WYOMING DEPARTMENT OF HEALTH
AGING DIVISION
RULES
FOR PROGRAM ADMINISTRATION OF ASSISTED LIVING FACILITIES

CHAPTER 12

Section 1. Authority. These rules are promulgated by the Department of Health pursuant to W.S. 9-2-1204 et seq. and the Wyoming Administrative Procedures Act at W.S. 16-3-101 et seq.

Section 2. Purpose and Applicability.

(a) These rules have been adopted for the day-to-day operation of assisted living facilities.

(b) The Department may issue provider manuals, provider bulletins, or both, to interpret the provisions of these rules and regulations. Such provider manuals and provider bulletins shall be consistent with and reflect the policies contained in these rules and regulations. The provisions contained in provider manuals or provider bulletins shall be subordinate to the provisions of these rules and regulations.

(c) The incorporation by reference of any external standard is intended to be the incorporation of that standard as it is in effect on the effective date of these rules and regulations.

Section 3. Severability. If any portion of these rules is found to be invalid or unenforceable, the remainder shall continue in effect.

Section 4. Definitions.

The following definitions shall apply in the interpretation and enforcement of the~~se~~ rule~~s~~. Where the context in which words are used in the~~se~~ rule~~s~~ indicates that such is the intent, words in the singular number shall include the plural and vice versa. Throughout the~~se~~ rule~~s~~, gender pronouns are used interchangeably, except where the context dictates otherwise. The drafters have attempted to utilize each gender pronoun in equal numbers, in random distribution. Words in each gender shall include individuals of the other gender.

For the purpose of these rules, the following shall apply:

(a) "Abuse." The willfull infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish. Abuse may include, but is not limited to the following: physical, verbal, mental, neglect, misappropriation of resident property, corporal punishment, sexual exploitation, sexual abuse, or any other adverse action.

(b) “Activities of Daily Living (ADLs).” An individual's performance of feeding, bathing, dressing, use of toilet, transfer, mobility and continence.

(c) “Adult.” A person who is 18 years of age or older.

(d) “ALF 102 Form”. The required screening tool as defined by the Program Division and performed by a registered nurse. Training regarding the utilization of this form will be the responsibility of the Program Division.

(e) "Assistance Plan." A written description of the type, frequency and duration of the assistance to be provided, and the expected outcome.

(f) "Assisted Living Facility (ALF)." A non-institutional dwelling operated by a person, firm, or corporation engaged in providing limited nursing care, personal care and boarding home care, but not habilitative care, for persons not related to the owner of the facility.

(g) “Bed.” A piece of furniture on or in which a resident, or two residents lie and sleep. Single-bed means one piece of furniture in which to lie and sleep. Multiple-beds means two (2) or more pieces of furniture in a sleeping room in which to lie and sleep.

(h) "Boarding Home." A non-institutional dwelling or rooming house operated by any person, firm, or corporation engaged in the business of operating a home for the purpose of letting rooms for rent and providing meals and personal daily living care, but not habilitative, or nursing care, for persons not related to the owner. Boarding home does not include a lodging facility or an apartment in which only room and board is provided.

(i) “Certified Dietary Manager.” **A** Certified Dietary Manager is a person with education, training, and experience to competently perform the responsibilities of a dietary manager with consultation from or supervision of a Registered Dietitian. The Certified Dietary Manager has passed a nationally-recognized credentialing exam and participates in continuing education as needed to maintain certified status.

(j) "Certified Nurse Assistant (CNA)." An individual who is duly certified by the Wyoming State Board of Nursing and whose certification has been verified by the management of the assisted living facility.

(k) "Chief Administrative Officer." The Director, Department of Health per W.S. 9-2-101(e), or the designated Licensure representative.

(l) “Complaint.” A formal allegation of injustice or perceived harm referred to an outside party or agency.

(m) "Complaint Investigations." Those investigations performed by the Department of Health, their designee, or by the State Long Term Care.

(n) “Days.” Calendar days.

(o) “Department.” The Wyoming Department of Health.

(p) "Discharge." The full release of any resident from the assisted living facility.

(q) “Food Code.” The 2005 edition of the Food Code and all codes and standards therin. The Food Code 2005 is a publication of The U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, College Park , MD 20740.

(r) “Grievance.” A concern of an inequitable or inaccurate action that is handled through the facility’s internal grievance procedure.

(s) "Habilitative Care." The teaching of care to perform basic ADL's including feeding, bathing, dressing, use of toilet, transfer, mobility, continence, and instrumental ADL's including shopping, finances, telephone, medications, housework and use of transportation.

(t) "HACCP." Hazard Analysis Critical Control Point.

(u) “Intermittent Nursing Care”. Nursing care that is not continuous; care that starts and stops at irregular intervals.

(v) “Level 1 License.” License for assisted living facilities that do not have a secure unit and are not required to meet the special staffing and education requirements for staff that are clearly defined under the rules for a level 2 facility.

(w) “Level 2 License.” License for assisted living facilities that have a secure unit and are required to meet all level 2 requirements specified or implied by these rules. The assigned level will be used for regulatory purposes only.

(x) "License." The authority granted by the Licensing Division to operate an assisted living facility.

(y) “Licensed Bed.” The pieces of furniture on or in which residents lie and sleep that the authority is granted by the Licensing Division to operate an assisted living facility.

(z) "Licensed Practical Nurse (LPN)." A Licensed Practical Nurse duly licensed by the Wyoming State Board of Nursing per the Wyoming Nurse Practice Act, W.S. § 33-21-119, et seq.

(aa) “Licensee." Any person, association, partnership, or corporation to whom an assisted living facility license is issued.

(bb) "Licensing Division." The Wyoming Department of Health, Office of Healthcare Licensing and Surveys.

(cc) "Life Safety Code (LSC)." The National Fire Protection Association 101 Life Safety Code.

(dd) “Limited Assistance”. The resident performs the activity with minimal assistance from staff.

(ee) "Limited Nursing Care." The level of care provided by a certified nursing assistant, within the scope of ALF Licensure.

(ff) “Physician Extender.” Physician extender means a mid-level practitioner such as an advanced registered nurse practitioner or a physician assistant.

