the time of admission to the facility;
      d. The resident’s rehabilitation potential;
      e. The results of the physical examination required by s. HFS 132.52 (3); and
      f. Level of care;
   2. All physician’s orders including, when applicable, orders concerning:
      a. Admission to the facility as required by s. HFS 132.52 (2) (a);
      b. Medications and treatments as specified by s. HFS 132.60 (5);
      c. Diets as required by s. HFS 132.63 (4);
      d. Rehabilitative services as required by s. HFS 132.64 (2);
      e. Limitations on activities;
      f. Restraint orders as required by s. HFS 132.60 (6); and
      g. Discharge or transfer as required by s. HFS 132.53;
   3. Physician progress notes following each visit as required by s. HFS 132.61 (2) (b).
   4. Annual physical examination, if required; and
   5. Alternate visit schedule, and justification for such alternate visits as described in s. HFS 132.61 (2) (b).

(c) Nursing service documentation. 1. A history and assessment of the resident’s nursing needs as required by s. HFS 132.52;
   2. Initial care plan as required by s. HFS 132.52 (4), and the care plan required by s. HFS 132.60 (8);
   3. Nursing notes are required as follows:
      a. For residents requiring skilled care, a narrative nursing note shall be required as often as needed to document the resident’s condition, but at least weekly; and
      b. For residents not requiring skilled care, a narrative nursing note shall be required as often as needed to document the resident’s condition, but at least every other week;
   4. In addition to subds. 1., 2., and 3., nursing documentation describing:
a. The general physical and mental condition of the resident, including any unusual symptoms or actions;
b. All incidents or accidents including time, place, details of incident or accident, action taken, and follow-up care;
c. The administration of all medications (see s. HFS 132.60 (5) (d)), the need for PRN medications and the resident’s response, refusal to take medication, omission of medications, errors in the administration of medications, and drug reactions;
d. Food and fluid intake, when the monitoring of intake is necessary;
e. Any unusual occurrences of appetite or refusal or reluctance to accept diets;
f. Summary of restorative nursing measures which are provided;
g. Summary of the use of physical and chemical restraints as required by s. HFS 132.60 (6) (g);
h. Other non-routine nursing care given;
i. The condition of a resident upon discharge; and
j. The time of death, the physician called, and the person to whom the body was released.
(d) Social service records. Notes regarding pertinent social data and action taken.
(e) Activities records. Documentation of activities programming, a summary of attendance, and quarterly progress notes.
(f) Rehabilitative services. 1. An evaluation of the rehabilitative needs of the resident; and
2. Progress notes detailing treatment given, evaluation, and progress.
(h) Dental services. Records of all dental services.
(i) Diagnostic services. Records of all diagnostic tests performed during the resident’s stay in the facility.
(j) Plan of care. Plan of care required by s. HFS 132.60 (8).
(k) Authorization or consent. A photocopy of any court order or other document authorizing another person to speak or act on behalf of the resident and any resident consent form required under this chapter, except that if the authorization or consent form exceeds one page in length an accurate summary may be substituted in the resident record and the complete authorization or consent form shall in this case be maintained as required under sub.(6)
(i). The summary shall include:
1. The name and address of the guardian or other person having authority to speak or act on behalf of the resident;
2. The date on which the authorization or consent takes effect and the date on which it expires;
3. The express legal nature of the authorization or consent and any limitations on it; and
4. Any other factors reasonably necessary to clarify the scope and extent of the authorization or consent.
(l) Discharge or transfer information. Documents, prepared upon a resident’s discharge or transfer from the facility, summarizing, when appropriate:
1. Current medical findings and condition;
2. Final diagnoses;
3. Rehabilitation potential;
4. A summary of the course of treatment;
5. Nursing and dietary information;
6. Ambulation status;
7. Administrative and social information; and
8. Needed continued care and instructions.
(6) OTHER RECORDS. The facility shall retain:
(a) Dietary records. All menus and therapeutic diets;
(b) Staffing records. Records of staff work schedules and time worked;
(c) Safety tests. Records of tests of fire detection, alarm, and extinguishment equipment;
(d) Resident census. At least a weekly census of all residents, indicating numbers of residents requiring each level of care;
(e) Professional consultations. Documentation of professional consultations by:
1. A dietitian, if required by s. HFS 132.63 (2) (b);
2. A registered nurse, if required by s. HFS 132.62 (2); and
3. Others, as may be used by the facility;
(f) Inservice and orientation programs. Subject matter, instructors and attendance records of all inservice and orientation programs;
(g) Transfer agreements. Transfer agreements, unless exempt under s. HFS 132.53 (4);
(h) Funds and property statement. The statement prepared upon a resident’s discharge or transfer from the facility that accounts for all funds and property held by the facility for the resident, as required under s. HFS 132.31 (1) (c) 3.; and
(i) Court orders and consent forms. Copies of court orders or other documents, if any, authorizing another person to speak or act on behalf of the resident.

