

**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**  
**Health Facilities and Emergency Medical Services Division**

**6 CCR 1011-1**

**STANDARDS FOR HOSPITALS AND HEALTH FACILITIES**  
**(PROMULGATED BY THE STATE BOARD OF HEALTH)**

**CHAPTER V**  
**Long Term Care Facilities**

**Last amended 11/17/10, effective 12/30/10**

**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

**Health Facilities Regulation Division**

**STANDARDS FOR HOSPITALS AND HEALTH FACILITIES**

**CHAPTER V - LONG TERM CARE FACILITIES**

**6 CCR 1011-1 Chap 05**

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

Copies of these regulations may be obtained at cost by contacting:

Division Director

Colorado Department of Public Health and Environment

Health Facilities Division

4300 Cherry Creek Drive South

Denver, Colorado 80222-1530

Main switchboard: (303) 692-2800

These chapters of regulation incorporate by reference (as indicated within) material originally published elsewhere. Such incorporation, however, excludes later amendments to or editions of the referenced material. Pursuant to 24-4-103 (12.5), C.R.S., the Health Facilities Division of the Colorado Department of Public Health And Environment maintains copies of the incorporated texts in their entirety which shall be available for public inspection during regular business hours at:

Division Director

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**Part 01. STATUTORY AUTHORITY AND APPLICABILITY**

01.1 The statutory authority for the promulgation of these rules is set forth in sections 25-1-107.5, 25-1.5-103 and 25-3-101, et. seq., C.R.S.

01.2 A long term care facility shall comply with all applicable federal and state statutes and regulations, including but not limited to, the following:

- (a) This Chapter V;
- (b) 6 CCR 1011-1, Chapter II, General Licensure Standards; and
- (c) 6 CCR 1010-2, Colorado Retail Food Establishment Rules and Regulations.

## **Part 1. GOVERNING BODY**

### **Definitions**

Department – The Department of Public Health and Environment.

**LONG-TERM CARE FACILITY.** A long-term care facility is a health facility that holds itself out as a nursing home, nursing facility, nursing care facility or intermediate care facility or a health facility that is planned, organized, operated, and maintained to provide supportive, restorative, and preventive services to persons who, due to physical and/or mental disability, require continuous or regular inpatient care.

- (a) a long-term care facility is a nursing care facility, or a nursing facility serving residents who require continuous medical and nursing care and supervision.
- (b) a long-term care facility is an intermediate care facility serving residents who require regular, but not continuous nursing care and supervision.

**PLAN REVIEW** – the review by the Department, or its designee, of new construction, previously unlicensed space, or remodeling to ensure compliance by the facility with the National Fire Protection Association (NFPA) Life Safety Code and with this Chapter V. Plan review consists of the analysis of construction plans/documents and onsite inspections, where warranted. For the purposes of the National Fire Protection Association requirements, the Department is the authority having jurisdiction for state licensure.

**STRUCTURAL ELEMENT** – for the purposes of plan review, means an element relating to load bearing or to the scheme (layout) of a building as opposed to a screening or ornamental element. Structural elements of a building include but are not limited to: floor joists, rafters, wall and partition studs, supporting columns and foundations.

- 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.
  - 1.2.1 The facility shall disclose its ownership as required in Part 2, chapter II of these regulations.

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 consultant? 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.

1.4 **EXCEPTIONS TO RULES.** The requirements of these regulations do not prohibit the use of alternate concepts, methods, procedures, techniques, equipment, or personnel qualifications or conducting pilot projects. A facility may request waivers or exceptions to these regulations pursuant to 6 CCR 1011-1, Chapter II, General Licensure Standards, Part 4, waiver of regulations for health care entities.

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 of 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 3 ADMISSIONS**

3.1 RESTRICTIONS. The facility shall admit only those persons whose needs it can meet within the accommodations and services it provides.