(gg) "Manager." The person responsible for the overall operation of the assisted living facility. This individual is responsible for ensuring compliance with these rules.

(hh) “Medication Management.” The requirements as established in these Program Administrative Rules, as well as the Wyoming Nurse Practice Act and the Wyoming Board of Nursing Rules and Regulations.

(ii) "NFPA." The National Fire Protection Association.

(jj) "Nursing Care Facility." An institution which is a Skilled Nursing Facility (SNF), or a Nursing Facility (NF) which is currently licensed in the State of Wyoming.

(kk) "Ombudsman." The State Long Term Ombudsman established in W.S. 9-2-1301 through 9-2-1309.

(ll) "Personal Care/Personal Care Services." The performance of activities of daily living for a resident.

(mm) "Program Administration." The rules promulgated by the Department of Health and developed by the Program Division for the day-to-day operation of assisted living facilities per W.S. 9-2-1204.

(nn) “Program Division.” The Wyoming Department of Health, Aging Division.

(oo) “PRN.” Means as circumstances may require; as necessary.

(pp) “Registered Dietitian (RD).” A Registered Dietitian who is currently registered with the Commission on Dietitian Registration, the credentialing agency for the American Dietetic Association.

(qq) "Registered Nurse (RN)." A Registered Nurse duly licensed by the Wyoming State Board of Nursing per the Wyoming Nurse Practice Act W. S. § 33-21-119 et seq.

(rr) "Resident." A person eighteen (18) years of age or older, unrelated to the owner, who resides in an assisted living facility.

Section 5. Philosophy.

It is the philosophy of the Program Division to develop reasonable and enforceable rules for the placement of individuals with disabilities in community settings such as assisted living facilities in lieu of unnecessary institutionalization. This philosophy is mandated in the Supreme Court ruling on Olmstead v. L.C.

These rules are designed not only to support the philosophy of community placement but to also protect the health, welfare, and safety of residents in assisted living facilities.

Section 6. Personnel and Staffing Requirements.

(a) Management.

If the assisted living facility has a governing body, it must designate a manager. If there is no governing body, the owner shall appoint a manager.

(i) The Manager shall:

(A) Be at least twenty-one (21) years of age;

(B) Assume the overall responsibility for the day-to-day operation of the facility;

(C) Direct the work of others, including the training and development of staff;

(D) Be able to read, write, and speak English;

(E) Maintain financial and other records;

(F) Have a telephone with a listed number in the phone directory under the name of the assisted living facility;

(G) Be familiar with and follow the State's promulgated Assisted Living Facility Licensure and Program Administration Rules;

(H) Pass an open book test on the same. The open book test shall be administered by the Program Division. The passing score will be 85% or greater. Those individuals who successfully completed the examination administered by the Licensing Division shall have their test scores honored;

(I) The manager shall provide an acceptable plan of correction to the Licensing Division within ten (10) days of the date when a statement of deficiencies is received by the assisted living facility;

(J) The manager shall not act as, or become the legal guardian or conservator of, or have power of attorney for any resident of the facility; and

(K) The manager shall meet one or more of the following requirements:

(I) The manager shall have completed at least forty-eight (48) semester hours or seventy-two (72) quarter hours of post secondary education in healthcare, elderly care, health case management, facility management, or other related field from an accredited college or institution; or

(II) Have completed at least two (2) years experience working with elderly or disabled individuals. This experience may have been paid, full-time employment, or time equivalent in part-time employment or volunteer work that is directly involved with the elderly or disabled.

(b) Staffing.

(i) The staffing level shall be sufficient to meet the needs of all residents of the facility, and insure the appropriate level of care is provided.

(ii) There shall be personnel on duty to maintain order, safety, and cleanliness of the premises, to prepare and serve meals, to keep an adequate supply of clean linens, to assist the residents in personal needs and recreational activities, and to meet the other operational needs of the facility.

(iii) The assisted living facility shall not employ an individual as a nurse assistant who is not currently certified by the Wyoming State Board of Nursing. Certification must be verified by the manager of the assisted living facility.

(iv) There shall be at least one (1) RN, LPN or CNA on duty every shift. There shall be at least one (1) person on duty and awake at all times.

(v) If the assisted living facility does not employ an RN, the facility shall

contract with an RN to provide the initial assessment, periodic reviews, assistance plans, as well as the periodic updates of resident assessment, reviews, assistance plans, and medication management.

(c) Background checks.

All staff of the assisted living facility shall successfully complete, at a minimum, a State of Wyoming Division of Criminal Investigation (DCI) fingerprint background check and a Department of Family Services Central Registry Screening before direct resident contact.

(d) Infection Control.

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. These shall include but not be limited to:

(i) Ensure a safe and sanitary environment for residents and personnel.

(ii) Tuberculin Testing.

(A) Tuberculin testing must be accomplished for each employee prior to employment and annually thereafter.

(B) Employees having known positive skin tests shall provide a certificate of noninfectiousness, recommendations, if any, for treatment, and evidence they have complied with such recommendations.

(C) Individuals providing documentation of negative skin test administered within the last twelve (12) months do not require a follow-up.

(D) Individuals who have not had a skin test or who do not have written proof of skin test results, shall have an intradermal Mantoux using 5TU PPD. This shall be accomplished via the two (2) step procedure. If the first test is negative and the employee is asymptomatic, the employee may engage in resident contact prior to the results of the second skin test.

(I) A negative reaction requires no follow-up.

(II) A positive reaction (10mm induration using 5TU PPD) requires a referral to a physician for x-ray and certification of noninfectiousness and appropriate treatment if needed. Follow up shall comply with the recommendations of the attending physician.

(E) If symptoms occur, a new certificate of noninfectiousness is required.

(F) No person with an airborne, contagious or infectious disease shall be employed until a work release is obtained.

(I) The facility shall prohibit employees with a communicable disease or infected skin lesions from direct contact with residents and their food, if direct contact will transmit a disease.

(II) The facility shall require staff to follow universal precautions when performing direct resident care.

(~~p~~e) Personnel Policies and Records.

(i) Management shall provide new employee orientation and education regarding resident rights, evacuation, and emergency procedures, as well as training and supervision designed to improve resident care.