HFS 132.46 Quality assessment and assurance.
(1) COMMITTEE MAINTENANCE AND COMPOSITION. A facility shall maintain a quality assessment and assurance committee for the purpose of identifying and addressing quality of care issues. The committee shall be comprised of at least all of the following individuals:
(a) The director of nursing services.
(b) The medical director or a physician designated by the facility.
(c) At least 3 other members of the facility’s staff.
(2) COMMITTEE RESPONSIBILITIES. The quality assessment and assurance committee shall do all of the following:
(a) Meet at least quarterly to identify quality of care issues with respect to which quality assessment and assurance activities are necessary.
(b) Identify, develop and implement appropriate plans of action to correct identified quality deficiencies.
(3) CONFIDENTIALITY. The department may not require disclosure of the records of the quality assessment and assurance committee except to determine compliance with the requirements of this section. This paragraph does not apply to any record otherwise specified in this chapter or s. 50.04 (3), 50.07 (1) (c) or 146.82 (2) (a) 5., Stats.

Subchapter V — Admissions, Retentions and Removals
HFS 132.51 Limitations on admissions and programs.
...(3) DAY CARE SERVICES. A facility may provide day care services to persons not housed by the facility, provided that:
(a) Day care services do not interfere with the services for residents;
(b) Each day care client is served upon the certification by a physician or physician's assistant that the client is free from tuberculosis infection; and
(c) Provision is made to enable day care clients to rest. Beds need not be provided for this purpose, and beds assigned to residents may not be provided for this purpose.

HFS 132.53 Transfers and discharges.
...(4) TRANSFER AGREEMENTS. (a) Requirement. Each facility shall have in effect a transfer agreement with one or more hospitals under which inpatient hospital care or other hospital services are available promptly to the facility’s residents when needed. Each intermediate care facility shall also have in effect a transfer agreement with one or more skilled care facilities.
(b) Transfer of residents. A hospital and a facility shall be considered to have a transfer agreement in effect if there is a written agreement between them or, when the 2 institutions are under common control, if there is a written statement by the person or body which controls them, which gives reasonable assurance that:
1. Transfer of residents will take place between the hospital and the facility ensuring timely admission, whenever such transfer is medically appropriate as determined by the attending physician; and
2. There shall be interchange of medical and other information necessary for the care and treatment of individuals transferred between the institutions, or for determining whether such individuals can be adequately cared for somewhere other than in either of the institutions.
(c) Exemption. A facility which does not have a resident transfer agreement in effect, but which is found by the department to have attempted in good faith to enter into such an agreement with a hospital sufficiently close to the facility to make feasible the transfer between them of residents and the information referred to in par. (b) 2., shall be considered to have such an agreement in effect if and for so long as the department finds that to do so is in the public interest and essential to ensuring skilled nursing facility services in the community.
(d) Notice requirements.
1. Before a resident of a facility is transferred to a hospital or for therapeutic leave, the facility shall provide written information to the resident and an immediate family member or legal counsel concerning the provisions of the approved state medicaid plan about the period of time, if any, during which the resident is permitted to return and resume residence in the nursing facility.
2. At the time of a resident's transfer to a hospital or for therapeutic leave, the facility shall provide written notice to the resident and an immediate family member or legal counsel of the duration of the period, if any, specified under subd. 1.