3.1.1 No resident shall be admitted for inpatient care to any room or area other than one regularly designated and equipped as a resident bedroom.

3.1.2 There shall be no more than four residents admitted to a bedroom.

3.2 BED HOLD POLICIES. The facility shall develop policies for holding beds available for residents who are temporarily absent therefrom, provide a copy of the policy upon admission, and explain these policies to residents upon admission and before each temporary absence.

3.3 RESIDENT IDENTIFICATION. Upon admission, each resident shall have a visible means of identification placed and maintained on his or her person and property.

## **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 reviewed 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 inservice, 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 5. RESIDENT CARE**

5.1 RESIDENT CARE. Residents shall receive the care necessary to meet individual physical, psychosocial, and rehabilitative needs and assistance to achieve and maintain their highest possible level of independence, self-care, and self-worth and well-being. Provision of care shall be documented in the health record.

5.1.1 QUALITY OF LIFE. Residents shall be provided: a safe, supportive, comfortable, homelike environment; freedom and encouragement to exercise choice over their surroundings, schedules, health care, and life activities; the opportunity to be involved with the members of their community inside and outside the nursing home; and treatment with dignity and respect.

5.1.2 PRESSURE ULCER PREVENTION AND CARE. (See also 7.7)

(1) For residents whose pressure ulcers developed while the resident was in the facility, the facility shall have:

- (a) assessed the potential for skin breakdown, and
- (b) provided preventive measures before the ulcer developed to residents identified in the assessment required in section 5.2 as at risk of pressure ulcers (i.e., a resident exhibiting three or more of the following symptoms: underweight, incontinence, dehydration, disorientation or unconsciousness, or limited mobility).

(2) For all residents with pressure ulcers, the facility shall:

- (a) have developed an individualized treatment plan (as prescribed by section 5.7) designed to alleviate the condition;
- (b) be providing active treatment to improve the condition in accordance with the treatment plan;
- (c) be evaluating the resident's progress and treatment at least weekly and revising the treatment plan as needed and required by section 5.7;
- (d) be providing proper nutrition and hydration to promote healing and prevent further breakdown.

5.1.3 ACCIDENT PREVENTION AND ATTENTION.

(1) The facility shall:

- (a) investigate causes of accidents;
- (b) monitor the resident's response to the accident, and obtain physician's or mental health evaluation, if needed;

(c) have developed and implemented an individualized plan as part of the care plan prescribed by Section 5.7 for prevention of future accidents;

(d) evaluate and revise the plan as needed.

(2) For residents at high risk for accidents, the facility shall have identified the risk in the care plan and taken reasonable precautions to prevent common accidents before the accident occurred. Residents at high risk of accidents include the blind, the deaf, those with seizure disorders, those with accidents in the last 6 months, the totally confused but ambulatory, new amputees, and residents on psychoactive drugs.

#### 5.1.4 BEHAVIOR PROBLEM CARE.

(1) For residents with behavior problems the facility shall:

(a) have noted the behavioral problem and evaluated it in the initial assessment required by Section 5.2;

(b) develop and implement an individualized treatment plan as part of the care plan prescribed by Section 5.7;

(c) develop and implement a behavior management plan as part of the care plan prescribed by Section 5.7;

(d) obtain a mental health evaluation in appropriate cases;

(e) evaluate the resident's progress and revise the plan, as needed and required by Section 5.7;

(2) For residents receiving behavior modification drugs, the facility shall indicate in nurses' notes both positive and/or negative effects of the drug and that alternatives or adjuncts to the drugs in care planning were considered. These evaluations shall meet requirements of Section 7.10.8.

#### 5.1.5 CONTRACTURE CARE. (See also 7.7)

(1) For residents with contractures upon admission, the facility shall have noted the problem, evaluated it, and undertaken restorative nursing intervention.

(2) For residents with contractures that occurred while in the facility, the facility shall have documented that range of motion and/or repositioning was performed before the contracture developed; if the resident refused treatment or preventive measures, the facility shall have documented that such measures and the consequences of the refusal were explained to the resident.