(ii) A record for the manager and each employee shall be maintained and contain at a minimum, the following information:

(A) Name, current address and telephone number;

(B) Social Security Number;

(C) Education;

(D) Work experience, documentation of reference checks;

(E) Date of employment;

(F) Position in the assisted living facility (job description);

(G) Documentation of tuberculin testing;

(H) Orientation checklist;

(I) I-9, (Employment Eligibility Verification);

(J) W-4, (Employee's Withholding Allowance Certificate);

(K) Licensure, Certification, or Credentials; (e.g., RN, LPN, CNA,

etc); and

(L) Documentation of all completed background and Central Registry background check with no offenses.

Section 7. Assisted Living Facility (ALF) Core Services.

(a) The assisted living facility core services include the following:

(i) Meals, housekeeping, personal and other laundry services;

(A) Provision of mechanically altered diets and dietary supplements, if required.

(ii) A safe and clean environment;

(iii) Assistance with local transportation;

(iv) Assistance with obtaining medical, dental, and optometric care, in addition to social services;

(v) Assistance in adjusting to group living activities;

(vi) Maintenance of a personal fund account, if requested by the resident or resident's responsible party, showing any and all deposits, withdrawals, and transactions of the account;

(vii) Provision of appropriate recreational activities in/out of the assisted living facility;

(viii) Care of individuals who require any or all of the following services:

(A) Partial assistance with personal care; e.g. bathing, shampoos;

(B) Limited assistance with dressing;

(C) Minor non-sterile dressing changes;

(D) Stage I skin care - skin integrity intact;

(E) Infrequent assistance with mobility. The resident may use an assistive device; e.g., wheel chair, walker, cane;

(F) Cuing guidance with ADLs for the visually impaired resident, or the intermittently confused and/or agitated resident requiring occasional reminders to time, place

and person;

(G) Care of the resident who can independently manage his own catheter or ostomy, e.g, resident who can change his own catheter bags, able to clean and care for his ostomy;

(H) Care of the resident incontinent of bowel or bladder if the condition can be managed independently;

(ix) Assessments completed by a Registered Nurse;

(A) Registered Nurse medication review every two (2) months or sixty-two (62) days or whenever new medication is prescribed or the resident's medication is changed;

(x) Twenty-four (24) hour monitoring of each resident.

(b) Resident Assessment and Services.

The staff/contract Registered Nurse (RN) shall conduct initial and, at a minimum annually, an accurate, standardized, reproducible assessment of each resident's functional capacity, physical assessment and medication review.

(i) The completion of the ALF 102.

(A) The current version of the ALF 102 is the designated screening tool. The form may be updated and /or revised periodically by the Program Division. Providers will be notified of changes in the form. The following guidelines apply to the ALF 102:

(I) The ALF 102 is only valid if completed within forty-five (45) days prior to admission and there is no change in the resident's condition.

(II) The ALF 102 must be completed and signed by an RN.

(III) The ALF 102 may be completed telephonically; however, it must be verified in person by an RN.

(IV) A new ALF 102 shall be completed at least annually, and when there is a change in the resident's condition.

(ii) Admission orders. A resident shall be admitted only if accompanied by a history and physical completed by a physician or physician extender within ninety (90) days prior to admission. The facility shall confirm the resident's medication regimen and special

treatment orders at the time of admission.

(A) Admission orders shall include an order for TB screening, influenza and pneumococcal immunization status and orders for immunization if required, unless contraindicated. The facility must develop and implement policies and procedures to ensure the following:

(I) Residents, or their legal representative are educated regarding the risks and benefits of these immunizations.

(II) The immunizations are offered unless medically contraindicated or the resident is currently immunized.

(III) If the resident is not vaccinated, the medical record must reflect the reason, such as medical contraindication or refusal.

(iii) The Registered Nurse shall make an initial assessment of the resident's needs, which describes the resident's capability to perform ADLs and notes all significant impairments in functional capability.

(A) Initial assessment. A current assessment shall be maintained in each resident's file.

(B) The assessment shall include at least the following information:

(I) Medically defined conditions and prior medical history;

(II) Physical status;

(III) Sensory and physical impairments;

(IV) Nutritional status and requirements;

(V) Special treatments and/or procedures;

(VI) Mental and psychosocial status;

(VII) Discharge potential;

(VIII) Dental condition;

(IX) Activities potential;

(X) Rehabilitation potential; and

(XI) Medication regimen.

(1.) Documentation of resident's ability to self-medicate.

(iv) Frequency of assessment. An assessment must be conducted:

(A) No earlier than one (1) week prior to admission;

(B) Immediately upon any significant change in the resident's mental or physical condition; or

(C) No less than once every twelve (12) months.

(v) Use of the assessment.

(A) The results of the assessment are used to develop, review, and revise the resident's individualized assistance plan.

(vi) Resident assistance plan.

(A) An RN shall develop an assistance plan for each resident.

(B) Each facility shall construct its own forms for such plans, which at a minimum shall contain documentation of the following:

(I) Who will provide the care/services;

(II) What care/services will be provided;

(III) When will care/services be provided;

(IV) How the care/services will be provided;

(V) The expected outcome;

(VI) Resident participation in development of the assistance plan to the extent of his ability to do so. A relative or other interested party may also participate; and

(VII) Dated signature of the RN, the facility manager, and the

resident or the resident's responsible party.

(vii) The assistance plan shall be reviewed and updated by the RN at least annually or when a significant change occurs, with input from direct care-givers, the resident, and others as designated by the resident.

(viii) The RN shall periodically evaluate results of the plan. The plan shall reflect assessed needs and resident decisions (including resident's level of involvement); support principles of dignity, privacy, choice, individuality, independence, and home-like environment; and shall include significant others who may participate in the delivery of services.

(c) Resident Rights.