HFS 132.60 Resident care.
...(6) PHYSICAL AND CHEMICAL RESTRAINTS.
...(g) Records. Any use of restraints shall be noted, dated, and signed in the resident's clinical record on each tour of duty during which the restraints are in use.

HFS 132.61 Medical services.
(1) MEDICAL DIRECTION IN SKILLED CARE FACILITIES.
(a) Medical director. Every skilled care facility shall retain, pursuant to a written agreement, a physician to serve as medical director on a part−time or full−time basis as is appropriate for the needs of the residents and the facility. If the facility has an organized medical staff, the medical director shall be designated by the medical staff with approval of the licensee.
(b) Coordination of medical care. Medical direction and coordination of medical care in the facility shall be provided by the medical director. The medical director shall develop written rules and regulations which shall be approved by the licensee and include delineation of the responsibilities of attending physicians. If there is an organized medical staff, by−laws also shall be developed by the medical director and approved by the licensee. Coordination of medical care shall include liaison with attending physicians to provide that physicians' orders are written promptly upon admission of a resident, that periodic evaluations of the adequacy and appropriateness of health professional and supportive staff and services are conducted, and that the medical needs of the residents are met.
(c) Responsibilities to the facility. The medical director shall monitor the health status of the facility's employees. Incidents and accidents that occur on the premises shall be reviewed by the medical director to identify hazards to health and safety.

HFS 132.62 Nursing services.
**(2) NURSING ADMINISTRATION.**
(a) Director of nursing services in skilled care and intermediate care facilities.

2. 'Qualifications.' The director of nursing services shall:
   a. Be a registered nurse; and
   b. Be trained or experienced in areas such as nursing service administration, restorative nursing, psychiatric nursing, or geriatric nursing.

**(5) CONTINGENCY SUPPLY OF MEDICATIONS.**
...(d) Committee authorization. The quality assessment and assurance committee shall determine which medications and strengths of medications are to be stocked in the contingency storage unit and the procedures for use and re-stocking of the medications.

**HFS 132.66 Laboratory, radiologic, and blood services.**
(1) DIAGNOSTIC SERVICES.
(a) Requirement of services. The facility shall provide for promptly obtaining required laboratory, x-ray, and other diagnostic services.
(b) Facility-provided services. Any laboratory and x-ray services provided by the facility shall meet the applicable requirements for hospitals provided in ch. HFS 124.
(c) Outside services. If the facility does not provide these services, arrangements shall be made for obtaining the services from a physician’s office, hospital, nursing facility, portable x-ray supplier, or independent laboratory.
(d) Physician’s order. No services under this subsection may be provided without the order of a physician, physician assistant or an advanced practice nurse prescriber.
(e) Notice of findings. The attending physician shall be notified promptly of the findings of all tests provided under this subsection.
(f) Transportation. The facility shall assist the resident, if necessary, in arranging for transportation to and from the provider of service.

**HFS 132.68 Social services.**
...(5) SERVICES. Social services staff shall provide the following:
...(d) Training. Participation in inservice training for direct care staff on the emotional and social problems and needs of the aged and ill and on methods for fulfilling these needs.

**Subchapter VIII — Life Safety, Design and Construction**

**HFS 132.82 Life safety code.**
...(3) RESIDENT SAFETY AND DISASTER PLAN.
(a) Disaster plan.
1. Each facility shall have a written procedure which shall be followed in case of fire or other disasters, and which shall specify persons to be notified, locations of alarm signals and fire extinguishers, evacuation routes, procedures for evacuating helpless residents, frequency of fire drills, and assignment of specific tasks and responsibilities to the personnel of each shift and each discipline.
2. The plan shall be developed with the assistance of qualified fire and safety experts, including the local fire authority.
3. All employees shall be oriented to this plan and trained to perform assigned tasks.
4. The plan shall be available at each nursing station.
5. The plan shall include a diagram of the immediate floor area showing the exits, fire alarm stations, evacuation routes, and locations of fire extinguishers. The diagram shall be posted in conspicuous locations in the corridor throughout the facility.

(b) Drills. Fire drills shall be held at irregular intervals at least 4 times a year on each shift and the plan shall be reviewed and modified as necessary. Records of drills and dates of drills shall be maintained.