(3) For all other residents with the potential for contracture, the facility shall have developed and be implementing an individualized treatment plan as part of the care plan prescribed in Section 5.7 to prevent or manage contractures and be periodically evaluating the progress. The plan shall be reviewed and revised at least annually as needed.

#### 5.1.6 PROMOTION OF MOBILITY. (See also 7.7)



- (1) For all residents, the facility shall have assessed each resident's ambulation potential and capability at least monthly, designed a plan of care as part of the care plan prescribed in section 5.7 to encourage mobility, be implementing the plan, regularly evaluate progress and revise the plan as needed.
- (2) For residents requiring devices and/or personal assistance to ambulate, the facility shall provide and maintain devices in good repair, assist the resident to obtain appropriate footwear, and provide assistance to residents to move and transfer.

#### 5.1.7 INDWELLING CATHETER CARE.

- (1) For residents with any indwelling catheter, the facility shall have:
  - (a) evaluated appropriateness of continued use at least monthly;
  - (b) assessed the reason for the incontinence;
  - (c) evaluated the potential of bladder retraining, implementing it, if indicated, or documenting reasons if retraining was not indicated;
  - (d) implemented any physician order for irrigation or catheter replacement.
- (2) For residents exhibiting signs or symptoms of urinary tract infection, the facility shall have notified the physician, obtained orders for treatment and implemented such treatment plan.

#### 5.1.8 WEIGHT CHANGES. The facility shall:

- (1) evaluate the resident to determine the cause of the weight change;
- (2) develop and implement an individualized plan of care as part of the care plan prescribed by Section 5.7 (including appropriate intervention by other appropriate disciplines); evaluate resident progress as required by Section 5.7, and revise the plan, as needed;
- (3) observe food and fluid intake and provide encouragement to residents with eating problems;
- (4) provide reasonable choices of foods to meet personal preferences and religious needs;
- (5) if nourishments are provided as part of the care plan, between meals and at bedtime, document the nourishments provided and whether they are consumed;
- (6) provide assistance in eating or adaptive eating devices and assist residents in obtaining dentures, or dental care, as appropriate to the individual resident;
- (7) for residents with mouth or gum problems, meet the requirements of part 10.

#### 5.1.9 GROOMING.

- (1) The facility shall assist the resident to obtain appropriate materials for personal care for the resident, provide personal care in a manner that preserves resident dignity and privacy, and provide social services intervention, if needed.

- (2) For residents with inappropriate, unclean, or poorly maintained clothing and/or assistive devices, the facility shall assist the residents to obtain clothing, shoes and devices. Such clothing, shoes and devices shall fit properly, be clean, and be in good repair.
- (3) For residents with poor oral hygiene, the facility shall meet the requirements of Part 10.

5.1.10 EXCORIATION PREVENTION AND CARE. (See also 7.7)

- (1) For all residents who are incontinent or immobile, have impaired sensation, compromised nutritional or fluid status, or inadequate hygiene, the facility shall:
  - (a) have completed an initial skin evaluation upon admission and re-evaluated the condition at least weekly;
  - (b) be providing measures to prevent the excoriation, including:
    - (1) maintenance of clean, dry well lubricated skin;
    - (2) taking incontinent residents to the bathroom on a regular individualized schedule;
    - (3) evaluating the need for daily baths;
    - (4) determining potential trouble spots where microbial growth may occur (breasts, gluteal folds, skin folds).
- (2) For residents with excoriations, the facility shall:
  - (a) develop and be implementing an individualized treatment plan as part of the care plan prescribed by Section 5.7 for the excoriation;
  - (b) evaluate the resident's progress at least daily and review and revise the treatment plan as needed;
  - (c) enter a progress note at least weekly in the health record.