The facility shall adopt and follow a written policy of resident rights. The policy shall be posted in a conspicuous place, and there shall be documentation in the resident's record that the resident read, or management explained, the policy. This policy shall not exclude, take precedence over, or in any way abrogate the legal and constitutional rights enjoyed by all adult citizens and shall include, but is not limited to the following:

(i) Be treated with respect and dignity;

(ii) Privacy;

(iii) Free from physical or chemical restraints not required to treat the resident's medical symptoms. No chemical or physical restraints will be used except by order of a physician;

(iv) Not to be isolated or kept apart from other residents;

(v) Not to be physically, psychologically, sexually, or verbally abused, humiliated, intimidated, or punished;

(vi) Live free from involuntary confinement or financial exploitation;

(vii) Full use of the facility's common areas;

(viii) Voice grievances and recommend changes in policies and services;

(ix) Communicate privately, including, but not limited to, communicating by mail or telephone with anyone;

(x) Reasonable use of the telephone, which includes access to operator assistance for placing collect telephone calls;

(xi) Have visitors, including the right to privacy during such visits;

(xii) Make visits outside the facility. The facility manager and the resident shall share responsibility for communicating with respect to scheduling such visits;

(xiii) Make decisions and choices in the management of personal affairs, assistance plans, funds, or property;

(A) Including choice of home health agencies, pharmacies, personal care providers and any other private pay provider.

(xiv) Expect the cooperation of the provider in achieving the maximum degree of benefit from those services which are made available by the facility;

(xv) Exercise choice in attending and participating in religious activities;

(xvi) Reimbursed at an appropriate rate for work performed on the premises for the benefit of the operator, staff, or other residents, in accordance with the resident's assistance plan;

(xvii) Informed by the facility thirty (30) days in advance of changes in services or charges;

(xviii) Have advocates visit, including members of community organizations whose purposes include rendering assistance to the residents;

(xix) Wear clothing of choice unless otherwise indicated in the resident's plan, and in accordance with reasonable dress code;

(xx) Participate in social activities, in accordance with the assistance plan; and

(xxi) Examine survey results.

(d) Medications.

(i) An individual record shall be kept for each resident, recording any prescription drugs administered by the facility. This record shall include:

(A) Name of resident;

(B) Name and telephone number of primary physician;

(C) Name and telephone number of the primary pharmacy;

(D) Name and description of the medication, including prescribed dosage;

(E) Dosage administered;

(F) Quantity;

(G) Times and dates administered;

(H) Method of administration;

(I) Any adverse reactions to the medication;

(J) Signature of licensed staff administering medication; and

(K) RN review date and signature.

(ii) Prescription drugs shall be dispensed from a licensed pharmacy, labeled with the name, address and telephone number of the pharmacy, name of resident, name and strength of drug, directions for use, date filled, expiration date, prescription number and name of physician. Controlled substances shall have a warning label on the bottle.

(A) An RN shall destroy all discontinued prescriptions, other than controlled substances, using accepted standards of practice.

(B) Discontinued or outdated controlled substances shall be destroyed by the RN in the presence of a licensed pharmacist and documented in the resident's record.

(iii) Self medication.

(A) Residents able to self-medicate may keep prescription medications in their room if deemed safe and appropriate by the RN.

(B) Residents may keep and use over-the-counter medications in their room without a written order by a physician unless deemed inappropriate by the RN.

(C) If more than one resident resides in the room, an assessment will be made of each person and his ability to safely have medications in the room. If safety is a factor, the medication shall be kept in a locked container.

(D) The facility will work with the resident to develop a means to

mutually resolve any problems relating to self-medication.

(iv) Medication assistance.

(A) The staff shall be responsible for providing necessary assistance to residents deemed capable of self-medicating, but are unable to do so because of a functional disability, in taking oral medications. Non-licensed staff can only assist with oral medications. Medication assistance may include :

(I) Reminding resident to take medications;

(II) Removing medication containers from storage;

(III) Assisting with removal of cap;

(IV) Assisting with the removal of a medication from a container for residents with a disability which prevents independence in this act;

(V) Observing the resident take the medication; and

(VI) Documentation of observation.

(v) Medication Administration

(A) An RN shall be responsible for the supervision and management of all medication administration as required by the Wyoming Nurse Practice Act, and the Wyoming Board of Nursing Rules and Regulations.

(e) Resident Records and Reports.

Each resident's records shall be current, organized and maintained in individual folders which shall be made available to the resident, the Licensing Division, or designated representative upon request.

(i) Each folder shall include the following:

(A) Information from the referring agent, if applicable;

(B) History and physical performed by a physician or physician extender;

(C) Individual admission form. This form shall, at a minimum, contain the following information:

(I) Full name of resident and former address;

(II) Date of admission;

(III) Sex, race, date of birth, social security number, and former occupation;

(IV) Name, home address, and telephone number of relative, friend, Power of Attorney, or guardian;

(V) Name, address, and telephone number of resident's personal physician, dentist, ophthalmologist or optometrist;

(VI) Medicare number or other medical insurance identifying data;

(VII) A written inventory of all personal possessions; however, this inventory need not include personal clothing;

(D) All accidents, injuries, incidents, illnesses, and allegations of abuse, neglect or exploitation shall be reported to the resident's family or responsible party and be documented in the individual resident records. All such occurrences shall also be reported to the appropriate entity for follow up and resolution. Reports of all incidents affecting the health, welfare or safety of a resident shall be provided to the Licensing Division immediately (within one business day). Reporting shall be done by telephone or fax. The facility's investigation of the incident shall be reported to the Licensing Division and the Long Term Care Ombudsman within five (5) working days. Documentation to support the facility reporting the situation and follow up must also be present in the resident records;

(E) An accounting of all personal funds deposited with and disbursed by the facility;

(I) Upon written authorization of a client, the facility must hold, safeguard, manage and account for the personal funds of the client.

(1.) The facility must deposit any personal funds in excess of $100 in an interest bearing account.

(2.) The facility must establish and maintain a system that assures a full and complete and separate accounting according to generally accepted accounting principles of each resident's personal funds entrusted to the facility.

(3.) Upon the death of a resident with a personal fund deposited with the facility, the facility must convey, within 30 days, the resident's funds a final accounting of those funds, to the individual or probate jurisdiction administering the resident's estate.

(4.) The facility must not impose a charge against the personal funds of a resident for any item or service for which payment is made under Medicaid or Medicare except for applicable deductible and coinsurance amounts.