...(e) Fire report. All incidents of fire in a facility shall be reported to the department within 72 hours.

CHAPTER 19

Section 6. Disaster Plan.

(a) All Nursing Care Facilities shall develop and adopt a written disaster preparedness plan in accordance with the Chapter 11, “Health Care Emergency Preparedness”, of NFPA 99, Standard for Health Care Facilities.

CHAPTER 11

Section 5. Organization and Administration.

(a) Governing Body. The Nursing Care Facility shall have a governing body which has the legal authority and responsibility to operate the Nursing Care Facility. The governing body shall:
   (i) Appoint a full-time, on premise, administrator qualified by education, training and experience as established by the Wyoming Board of Nursing Home Administrators.
   (A) The administrator shall have a current license as a Wyoming Licensed Nursing Home Administrator.
   (ii) Temporary License. A temporary license may be granted by the Wyoming Board of Nursing Home Administrators:
   (A) To fill a position of Nursing Home Administrator that unexpectedly becomes vacant;
   (B) For a period not to exceed six (6) months;
   (C) After consideration by the Board of Nursing Home Administrators on an individual basis; and
   (D) To an individual who does not meet all the licensing requirements under the Act, but who is of good character and meets the educational requirements as stated.
   (iii) A temporary license may be renewed for good cause for one (1) time if requested thirty (30) days prior to the termination of the initial temporary license.
   (iv) The administrator of a hospital with a connecting nursing care wing can serve as the administrator and shall be licensed as a Wyoming Nursing Home Administrator.
   (v) The administrator shall enforce the rules and regulations relative to the level of health care and safety of residents and for the protection of their personal and property rights.
   (vi) The administrator shall plan, organize, and direct those responsibilities delegated to him by the governing body or its equivalent.
   (vii) An employee of the facility shall be authorized in writing to act on the administrator’s behalf during his/her absence.

(b) Personnel policies and procedures. The governing body or its equivalent, through the Nursing Home Administrator, shall be responsible for implementing and maintaining written personnel policies and procedures that support sound resident care and personnel practices.
(i) Personnel records for each employee shall be current and available and shall contain sufficient information to support placement in the position assigned.
(A) References from former employers and evidence of current certification, licensure, or registration.
(B) An evaluation of the employees work performance shall be done yearly.
(ii) Written employee policies shall be available covering job descriptions, functions and special procedures.
(iii) Written policies shall be in effect to ensure that newly hired and current employees do not spread a communicable disease that could be transmitted through usual job duties.
(iv) Written policies shall ensure a safe and sanitary environment for residents and personnel.
(c) Resident Care Policies. The Nursing Care Facility shall have written policies to govern nursing care and related medical or other services provided.
...(v) The medical director or director of nursing shall be designated in writing to be responsible for the execution of resident care policies.
(A) If the director of nursing is delegated the responsibility for day-to-day execution of resident care policies, the medical director shall serve as the advisory physician from whom the director of nursing receives medical guidance.
...(x) The facility shall cooperate in submitting periodic reports requested by the Licensing Division.

...(b) Sanitary Environment. The Nursing Care Facility shall establish policies and procedures for investigating, controlling and preventing infections.
...(iv) Inservice education shall be provided for all employees. This shall include the practice of aseptic techniques, such as: handwashing/universal precautions, proper grooming, masking and gowning procedures (for isolation), disinfection and sterilizing techniques, and the handling and storage of resident care equipment and supplies plus decontamination methods.
(A) Continuing education shall be provided to all employees on the cause, effect, transmission, prevention and elimination of infections.