5.1.11 FLUID MANAGEMENT. The facility shall provide fluid in quantities needed to maintain hydration and body weight and shall:

- (1) assess each resident's hydration needs;
- (2) observe and evaluate food and fluid intake daily and record and report deviations from sufficient food and fluid intake;
- (3) provide assistance and encouragement to residents requiring assistance to meet their food and fluid requirements;
- (4) provide self-help adaptive devices and encourage their use.

5.1.12 PERSONAL ENVIRONMENT. The facility shall allow for personalization of rooms through the use of residents' personal furniture, appliances, decorations, plants, and memorabilia. The facility may limit the number of furniture items in resident rooms if to do so is

necessary to accommodate roommate preferences, fire codes, housekeeping, or safe movement in the room.

5.1.13 PERSONAL CHOICE. The facility shall:

- (1) make reasonable efforts to accommodate preferences of roommate, including the right of each resident so requesting to be assigned to a room with non-smokers;
- (2) allow residents flexibility in times to eat main meals, consistent with requirements of Section 11.2 and with its own reasonable staffing and scheduling requirements;
- (3) allow residents flexibility in times to bathe, rise and retire, consistent with its own reasonable staffing and scheduling requirements;
- (4) provide at least one alternative menu choice for each meal of similar nutritive value. The same alternative shall not be used for two consecutive meals.

5.1.14 PROBLEM RESOLUTION. The facility shall inform residents of the resident council and grievance procedures, the name, address, and phone number of the Long-Term Care Ombudsman, and the phone number and address of the Departments of Health and Social Services and the Colorado Foundation for Medical Care. Staff shall assist residents in raising problems to the facility's administration or appropriate outside agencies.

5.2 RESIDENT ASSESSMENT. Within twenty-four hours of admission to the long-term care facility, a licensed nurse shall assess each resident's physical, mental, and functional status, including strengths, impairments, rehabilitative needs, special treatments, capability for self-administration of medications, and dependence and independence in activities of daily living. The initial assessment shall form the basis of the preliminary care plan. Within seven days of admission, the nurse shall also collaborate with social services staff in assessing discharge potential and shall coordinate assessments with social services, dietetic, and activity staff. These assessments shall form the basis of the interdisciplinary care plan prescribed by Section 5.7.

5.2.1 The continuing assessment shall at all times reflect resident status.

5.2.2 The assessment shall be updated at least at three month intervals, but in any event whenever a significant change of resident condition occurs.

5.2.3 The current resident assessment shall be a part of the resident's health record and available for all direct care staff to use.

5.3 NURSING CARE PLANNING. A licensed nurse shall prepare an individualized nursing care plan for each resident based on the resident assessment prescribed by Section 5.2 and applicable physician treatment orders. The purpose of the care plan is to create an individualized tool for carrying out preventive, therapeutic, and rehabilitative nursing care.

5.3.1 Within 24 hours of admission, nursing staff shall prepare and implement a preliminary nursing care plan to meet each resident's immediate needs.

5.3.2 Within one week of admission, nursing staff shall prepare and implement a comprehensive nursing care plan for each resident.

5.3.3 The plan shall meet each resident's unique needs, problems, and strengths by identifying resident strengths, needs, and problems; specifying care interventions to capitalize on

the strengths and meet those needs or problems; and defining the frequency of each intervention.

5.3.4 The nursing care plan shall be current and evaluated and revised following each assessment and whenever the resident's condition changes.

5.4 SOCIAL SERVICES CARE PLANNING. Social services staff shall assess social services needs within one week of admission and develop a social services care plan to meet each resident's needs.

5.5 ACTIVITIES CARE PLANNING. Activities staff shall assess activities needs within one week of admission and shall develop an activities care plan to meet each resident's needs.

5.6 NUTRITIONAL CARE PLANNING.

(a) The Dietary supervisor or consultant shall prepare an initial nutritional history and assessment for each resident within two weeks of admission that includes special needs, likes and dislikes, nutritional status, and need for adaptive cutlery and dishes and develop a plan of care to meet these needs.