(F) A signed copy of the resident's rights;

(G) The resident's assessment and individualized assistance plan;

(H) Copies of all applicable resident assistance contracts, signed by both parties;

(I) Written acknowledgment of the receipt and explanation of all facility policies including admission/discharge policies;

(J) Copy of all ALF 102's; and

(K) Copy of outside contractual responsibilities, if applicable.

(ii) The resident shall be assured of confidential treatment of all information in the record, and the resident's written consent (or the consent of the guardian) shall be required for the release of information to persons not otherwise authorized to receive it.

(iii) All residents' records shall be retained in a physically secure area for a minimum of six (6) years after the resident has left the facility and may be disposed of, by shredding or burning, after that time.

(iv) In the event of dissolution of the facility, the manager shall notify the Licensing Division as to the location of all residents' records.

(v) All records shall be protected from damage by fire, water and other hazards.

(vi) All entries in each resident's record shall be made in ink, signed and dated.

(f) Resident Activities.

An activities program shall be available to the resident and shall be designed to enhance each resident's sense of physical, psychosocial, and spiritual well-being.

(i) A member of the facility's staff shall be designated as responsible for the resident activities program;

(ii) Space, equipment, and supplies for the activities program shall be adequate for individual and/or group activities; and

(iii) There shall be regularly scheduled activities during weekdays, evenings and weekends.

(g) Grievance Procedure.

The written grievance procedure shall establish a system of receiving, reviewing, and alleviating concerns, complaints and allegations of resident rights violations, and poor service provided to include, but not limited to:

(i) Resident's method to express and document grievances;

(ii) Documentation of the provider's response to verbal and written resident grievances;

(iii) List of agencies, with address and telephone numbers for residents to contact if grievances are not addressed satisfactorily (e.g. State Long Term Care Ombudsman and the Department of Health, Office of Licensing and Surveys); and

(iv) The facility shall provide written reports of the grievances and resolutions to the Ombudsman and the Licensing Division within ten (10) days after the grievance is filed.

The written grievance procedure shall be posted in a conspicuous place within the facility.

(h) Complaint Investigations.

(i) Resident complaints shall be referred to the Long Term Care Ombudsman or the Licensing Division.

(i) Adult Protection.

(i) The facility must assure that all residents are protected from abuse. This includes the resident's right to be free from verbal, physical, mental, or sexual abuse in accordance with the definition of abuse as stated in Section 4(a) of these rules.

(ii) The facility must adhere to written policies and procedures that prohibit

the abuse of any resident. These policies and procedures must identify how the facility will screen employees before hiring, ongoing in-servicing of abuse topics with employees, and a protocol that specifies how allegations of abuse will be investigated. Each staff member must be accountable to report any suspicion or knowledge of abuse to the appropriate facility personnel immediately.

(iii) The facility is responsible to ensure all allegations of abuse are investigated expediently and that the resident(s) are protected from further, potential abuse while the investigation is in progress.

(A) Instances of abuse, neglect, or exploitation of disabled adults shall be reported to the sheriff's department, the local police department, or to the department of family services in accordance with W.S. 35-20-103.

(B) The facility must ensure that, if necessary, additional authorities are contacted if there is an allegation of abuse, neglect or exploitation. These additional authorities may include the Wyoming State Board of Nursing, Office of Healthcare Licensing and Survey, and the State Long Term Care Ombudsman.

(j) Food Service and Nutrition.

(i) Assisted Living Facilities that choose to admit residents who need therapeutic or mechanically modified diets must employ or contract with a Registered Dietitian who shall approve written menus and dietary modifications, approve special diet needs, plan individual diets, and provide guidance to dietary staff in areas of preparation, service, and monitoring. The frequency of visits is determined by the residents' needs and the competency of the dietary staff but must include at least a monthly onsite review of dietary services.

(ii) There must be an organized dietetic service that meets the daily nutritional needs of residents and ensures that food is stored, prepared, distributed, and served in a manner that is safe, wholesome and sanitary in accordance with the rules. The dietetic service must ensure that food prepared is nutritionally adequate in accordance with the Dietary Reference Intakes (DRI) for adults.

(iii) Food service supervision:

(A) Day to day responsibilities for food production and management of the dietary services shall be assigned to a person with nutrition and food service management experience equivalent to that of a Certified Dietary Manager.

(iv) A minimum of three meals in a twenty-four (24) hour period shall be provided to each resident during normal dining hours. In addition, meals and between meal snacks shall be palatable, attractive in appearance, consist of a variety of foods, and shall be

served at the proper temperature.

(A) Menus shall be planned based on recognized national dietary standards recommended by a Registered Dietitian. Menus shall be prepared at least two weeks in advance and posted in the kitchen. Reasonable substitutions of similar nutritive value must be available to residents who refuse or/are unable to eat the food served. The daily menus shall be corrected to show the food actually served, and the corrected copy kept on file and available for inspection for one (1) year. A current diet manual shall be approved by the Registered Dietitian, and sufficient copies of the approved manual must be available to dietary and nursing staff in the assisted living facility.

(v) Individuals with food preparation responsibilities shall be in good health and shall practice safe food handling techniques in accordance with the current edition of Food Code published by the U.S. Public Health Service, Food and Drug Administration.

(vi) The kitchen and dining area shall be kept clean and sanitary in accordance with standards established in the current edition of FDA Food Code. The dining area shall provide suitable furniture and adequate space to comfortably seat all residents.

(vii) There shall be enough food on hand to meet at least one (1) week's menu.

(viii) Cleaning and sanitizing of dishes and silverware shall be done by automatic dishwashers.

(ix) Persons handling soiled tableware and/or silverware shall wash their hands before handling clean ware.

(x) No fly strips shall be allowed in the kitchen or dining area.

(k) Transfer and Discharge.

(i) Residents shall receive a thirty (30) day written notice prior to any facility initiated transfer or discharge, unless the resident imposes an imminent danger to self and/or others or the resident's level of care exceeds that which can be provided by an assisted living facility. Residents shall have the right to object to the request, except where undue delay might jeopardize the health, safety or well-being of the resident or others. The notice shall include contact information for the Long Term Care Ombudsman.