(a) Director of Nursing Services. The facility shall designate a Registered Nurse to be a full-time director of nursing services...
(e) Staff Development. There shall be a continuing staff development program for all nursing personnel in addition to a thorough job orientation for new personnel.
(i) Planned staff development shall be held at least monthly to review and evaluate the quality of nursing care, to teach nursing techniques and procedures, to discuss nursing problems and ways of improving nursing service, and to review and interpret administrative and nursing policies.
(A) Minutes of all meetings and a list of personnel attending shall be maintained in sufficient detail to document proceedings and actions, and shall be available to all staff members.
(ii) All nursing personnel shall be instructed and supervised in the care of emotionally challenged and cognitively impaired residents and trained to understand the social aspects of resident care.
(iii) Skill training shall include demonstration, practice and supervision of nursing procedures applicable in the individual facility. It shall also include restorative nursing procedures. Documentation shall be maintained on all skill training given to an employee and retained in his/her personnel files.
(iv) Orientation of new personnel shall include a review and practice of the procedures to be followed for evacuating residents in emergencies, and the policies and procedures of the facility. Documentation shall be maintained on all individuals and kept in their respective personnel file.
(b) Twenty-four (24) Hour Nursing Service.
...(iv) A person employed in the facility to give nursing care shall be at least sixteen (16) years of age.
(i) Staffing.
...(iv) Each facility shall have awake and on duty sufficient nursing personnel for the night tour of duty. Additional staff may be needed, depending on condition of residents, and to assure resident safety in case of fire or disaster.

Section 11. Dietetic Services.
(a) Dietary Supervision.
...(iv) The consultant or staff dietitian shall develop written plans and conduct or supervise inservice programs for dietary personnel on a monthly basis.
...(viii) The dietetic supervisor shall be responsible for department orientation, training, scheduling, and work assignments for all dietetic service personnel.

Section 12. Specialized Rehabilitative Services.
...(b) The facility that does not employ qualified personnel to provide a specialized service shall have a written agreement with the outside resource.

Section 13. Pharmaceutical Services.
...(b) Pharmaceutical Services Committee.
(i) Pharmaceutical Services committee or its equivalent shall be responsible for developing policies and procedures for safe and effective drug therapy, distribution, control and use.
(A) The committee shall be comprised of at least the pharmacist, the director of nursing service, the administrator and one (1) physician.
(B) The committee shall oversee the pharmaceutical service in the facility, make recommendations for improvement and monitor the service to ensure accuracy and adequacy.
(C) The committee shall meet at least quarterly and document its activities, findings and recommendations.
(ii) The pharmacist shall submit a written report at least quarterly to the pharmaceutical services committee on the status of the facility's pharmaceutical services and staff performance.

Section 14. Dental Services.
(a) The facility shall have an advisory dentist who shall provide consultation, develop and participate in inservice education, and recommend policies concerning oral hygiene. Records of inservice education meetings shall be in writing.

Section 15. Social Services.
...(v) Provision shall be made for in-service training to facility staff directed toward understanding emotional problems and social needs of residents and the means of taking appropriate action in relation to them, and the necessity of confidentiality.

Section 16. Medical Records.
(a) Maintenance of Clinical Records. The facility shall maintain a separate and complete medical record for each resident admitted with all entries kept current, dated and signed.
(i) The medical record shall include:
(A) Identification and summary sheet(s) including resident's name, social security number, marital status, age, sex, home address, and religion; name, address, and telephone number of referral agency (including hospital from which admitted), personal physician, dentist, and next of kin or other responsible person; admitting diagnoses, final diagnoses, category of care, condition on
discharge and disposition, source of payment, and any other information needed to meet State requirements.
(B) Initial medical evaluation including medical history, physical examination and diagnosis.
(C) Authentication of hospital diagnoses, in the form of a hospital discharge summary, or a written report from the physician who attended the resident in the hospital, or a transfer form used under a transfer agreement.
(D) Physician’s orders, including all medications, treatments, diet, rehabilitative and special medical procedures required for the safety and well-being of the resident.
(E) Physician’s progress notes describing significant changes in the resident’s condition, dictated or written at the time of each visit.
(F) Nurses’ notes which shall include but not be limited to the following:
(I) Concise and accurate record of nursing care administered.
(II) Record of pertinent observation of the resident including psycho-social as well as physical manifestations.
(III) Name, dosage and time of administration of medications and treatments, route of administration except if by oral medication.
(IV) Record of type of restraint and time of application and removal. The time of application and removal shall be necessary for all restraints prescribed by the physician for the support and protection of the resident.
(G) Medication and treatment record including all medications, treatments and special procedures performed for the safety and well-being of the resident.
(I) Laboratory and x-ray reports.
(II) Consultation reports.
(III) Dental reports.
(IV) Social service notes.
(V) Resident care referral reports.
(VI) Activity reports.
(b) Retention of Records.
(i) The facility shall have policies providing for the retention and safekeeping of residents’ medical records by the governing body for the required period of time in the event that the facility discontinues operation.
(ii) A copy of the resident’s clinical record or an abstract thereof shall accompany the resident who is transferred to another facility.
(c) Staff Responsibility. An employee of the facility shall be assigned the responsibility for assuring that records are maintained, completed, and preserved if the facility does not have a full or part time medical record librarian.
(i) The designated individual shall be trained by and receive regular consultation from a person skilled in record maintenance and preservation.