(b) In the event the facility elects to utilize paid feeding assistants or feeding assistant volunteers pursuant to Part 11.001 of this Chapter V, as part of the history and assessment conducted pursuant to paragraph (a) of this 5.6, the interdisciplinary team shall evaluate each resident regarding the suitability of the resident to be fed and hydrated by a feeding assistant. Such evaluation shall include, but need not be limited to each resident's level of care, functional status concerning feeding and hydration, and, the resident's ability to cooperate and communicate with staff.

5.7 INTERDISCIPLINARY CARE PLANNING. Within two weeks of admission, an interdisciplinary long-term care facility staff team shall develop a personalized overall care plan for each resident based on the resident assessments and applicable physician orders.

5.7.1 The overall care plan shall contain a list of resident problems and the discipline that will address each problem in its own more detailed plan of care.

5.7.2 The overall care plan shall be evaluated according to the goals set out in the plan, following each assessment and whenever the resident's condition changes.

5.7.3 The interdisciplinary team shall consist of representatives of resident services inside and outside the facility, as appropriate, including at least nursing, social services, activities, and dietetic staff. Other persons, such as medical, pharmacy, and special therapies, shall be included as appropriate. Residents and their representatives shall be invited to participate in care planning. Refusal to participate shall be documented.

## **Part 6. MEDICAL CARE SERVICES**

6.1 PHYSICIAN CARE. Each facility resident shall be admitted to the facility by a physician and have the benefit of continuing health care under supervision of a physician. The facility shall have written policies developed by the medical advisor to coordinate and designate responsibility when more than one physician is treating a resident. [See Part 26 exceptions]

6.1.1 The facility shall take all necessary steps to assure that upon admission, the physician provides to the facility sufficient information to validate the admission and identify the resident and a medical plan of therapy to include diet, medications, treatments, special

procedures, activities, specialized rehabilitative services, if applicable, and potential for discharge.

- 6.1.2 The facility shall take all necessary steps to assure that the admitting physician provides to the facility on admission the anticipated schedule of visits to meet resident needs, which shall be no less often than every 6 months. Acknowledgement of the visit schedule by the resident or authorized representative shall be documented in the health record.
  - 6.1.3 The facility shall take all necessary steps to assure that telephone orders are received by a physician, licensed nurse or other appropriate disciplines as authorized by their professional licensure and are countersigned by the attending physician or dentist and entered in the record within 2 weeks.
  - 6.1.4 The facility shall take all necessary steps to assure that the attending physician authenticates medical histories and physical examinations completed by other authorized personnel.
  - 6.1.5 The facility shall take all necessary steps to assure that a licensed dentist authenticates dental examinations and dental histories completed by other authorized personnel and signs dental treatment records.
  - 6.1.6 The facility shall take all necessary steps to assure that the attending physician writes a progress note following each visit, and at least once per year provides a written evaluation of the resident's current medical status compared to the previous year's status.
  - 6.1.7 The facility shall take all necessary steps to assure that all drugs and therapies ordered by the physician are supported by diagnoses indicating the use of those drugs and therapies.
- 6.2 MEDICAL DIRECTOR. The facility shall retain by written agreement a physician 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**

7.1 ORGANIZATION. The facility shall have a department of nursing services that is formally organized to provide complete, effective care to each resident. The facility shall clearly define qualifications, authority, and responsibility of nursing personnel in written job descriptions.

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, qualified by education and experience to direct facility nursing care.

7.3 24-HOUR NURSING COVERAGE. The facility shall be staffed with qualified nursing personnel, awake and on duty, who are familiar with the residents and their needs in a number sufficient to meet resident functional dependency, medical, and nursing needs.

7.3.1 Staff shall be sufficient in number to provide prompt assistance to persons needing or potentially needing assistance, considering individual needs such as the risk of accidents, hazards, or other untoward events. Staff shall provide such assistance.