(ii) Residents may be asked to leave only for the following reasons:

(A) The facility has had its license revoked, not renewed, or voluntarily surrendered;

(B) The facility cannot meet the resident's needs;

(C) The resident or responsible person has a documented established pattern, in the facility, of not abiding by agreements necessary for assisted living;

(D) Non-payment of charges; or

(E) The resident engages in behavior which imposes an imminent danger to self and/or to others.

(iii) Residents who object to the request to leave the facility shall be given the opportunity of an informal conference. This informal conference must be requested within ten (10) days of the resident's notice to leave the facility. The purpose of the conference is to determine if a satisfactory resolution can be reached. Participants in the conference may include a facility representative, the resident, and at the resident's request, a family member, and/or legal representative of the resident, and the Long Term Care Ombudsman. The informal conference is not to be considered an administrative hearing.

(iv) Residents transferred to another health care facility shall be given written transfer/discharge notice which includes:

(A) The name of the resident;

(B) The reason for the transfer/discharge;

(C) The effective date of the transfer/discharge;

(D) The location to which the resident is transferred/discharged;

(E) The name, address, and telephone number of the Ombudsman; and

(F) A listing of all outside contracted services.

(v) The facility shall provide sufficient preparation and orientation to residents to ensure an orderly transfer/discharge from the facility.

(vi) A copy of the written resident assistance plan shall be provided to the resident prior to transfer/discharge.

(l) Quality Improvement.

(i) The facility shall have an active quality improvement program to ensure effective utilization and delivery of resident care services.

(A) A member of the facility's staff shall be designated to coordinate the quality improvement program.

(B) The quality improvement program shall encompass a review of all services and programs provided for all residents. The program shall have:

(I) A written description;

(II) Problem areas identified;

(III) Monitor identification;

(IV) Frequency of monitoring;

(V) A provision requiring the facility to complete annually a self assessment survey of compliance with the regulations; and

(VI) A satisfaction survey shall be provided to the resident, resident's family, or resident's responsible party at least annually.

(C) Problems identified during the annual survey or the quality improvement process shall be addressed with appropriate written corrective actions.

(D) The quality improvement program shall be re-evaluated at least annually.

(m) Facility Policies and Procedures.

(i) Management shall develop policies and procedures that are available to residents and staff, including but not limited to:

(A) Resident rights;

(B) Disciplinary procedures surrounding substantiated cases of resident abuse;

(C) Admission, transfer, bed hold days, and discharge of residents;

(D) Medication management;

(E) Emergency care of residents (including missing resident, blizzard, water outage, etc.);

(F) Fire/disaster plan;

(G) Departure and return;

(H) Smoking;

(I) Visiting hours;

(J) Activities;

(K) Management of resident trust accounts;

(L) Personnel policies;

(M) Grievance procedure;

(N) Per Diem rate/charges/fees, to include a listing of what is included in the established charges;

(O) Incident reports;

(P) Notification of change in established per diem rate/charges/fees;

(Q) Outside contractual responsibilities; and

(R) Identification and notification of change in resident's condition.

(n) Furnishings, Buildings, Physical Plant.

(i) One half of the licensed beds shall be private rooms;

(ii) Sleeping rooms shall be homelike, well lighted, ventilated and equipped in compliance with the requirements below;

(A) All windows shall have drapes, curtains, shades or blinds to assure privacy;

(B) Beds (if provided by the facility) shall be at least standard size in width (39"), and shall be equipped with comfortable, clean mattresses and pillows. Mattresses shall be professionally renovated or replaced as needed. Extra long beds shall be used to accommodate tall residents. Rollaway-type beds, cots and folding beds shall not be used unless the resident brings these items from home for personal use;

(I) Two residents may, by consent of both parties, or by approval of the appropriate responsible party, be permitted to use one bed no smaller than double size, and occupy a single-bed sleeping room.

(C) Cabinet or bedside table;

(D) Non-combustible wastebasket;

(E) Chair; and

(F) If common closets are utilized by two (2) or more residents, dividers shall be provided for separation of each resident's clothing. All closets shall be equipped with doors. Free-standing closets shall be deducted from the square footage in the sleeping room.

(G) The size and arrangement of the residents' beds, furnishings, possessions or equipment shall allow the resident to gain fire emergency access to windows and doors, and access to toilet room. Multiple-bed rooms shall have at least three (3) feet between beds.

(H) Residents shall be encouraged to bring personal items and furniture for their rooms, (e.g., beds, chairs, and pictures);

(I) There shall be at least one (1) bedside screen per double room available to provide resident privacy when needed;

(J) There shall be an adequate supply of hot and cold water available at each lavatory, bathtub/shower, kitchen sink, dishwasher, and laundry equipment. Hot water for bathing, and resident handwashing, and laundry should be no hotter than one hundred and twenty (120°) degrees Fahrenheit.

(K) All plumbing shall be maintained in good repair and according to the requirements of the Uniform Plumbing Code;

(I) Private water systems shall be safe, potable, and have an adequate supply. Testing shall be done monthly and records of tests shall be retained at the facility.

(II) Private water systems shall be tested and found safe and potable before Licensure is granted.

(L) Fireplaces shall be securely screened and glassed in;

(M) The facility shall be maintained so that it is free of hazards, such as loose or broken window glass, loose or cracked floors or floor coverings, or cracked or loose plaster on wall or ceilings;

(N) At least one primary grade level entrance to the building shall be freely accessible for wheelchairs;

(O) Each resident shall have his individual comb, toothbrush, towels, and wash cloths;

(P) Clean drinking glasses shall be available for the residents. Common drinking cups are prohibited;

(Q) Bathrooms shall have soap and toilet paper. The facility shall provide paper towels or a blow dryer for hands, or rack space adequate for each resident using the bathroom to hang his/her personal towel. Use of a common towel is prohibited;

(R) Provisions shall be made for privacy in all bath and toilet rooms;

(S) Automatic deodorizers or aerosol fresheners shall not be used except in bathrooms; and

(T) Residents shall not use a common bar of soap. The facility shall provide either soap dispensers or individual bars of soap for each resident.

(U) Housekeeping.

(I) Housekeeping practices and procedures shall be employed to keep the home free from offensive odors, accumulations of dirt, and dust.