Section 18. Transfer Agreement.
(a) Resident Transfer. The transfer agreement shall provide reasonable assurance that the transfer of residents will be effected between the hospital and the facility whenever such transfer is medically appropriate as determined by the attending physician.
(i) The agreement shall be with hospitals close enough to the facility to make the transfer of residents feasible.
(b) Where the transfer agreement specifies restrictions with respect to the types of services available in the hospital or the facility and/or the types of residents or health conditions that will not be accepted by the hospital or the facility, or includes any other criteria relating to the transfer
of residents (such as priorities for persons on waiting lists), such restrictions or criteria shall be the same as those applied by the hospital or facility.

(c) Execution of Agreement. The transfer agreement shall be in writing and shall be signed by individuals authorized to execute such agreements on behalf of the facilities, or, in case the two (2) facilities are under common control, there shall be a written policy or order signed by the person or body which controls them.

(i) The terms of the transfer agreement shall be established jointly by both facilities when the hospital and the facility are not under common control.

(ii) Each facility participating in the agreement shall retain a current copy of the agreement.

(d) Specification of Responsibilities. The transfer agreement shall specify the responsibilities each facility assumes in the transfer of residents and information between the hospital and the facility.

(i) The agreement shall establish responsibility for notifying the other facility promptly of the impending transfer of a resident, arranging for appropriate and safe transportation, and arranging for the care of residents during the transfer.

FEDERAL REGULATIONS

\$ 483.75 Administration.

A facility must 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.

(a) Licensure. A facility must be licensed under applicable State and local law.

(b) Compliance with Federal, State, and local laws and professional standards. The facility must operate and provide services in compliance with all applicable Federal, State, and local laws, regulations, and codes, and with accepted professional standards and principles that apply to professionals providing services in such a facility.

(c) Relationship to other HHS regulations. In addition to compliance with the regulations set forth in this subpart, facilities are obliged to meet the applicable provisions of other HHS regulations, including but not limited to those pertaining to nondiscrimination on the basis of race, color, or national origin (45 CFR part 80); nondiscrimination on the basis of handicap (45 CFR part 84); nondiscrimination on the basis of age (45 CFR part 91); protection of human subjects of research (45 CFR part 46); and fraud and abuse (42 CFR part 455). Although these regulations are not in themselves considered requirements under this part, their violation may result in the termination or suspension of, or the refusal to grant or continue payment with Federal funds.

(d) Governing body. (1) The facility must have a governing body, or designated persons functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operation of the facility; and

(2) The governing body appoints the administrator who is—

(i) Licensed by the State where licensing is required; and

(ii) Responsible for management of the facility.

(e) Required training of nursing aides — (1) Definitions.

Licensed health professional means a physician; physician assistant; nurse practitioner; physical, speech, or occupational therapist; physical or occupational therapy assistant; registered professional nurse; licensed practical nurse; or licensed or certified social worker.

Nurse aide means any individual providing nursing or nursing-related services to residents in a facility who is not a licensed health professional, a registered dietitian, or someone who volunteers
to provide such services without pay. Nurse aides do not include those individuals who furnish services to residents only as paid feeding assistants as defined in §488.301 of this chapter.

(2) General rule. A facility must not use any individual working in the facility as a nurse aide for more than 4 months, on a full-time basis, unless:

(i) That individual is competent to provide nursing and nursing related services; and
(ii) (A) That individual has completed a training and competency evaluation program, or a competency evaluation program approved by the State as meeting the requirements of §§483.151–483.154 of this part; or

(B) That individual has been deemed or determined competent as provided in §483.150 (a) and (b).