7.3.2 Except as provided in Section 7.6, a nursing care facility shall be staffed at all times with at least one registered nurse who is on duty on the premises. Each resident care unit shall be staffed with at least a licensed nurse.

7.3.3 Except as provided in Section 7.6, an intermediate care facility shall be staffed with at least one full-time licensed registered nurse or licensed practical nurse who is on duty on the premises on the day shift seven days per week. A facility using a licensed practical nurse as a director of nursing shall provide at least 4 hours per week of consultation by a licensed registered nurse.

7.3.4 A nursing care facility shall provide nurse staffing sufficient in number to provide at least 2.0 hours of nursing time per resident per day. In facilities of 60 residents or more, the time of the Director of Nursing, Staff Development Coordinator, and other supervisory personnel who are not providing direct resident care shall not be used in computing this ratio.

7.3.5 Nursing personnel shall be trained in nursing procedures and responsibilities and shall be familiar with any equipment necessary for care on the unit.

7.3.6 All nursing assistants and other nursing personnel shall function under the direction of a registered nurse.

7.3.7 If a long-term care facility operates out of more than one building, it shall have staff on duty 24 hours per day in each building in a number sufficient to meet resident care needs.

7.4 WRITTEN PROCEDURES. The facility shall have written nursing procedures establishing the standards of performance for safe, effective nursing care of residents and shall assure that they are followed by all nursing staff.

7.4.1 Procedures shall include the requirement that medications be administered in compliance with applicable Colorado law.

7.4.2 The nursing procedures shall be evaluated and revised as necessary, but no less often than annually.

7.5 NURSE STAFF RESPONSIBILITIES. Nursing staff shall participate in resident assessment, resident care planning, and resident nursing care, as prescribed by this Part and Part 5.

7.6 EXCEPTIONS. Nothing contained in this Part shall require any rural long-term care facility certified as a Skilled Nursing Facility or an Intermediate Care Facility under Medicaid to employ nursing staff beyond current federal certification requirements. Since federal standards require that nurse staffing be sufficient to meet the total nursing needs of all residents, resident conditions will in all events determine the specific numbers and qualifications of staff that each facility must provide.

7.6.1 A rural facility is one that is located in:

- (1) a county of fewer than fifteen thousand population; or
- (2) a municipality of fewer than fifteen thousand population that is located ten miles or more from a municipality of fifteen thousand population or over; or
- (3) the unincorporated part of a county ten miles or more from a municipality of fifteen thousand population or more.

7.6.2 To the extent that these regulations require any facility to employ a registered nurse more than 40 hours per week, the Department may waive such requirements for such periods as it deems appropriate if, based on findings consistent with Part 4 of chapter II of these regulations it determines that:

- (1) The facility is located in a rural area as defined in Subsection 7.6.1;
- (2) The facility has at least one full-time registered nurse who is regularly on duty 40 hours per week;
- (3) The facility has only residents whose attending physicians have indicated in orders or admission notes that each resident does not require the services of a registered nurse for a 48-hour period or the facility has made arrangements for a professional nurse or physician to spend such time at the facility as is determined necessary by the resident's attending physician to provide needed services on days when the regular full-time registered nurse is not on duty; and
- (4) The facility has made and continues to make a good faith effort to comply with the more than 40-hour registered nurse requirement, but registered nurses are unavailable in the area.

7.7 SUPPLIES AND EQUIPMENT. The facility shall provide the supplies and equipment necessary to conduct the preventive, therapeutic, and rehabilitative nursing program. Equipment includes devices to assist residents to perform activities of daily living.

7.7.1 Equipment shall be maintained in clean and proper functioning condition.

7.7.2 The facility shall provide or assist residents to obtain walkers, crutches, canes, and wheelchairs (with appropriate padding), all of which shall fit residents properly.