(II) Floors shall be maintained and clean.

(III) Polish of floors shall provide a non-slip finish.

(IV) Throw or scatter rugs shall not be used. Non-slip mats may be used.

(V) Covered containers with tight lids shall be used for garbage storage.

(W) The facility shall be maintained free of insects and rodents. All windows shall be screened. All exit doors opening inward shall have a screen door.

(X) Linens and laundry.

(I) Laundry service for linen and residents' personal clothing shall be provided. The manager shall take measures to ensure that residents' clothing is not lost or misplaced while laundering.

(II) All linen shall be bagged or placed in a hamper before being transported to the laundry area.

(III) Bed linen shall be changed as necessary but at least weekly. Additional blankets or pillows shall be provided. Rubber or water protective sheets shall be used if indicated.

(IV) Two (2) complete changes of clean bed linen shall be on hand for each licensed bed.

(1.) Torn, worn, or unclean bed linen shall not be used.

(V) All bleaches, detergents, disinfectants, and other cleaning agents shall be separated from medicines and foods.

(VI) Soiled linen shall not be transported through, sorted, processed, or stored, in kitchens, food preparation areas, or food storage areas.

(Y) The heating system shall be inspected yearly, before the heating season, and maintained according to manufacturer's instructions.

(Z) Portable space heaters shall not be used, (e.g. electric or kerosene).

(AA) Equipment Maintenance and Testing.

(I) The devices, equipment, systems, conditions, arrangements, levels of protection, or any other features that are required for compliance with the provisions of the Life Safety Code shall be permanently maintained for the building housing the facility.

(o) Evacuation Capability, Emergency Procedures, and Fire Safety.

(i) Evacuation Capability.

(A) The evacuation capability rating for the group of residents, as defined by the Life Safety Code, in accordance with licensure rules, shall meet prompt or slow for facilities with nine (9) or more residents, and the rating shall meet prompt for facilities of

eight (8) or fewer residents. The facility shall be responsible for maintaining evacuation capability ratings by timed fire exit drills.

(I) Exception shall be a facility where the construction meets the impractical evacuation capability rating.

(B) Evacuation Capability Ratings:

(I) Prompt - maximum of three (3) minutes

(II) Slow - between three (3) and thirteen (13) minutes

(III) Impractical - more than thirteen (13) minutes

(ii) Emergency Procedures.

(A) Disaster and Emergency Preparedness.

(I) The facility shall have detailed written plans and procedures to meet all potential emergencies and disasters, such as fire, severe weather, and missing residents. A copy of the plans shall be available at all times within the facility.

(1.) Emergency plans in the event of a fire shall be in accordance to the Life Safety Code Operating Features sections.

(II) The facility shall train all employees in the emergency procedures. New staff shall be trained within the first week of employment. The facility shall review the procedures with all staff at least every twelve (12) months. A training record shall be kept in each personnel file.

(iii) Fire Safety.

(A) Portable fire extinguishers shall be installed, inspected, and maintained according with NFPA 10, Standard for Portable Fire Extinguishers.

(I) State of Wyoming certified individuals shall inspect and service the extinguishers. All extinguishers shall have a tag or label securely attached that indicate the month and year the maintenance was performed and that identifies the person performing the service.

(B) Readily available and clearly readable telephone numbers for emergency contacts shall be located near all telephones.

(C) Clearly readable floor diagrams reflecting the actual floor arrangement showing the exit locations and evacuation routes shall be posted in conspicuous places. Each resident shall be instructed with its use on the first day of admission.

(D) Resident training for the fire emergency plan shall be in accordance with the Life Safety Code Operating Features sections.

(I) On the first day of admission, each resident shall be instructed in the proper action of the fire emergency plan, including the location of all the exits. A record of this instruction shall be in each resident file

(E) Fire exit drills shall be conducted in accordance to the Life Safety Code Operating Features sections. The minimum number of drills, as amended, shall be held at least twelve (12) times per year on a monthly basis with a minimum of one drill conducted each quarter on each shift. Fire exit drill records over a two-year period shall be available upon request at the facility.

(I) The facility shall be responsible for recording fire exit drills on an evaluation form that include at least the following:

(1.) Date of drill;

(2.) Time of day;

(3.) Type of drill (Practice, Announced, Surprise);

(4.) Residents who participated including staff and family members;

(5.) Time required (minutes and seconds) to evacuate all residents (including staff) from the occupied areas to a point of assembly as defined in the Life Safety Code;

(6.) List of anyone, including staff and family members, who did not evacuate in the required time allowed by the evacuation capability rating of the facility. Evacuation capability rating for each facility shall be listed on the form;

(7.) Comments on the factors that contributed to each individual’s inability to evacuate successfully and any corrective actions recommended; and

(8.) Signature and date of the person completing the form.

Section 8. Services Which Cannot Be Provided By The Level 1 Assisted Living Facility Staff.

(a) The following services cannot be provided:

(i) Continuous assistance with transfer and mobility;

(ii) Care of the resident who is unable to feed himself independently and/or; monitoring of diet is required;

(iii) Total assistance with bathing and dressing;

(iv) Provision of catheter or ostomy care; e.g., changing of catheter or irrigation of ostomy; total assist with appliance care/changing.

(v) Care of resident who is on continuous oxygen, if;

(A) The resident is unable to determine if oxygen is on or off;

(B) The resident is unable to adjust the flow or turn the oxygen on or off;

(C) Continuous monitoring is required.

(vi) Care of resident whose wandering jeopardizes the health and safety of the resident;

(vii) Incontinence care by facility staff;

(viii) Wound care requiring sterile dressing changes;

(ix) Stage II skin care and beyond;

(x) Care of the resident with inappropriate social behavior; e.g., frequent aggressive, abusive, or disruptive behavior; and

(xii) Care of resident demonstrating chemical abuse that puts him and/or others at risk;

(xiii) Monitoring of acute medical conditions.

Section 9. Contractual Services Provided Outside Assisted Living Facility Authority.

Residents in an assisted living facility may receive services from an outside entity for care beyond that provided for or specified in the Assisted Living Program Administration Rules. These services must be arranged by the appropriate professional and be incorporated into the resident's assistance plan. The resident's choice of providers must be honored.