(3) Non-permanent employees. A facility must not use on a temporary, per diem, leased, or any basis other than a permanent employee any individual who does not meet the requirements in paragraphs (e)(2) (i) and (ii) of this section.

(4) Competency. A facility must not use any individual who has worked less than 4 months as a nurse aide in that facility unless the individual—

(i) Is a full-time employee in a State-approved training and competency evaluation program; and
(ii) Has demonstrated competence through satisfactory participation in a State-approved nurse aide training and competency evaluation program or competency evaluation program; or
(iii) Has been deemed or determined competent as provided in §483.150 (a) and (b).

(5) Registry verification. Before allowing an individual to serve as a nurse aide, a facility must receive registry verification that the individual has met competency evaluation requirements unless—

(i) The individual is a full-time employee in a training and competency evaluation program approved by the State; or
(ii) The individual can prove that he or she has recently successfully completed a training and competency evaluation program or competency evaluation program approved by the State and has not yet been included in the registry. Facilities must follow up to ensure that such an individual actually becomes registered.

(6) Multi-State registry verification. Before allowing an individual to serve as a nurse aide, a facility must seek information from every State registry established under sections 1819(e)(2)(A) or 1919(e)(2)(A) of the Act the facility believes will include information on the individual.

(7) Required retraining. If, since an individual's most recent completion of a training and competency evaluation program, there has been a continuous period of 24 consecutive months during none of which the individual provided nursing or nursing-related services for monetary compensation, the individual must complete a new training and competency evaluation program or a new competency evaluation program.

(8) Regular in-service education. The facility must complete a performance review of every nurse aide at least once every 12 months, and must provide regular in-service education based on the outcome of these reviews. The in-service training must—

(i) Be sufficient to ensure the continuing competence of nurse aides, but must be no less than 12 hours per year;
(ii) Address areas of weakness as determined in nurse aides’ performance reviews and may address the special needs of residents as determined by the facility staff; and
(iii) For nurse aides providing services to individuals with cognitive impairments, also address the care of the cognitively impaired.

(f) Proficiency of Nurse aides. The facility must ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents’ needs, as identified through resident assessments, and described in the plan of care.

(g) Staff qualifications. (1) The facility must employ on a full-time, part-time or consultant basis those professionals necessary to carry out the provisions of these requirements.
(2) Professional staff must be licensed, certified, or registered in accordance with applicable State laws.

(h) Use of outside resources. (1) If the facility does not employ a qualified professional person to furnish a specific service to be provided by the facility, the facility must have that service furnished to residents by a person or agency outside the facility under an arrangement described in section 1861(w) of the Act or (with respect to services furnished to NF residents and dental services furnished to SNF residents) an agreement described in paragraph (h)(2) of this section.

(2) Arrangements as described in section 1861(w) of the Act or agreements pertaining to services furnished by outside resources must specify in writing that the facility assumes responsibility for—

(i) Obtaining services that meet professional standards and principles that apply to professionals providing services in such a facility; and

(ii) The timeliness of the services.

(i) Medical director. (1) The facility must designate a physician to serve as medical director.

(2) The medical director is responsible for—

(i) Implementation of resident care policies; and

(ii) The coordination of medical care in the facility.

(j) Laboratory services. (1) The facility must provide or obtain laboratory services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.

(i) If the facility provides its own laboratory services, the services must meet the applicable requirements for laboratories specified in part 493 of this chapter.

(ii) If the facility provides blood bank and transfusion services, it must meet the applicable requirements for laboratories specified in part 493 of this chapter.

(iii) If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory must be certified in the appropriate specialties and subspecialties of services in accordance with the requirements of part 493 of this chapter.

(iv) If the facility does not provide laboratory services on site, it must have an agreement to obtain these services from a laboratory that meets the applicable requirements of part 493 of this chapter.

