3.I. VOLUNTARY CLOSING OF A LICENSED FACILITY

Whenever a licensed facility voluntarily discontinues operation, the facility shall notify the Department, and during the period when it is preparing for such discontinuance, the facility shall inform the resident, the next of kin, legal representative or agency acting on the resident’s behalf of the fact and the proposed time of such discontinuance, with at least thirty (30) days notice so that suitable arrangements may be made for the orderly transfer and care of such resident. In the case of any resident who has no person acting on his/her behalf, the facility shall be responsible for assisting such resident to arrange for a suitable transfer prior to the discontinuance of operation. Immediately upon discontinuance of operation of a licensed facility, the owner shall surrender the license to the Department.

4.G. ADMISSIONS

A facility must establish identical practices for admissions, transfers and discharges for all individuals regardless of source of payment, as addressed below.

4.G.1 Admissions.

a. The facility must not:

1. Require a third party guarantee of payment to the facility as a condition of admission, or to expedite admission, or continued stay in the facility;

2. Charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid under the State plan, any gift, money, donation, or other consideration as a precondition of admission, expedited admission or continued stay in the facility;

3. Require residents or potential residents to waive their rights to Medicare or Medicaid;

4. Require oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits.

b. A facility may:

1. Charge any amount for services furnished to non-Medicaid residents consistent with the requirement in 4.G.1.a.

2. Require an individual who has legal access to a resident's income or resources available to pay for facility care, to sign a contract, or to provide facility payment from the resident's income or resources, without incurring personal financial liability.
3. Charge a resident who is eligible for Medicaid for items and services the resident has requested and received, and that are not specified in the Maine Medical Assistance Manual as included in the term "nursing facility services".

4. Solicit, accept or receive a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to the resident, or potential resident, but only to the extent that the contribution is not a condition of admission, expedited admission, or continued stay in the facility.

5. A nursing facility may decline to admit a prospective resident after an evaluation of the person's clinical condition and related care needs and a determination that the facility lacks qualified staff to meet the level of care required for that person. A nursing facility is not subject to penalty or sanction for declining to admit a prospective resident for whom the facility lacks sufficient staff to meet the resident's level of care.

5.B. WRITTEN POLICIES

5.B.2 Policies shall address all areas of services provided and facility practices regarding:

- 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.

6.B. PROVISIONS OF CONTRACT

Each contract to which this section applies shall contain express provisions specifically setting forth the following:

6.B.1. The services and accommodations to be provided by the facility and the rates and charges therefor, including an outline of responsibilities for and payment of treatment and medications, special equipment and appliances, dressings, clothing, personal supplies of the resident; services of related medical and paramedical personnel; and any other related charges not covered by the facility's basic per diem rate;

...6.B.8. Provision for addressing discharge potential and planning.
6.C. Contract Requirements Each contract or agreement is subject to the following requirements:

6.C.1. No contract or agreement may contain a provision for the discharge or transfer of a resident to another facility or another room within the same facility which is inconsistent with State law or rule.

6.C.5. No contract or agreement may require the resident to sign a waiver of liability statement as a condition of discharge, even if the discharge is against medical advice. This does not prohibit a facility from attempting to obtain a written acknowledgment that the resident has been informed of the potential risk in being discharged against medical advice.

6.C.6. Each contract or agreement shall contain a provision which provides for at least thirty (30) days notice prior to any changes in rates and/or charges, responsibilities, services to be provided or any other items included in the contract or agreement.

6.C.7. No contract or agreement may require the resident to authorize the facility or its staff to manage, hold or otherwise control the income or other assets of a resident.

6.C.8. No contract or agreement may contain any provisions which restrict or limit the ability of a resident to apply for and receive Medicaid or which require a specified period of residency prior to applying for Medicaid. The resident may be required to notify the facility when an application for Medicaid has been made. No contract or agreement may require a deposit or other prepayment from Medicaid recipients. No contract or agreement may refuse to accept retroactive Medicaid benefits.

10.C. EXERCISE OF RIGHTS

...10.C.8 The facility must display information and:

a. Inform each resident how to apply for Medicaid;

b. Inform each resident who is entitled to Medicaid benefits, in writing, at the time of admission to the nursing facility or when the resident becomes eligible for Medicaid of:

1. The items and services that are included in nursing facility services in the Maine Medical Assistance Manual and for which the resident may not be charged.

2. Those other items and services that the facility offers and for which the resident may be charged, and the amount of charges for those services and,

c. Inform each resident when changes are made to the items and services specified in Chapters 10.C.8.b.1. and 10.C.8.b.2.
10.C.9. Inform each resident before, or at the time of admission, when changes occur, and periodically during the resident’s stay, of services available in the facility and of charges for those services, including any charges for services not covered under Medicaid/Medicare or by the facility’s per diem rate.