(a) Components of the outside service(s) contract:

(i) Who will provide service(s);

(ii) What service(s) will be provided;

(iii) When the service(s) will be provided;

(iv) Where the service(s) will be provided;

(v) How the service(s) will be provided; and

(b) Life Safety Code Responsibilities for Outside Contractual Services.

A contract between the resident, the ALF, and all outside service providers in the ALF must be in place prior to the time of service delivery. This contract must identify the clear delineation of services.

(i) The contract must specifically articulate the responsibilities of the resident, the ALF, and all service providers to comply with the Evacuation Capability, Emergency Procedures and Fire Safety requirements in these rules.

(ii) All residents regardless of the type of service must be able to evacuate, or be evacuated, in accordance with the Life Safety Code.

(c) Additional Contractual Services Provided Outside the Assisted Living Authority.

In addition, services that must be provided outside the Assisted Living Facility Authority include, but are not limited to:

(i) LTC/HCBS Waiver services;

(ii) Hospice care;

(iii) Medicare/Medicaid certified home health care; and

(v) Private duty care.

(d) Long Term Care Home and Community Based Waiver

Individuals residing in assisted living facilities may be served on the long term care home and community-based waiver (LTC/HCBS) under the following conditions:

(i) When the resident requires a service that can be provided by both the long term care and the home and community based services waiver provider and the assisted living facility, but the resident cannot afford to pay the assisted living facility for the service, the case manager will ensure that the required service is provided.

(ii) Form LT101 shall be used to determine medical necessity for long term care;

(iii) Financial eligibility for HCBS has been determined by the local Department of Family Services;

(iv) A Plan of Care has been approved by the Program Administration Division or their designee; and

(v) Managers of assisted living facility shall maintain a list of the rooms being occupied by residents who are receiving LTC/HCBS waiver services. This list shall be provided to the Program Division upon request.

Section 10. Secure Dementia Units.

Level 2 assisted living facilities require adherence to all Level 1 requirements with the following additional criteria for a Level 2 Assisted Living Facility License.

(a) Level 2 Core Management requirements.

(i) The facility manager shall have at least three (3) years experience in working in the field of geriatrics or caring for disabled residents in a licensed facility;

(ii) Certified as a residential care/assisted living facility administrator or have equivalent training.

(A) Certification requirements include a training program covering topics referenced in the regulations. The course work must take place in a college, vocational training, state or national certification program, which is approved by the Department of Health. Licensed nursing home administrators, for the purpose of these rules, meet the qualifications.

(B) Administrators must complete at least sixteen (16) hours of continuing education annually. At least eight (8) of the 16 hours of annual continuing education

shall pertain to caring persons with severe cognitive impairments.

A full time manager with the above qualifications must be on duty, on the premises.

(b) Level 2 Staffing Requirements.

(i) Nursing Staff.

(A) A licensed nurse must be on duty on all shifts.

(1) May be an LPN if an RN is available on premises or by telephone.

(2) To administer P.R.N. medications.

(3) To perform ongoing resident evaluations in order to ensure appropriate, timely interventions.

(c) Level 2 Direct Care Staff.

In addition to meeting all other requirements for direct care staff stated in this Chapter, assisted living Level 2 direct care staff must receive additional documented training in:

(i) The facility or units philosophy and approaches to providing care and supervision of persons with severe cognitive impairment;

(ii) The skills necessary to care for, intervene, and direct residents who are unable to independently perform activities of daily living;

(iii) Techniques for minimizing challenging behaviors:

(A) Wandering;

(B) Hallucinations, illusions, and delusions; and

(C) Impairment of senses;

(iv) Therapeutic programming to support the highest level of residents function including:

(A) Large motor activity;

(B) Small motor activity;

(C) Appropriate level cognitive tasks; and

(D) Social/emotional stimulation;

(v) Promoting residents dignity, independence, individuality, privacy, and choice;

(vi) Identifying and alleviating safety risks to residents;

(vii) Recognizing common side effects and reactions to medications; and

(viii) Techniques for dealing with bowel and bladder aberrant behavior.

At least one staff member with this specialized training must be available on the unit at all times to provide supervision and care to the residents, as well as to assist the residents in evacuation of the facility.

Staff must have at least twelve (12) hours of continuing education annually related to care of persons with dementia.

(d) Level 2 additional core services.

In addition to the previously listed Core Services increased assistance may be required with activities of daily living depending upon assessed resident functional and cognitive ability:

(i) Assistance as needed with dressing, grooming, bathing, mobility, toileting;

(ii) Assistance as needed to maintain nutrition and hydration status based individual assessed needs:

(iii) Services necessary to maintain the highest continence level and skin integrity; and

(iv) Activity program developed by an activities professional, at least on a consultation basis, who has been trained in dementia specific activities. The program must be evaluated and revised as needed to meet the needs of the unit residents.

(e) Level 2 Resident Assessments.

In addition to all other required assessments Level 2 facilities must provide a Mini-Mental State Examination ((MMSE) for each resident considered for admittance to the secure unit.

(i) The resident shall score between 20 and 10 points on the MMSE exam;

(A) The exam shall be performed and documented at least annually and upon any significant change in the resident's mental or physical condition..

(ii) Assistance Plans for residents of secure units must, at a minimum, address the following:

(A) Memory;

(B) Judgment;

(C) Self-care ability;

(D) Ability to solve problems;

(E) Mood and character changes;

(F) Behavioral patterns;

(G) Wandering; and

(H) Dietary needs.

(f) Level 2 Discharge Requirements.

In addition to Level 1 discharge criteria residents of Level 2 facilities must be discharged when one or more of the following situations exist:

(i) They score less than 10 on the MMSE;

(ii) When it has been determined that intermittent nursing care has become ongoing; or

(iii) When the resident requires more than limited assistance to evacuate the building.

Section 11. Licensing.

(a) Licensing shall be in accordance with the current Licensure rules and regulations, Chapter 4, for assisted living facilities as promulgated by the Department of Health.

(b) Copies of the Licensure rules can be obtained from the Licensing Division.

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