(2) The facility must—

(i) Provide or obtain laboratory services only when ordered by the attending physician;

(ii) Promptly notify the attending physician of the findings;

(iii) Assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance; and

(iv) File in the resident’s clinical record laboratory reports that are dated and contain the name and address of the testing laboratory.

(k) Radiology and other diagnostic services. (1) The facility must provide or obtain radiology and other diagnostic services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.

(i) If the facility provides its own diagnostic services, the services must meet the applicable conditions of participation for hospitals contained in §482.26 of this subchapter.

(ii) If the facility does not provide its own diagnostic services, it must have an agreement to obtain these services from a provider or supplier that is approved to provide these services under Medicare.

(2) The facility must—

(i) Provide or obtain radiology and other diagnostic services only when ordered by the attending physician;

(ii) Promptly notify the attending physician of the findings;

(iii) Assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance; and

(iv) File in the resident’s clinical record signed and dated reports of x-ray and other diagnostic services.
Clinical records. (1) The facility must maintain clinical records on each resident in accordance with accepted professional standards and practices that are—

(i) Complete;
(ii) Accurately documented;
(iii) Readily accessible; and
(iv) Systematically organized.

(2) Clinical records must be retained for—

(i) The period of time required by State law; or
(ii) Five years from the date of discharge when there is no requirement in State law; or
(iii) For a minor, three years after a resident reaches legal age under State law.

(3) The facility must safeguard clinical record information against loss, destruction, or unauthorized use;

(4) The facility must keep confidential all information contained in the resident’s records, regardless of the form or storage method of the records, except when release is required by—

(i) Transfer to another health care institution;
(ii) Law;
(iii) Third party payment contract; or
(iv) The resident.

(5) The clinical record must contain—

(i) Sufficient information to identify the resident;
(ii) A record of the resident’s assessments;
(iii) The plan of care and services provided;
(iv) The results of any preadmission screening conducted by the State; and
(v) Progress notes.

Disaster and emergency preparedness. (1) The facility must have detailed written plans and procedures to meet all potential emergencies and disasters, such as fire, severe weather, and missing residents.

(2) The facility must train all employees in emergency procedures when they begin to work in the facility, periodically review the procedures with existing staff, and carry out unannounced staff drills using those procedures.

Transfer agreement. (1) In accordance with section 1861(l) of the Act, the facility (other than a nursing facility which is located in a State on an Indian reservation) must have in effect a written transfer agreement with one or more hospitals approved for participation under the Medicare and Medicaid programs that reasonably assures that—

(i) Residents will be transferred from the facility to the hospital, and ensured of timely admission to the hospital when transfer is medically appropriate as determined by the attending physician; and
(ii) Medical and other information needed for care and treatment of residents, and, when the transferring facility deems it appropriate, for determining whether such residents can be adequately cared for in a less expensive setting than either the facility or the hospital, will be exchanged between the institutions.

(2) The facility is considered to have a transfer agreement in effect if the facility has attempted in good faith to enter into an agreement with a hospital sufficiently close to the facility to make transfer feasible.

Quality assessment and assurance. (1) A facility must maintain a quality assessment and assurance committee consisting of—

(i) The director of nursing services;
(ii) A physician designated by the facility; and
(iii) At least 3 other members of the facility’s staff.

(2) The quality assessment and assurance committee—
(i) Meets at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary; and
(ii) Develops and implements appropriate plans of action to correct identified quality deficiencies.
(3) A State or the Secretary may not require disclosure of the records of such committee except in so far as such disclosure is related to the compliance of such committee with the requirements of this section.
(4) Good faith attempts by the committee to identify and correct quality deficiencies will not be used as a basis for sanctions.
(p) Disclosure of ownership. (1) The facility must comply with the disclosure requirements of §§420.206 and 455.104 of this chapter.
(2) The facility must provide written notice to the State agency responsible for licensing the facility at the time of change, if a change occurs in—
(i) Persons with an ownership or control interest, as defined in §§420.201 and 455.101 of this chapter;
(ii) The officers, directors, agents, or managing employees;
(iii) The corporation, association, or other company responsible for the management of the facility; or
(iv) The facility’s administrator or director of nursing.
(3) The notice specified in paragraph (p)(2) of this section must include the identity of each new individual or company.