10.D. Notification of Changes

10.D.1 Except in a medical emergency or when a resident is incompetent, a facility must consult with the resident regarding any proposed significant changes in treatment or plan of care. The facility must notify the resident’s physician, the resident’s legal representative and, with the resident’s permission, an interested family member, when there is:

...d. A decision to transfer or discharge the resident from the facility.

10.Q. Transfer and Discharge Rights

10.Q.1. Definition

Transfer and discharge includes movement of a resident to a bed outside of the certified unit, whether that bed is in the same facility or not. Transfer and discharge does not refer to movement of a resident to a bed within the same certified unit.

10.Q.2. Transfer and Discharge Requirements

The facility must permit each resident to remain in the unit or facility, and not transfer or discharge the resident from the unit or facility unless:

a. The transfer or discharge is necessary for the resident’s welfare and the resident’s needs cannot be met in the unit or facility.

b. The transfer or discharge is appropriate because the resident’s health and/or functional ability has improved sufficiently so that the resident no longer needs the services provided by the unit or facility.

c. The safety and/or health of individuals in the facility is endangered.

d. The resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility. For a resident who becomes
eligible for Medicaid after admission to a facility, the facility may charge a resident only charges allowable under Medicaid.

e. The facility ceases to operate.

10.Q.3. Notice Before Transfer

Before a facility transfers or discharges a resident, the facility must notify the resident and, if known, a family member or legal representative of the resident, of the transfer or discharge and the reasons.

The resident’s clinical record shall contain documentation describing the basis for the transfer or discharge.

10.Q.4. Contents of the Notice

Each notice must be written and include, in a language and manner understood by the resident.

a. In order to provide for informed resident decisions, a nursing facility shall provide lists of licensed providers of care and services for all patients prior to discharge for whom home health care is needed.

(1) For all residents requiring home health care, the list must include all licensed home health care providers that request to be listed and any branch offices, including addresses and telephone numbers, that serve the area in which the resident resides.

(2) The nursing facility shall disclose to the resident any direct or indirect financial interest which the nursing facility has in the home health care provider.

b. For all residents transferring to another nursing facility, a list must be provided of all nursing facilities that request to be listed that serve the area in which the resident resides or wishes to reside.

c. The reason for the transfer or discharge, including events which are the basis for such action.

d. The effective date of the transfer or discharge.
e. The location to which the resident is transferred or discharged.
f. Notice of the resident's right to appeal the transfer or discharge as set forth in the Maine Medical Assistance Manual.
g. The location to which the resident is transferred or discharged.
h. Notice of the resident's right to appeal the transfer or discharge as set forth in the Maine Medical Assistance Manual.
i. The mailing address and telephone number of the Long Term Care Ombudsman Program.
j. In the case of residents with developmental disabilities or mental illness, the mailing address and telephone number of the Office of Advocate, Department of Mental Health, Mental Retardation and Substance Abuse Services.
k. The resident's right to be represented by himself or herself or by legal counsel, a relative, friend or other spokesman.

10.Q.5. Timing of the Notice
Except when specified in Chapter 10.Q.2.c., the notice of transfer or discharge must be made by the facility at least
a. Thirty (30) days before the resident is transferred or discharged.
b. As soon as practicable before transfer or discharge when:
1. The safety and/or health of individuals in the facility would be endangered.
2. The resident's health improves sufficiently to allow a more immediate transfer or discharge.
3. An immediate transfer or discharge is required by the resident's urgent medical needs, or
4. A resident has not resided in the facility for thirty (30) days.
10.Q.6. Appeal of Transfer or Discharge
The resident has the right to appeal a transfer or discharge to the Administrative Hearings Unit of the Department.

10.Q.7. Transfer or Discharge Orientation
The resident has the right to receive sufficient preparation and orientation to ensure safe and orderly transfer or discharge from the facility. This shall be documented in the resident record.

19.E. READMISSIONS
When a facility readmits a resident within one month, the resident’s clinical record must contain the following documentation:

- New physician orders;
- Updated physical exam;
- A comprehensive assessment; and
- 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.

23.B. ALZHEIMER’S/DEMENTIA CARE UNIT PROGRAM DISCLOSURE
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:

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

23.C.3. Admission and Discharge [Alzheimer's/Dementia Care Unit]

Facilities with Alzheimer's/Dementia Care Units shall have a written policy of preadmission screening, admission and discharge procedures. Admission criteria shall require, at a minimum, a physician's diagnosis of Alzheimer's Disease or other dementia. The policy shall include criteria for moving residents from within the facility, into or out of the unit. When moving a resident within the facility, or transferring a resident to another facility or placement, the facility shall take into account the resident's welfare. When a resident is moved into or out of the unit from within the facility, measures shall be taken by the facility to minimize confusion and stress resulting from the move. For those persons undiagnosed upon admission, but exhibiting signs and symptoms of dementia, the facility shall be required to have a diagnostic workup completed within forty-five (45) days following admission. The admission policy shall include criteria for moving residents from within the facility, into or out of the unit.