7.7.3 Nursing staff shall be trained in rehabilitative nursing procedures, including preventive nursing care measures, and in the proper use of prosthetic devices and equipment.

7.8 CARE POLICIES. The facility shall have written resident care policies approved by the governing body, which staff shall follow.

7.9 RESIDENT SOCIALIZATION. Except where contraindicated by physician order or resident preference, residents shall be dressed, encouraged to be active, be out of bed for reasonable periods of time each day, and encouraged to eat in a dining room.

7.10 MEDICATION ADMINISTRATION. Medications shall be identified as provided in Subsection 16.3.2. Staff shall verify identification of the medication when the medication is prepared as well as when it is administered.

7.10.1 Medications and treatments shall be given only as ordered by a physician.

7.10.2 Medication shall be administered in a form that can be most easily tolerated by the resident. Staff shall not mask the medication or alter its form, through crushing or dissolving or other means, if to do so would be hazardous and not without first informing the resident or responsible party.

7.10.3 Medications that are prepared but unused shall be disposed of in accordance with state law and the facility's written procedures.

7.10.4 All administered medications shall be recorded in the resident's health record, indicating the name, strength, dosage, and mode of administration of the medication, the date and time of administration, and the signature of the person administering the medication.

7.10.5 To encourage independence and prepare residents for discharge, the facility shall permit self-administration of medications in appropriate cases upon the order of the attending physician and under the guidance of a registered or a licensed practical nurse.

7.10.6 If facility policy permits medications to be kept at the bedside, the pharmaceutical advisory committee shall approve such types of medications. The facility shall assure that each such medication is ordered by the physician to be kept at the bedside, it is used properly, use is documented, and it is stored in a secure manner that protects all residents.

7.10.7 Drug reactions and significant medication errors shall be reported within thirty minutes to the resident's physician. A call to the office or answering service does not meet the facility's responsibility to provide emergency care. The resident's condition shall be monitored for 72 hours and observations documented in the health record.

7.10.8 If a resident is administered psychoactive medications, he or she shall be evaluated for symptoms of tardive dyskinesia at least every three months.

#### 7.11 RESTRAINTS.

(A) A PHYSICAL RESTRAINT is any manual method or physical or mechanical device, material or equipment attached or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body.

(B) A CHEMICAL RESTRAINT is anything that is used for discipline or convenience and not required to treat medical symptoms. Any medication that can be used both to treat a medical condition and to alter or control behavior shall be evaluated to determine its use for the resident. If a medication is used solely or primarily to treat a medical condition, it is not a chemical restraint.

7.11.1 Linen shall not be used as restraints.

7.11.2 The facility shall establish written policies and procedures governing the use of physical and chemical restraints and shall assure that they are followed by all staff members.



- 7.11.3 Physical and chemical restraints shall only be used upon the order of a physician and only when necessary to prevent injury to the resident or others, based on a physical, functional, emotional and medication assessment.
- 7.11.4 Restraints shall not be used for disciplinary purposes, for staff convenience or to reduce the need for care of residents during periods of understaffing.
- 7.11.5 Whenever restraints are used, a call signal switch or similar device within reach or other appropriate method of communication shall be provided to the resident.
- 7.11.6 If the resident needs emergency care, restraints may be used for brief periods to permit medical treatment to proceed, unless the resident or legal representative has previously made a valid refusal of the treatment in question. A resident whose unanticipated violent or aggressive behavior places the resident or others in imminent danger does not have the right to refuse the use of restraints as long as those restraints are used as a last resort to protect the safety of the resident or others and use is limited to the immediate episode.
- 7.11.7 Residents in physical restraints shall be monitored at least every 15 minutes to assure that the resident is properly positioned, blood circulation is not restricted, and other resident needs are met.
- 7.11.8 At least every two hours during waking hours, residents shall have the physical restraint removed and shall have the opportunity to: drink fluids, be toileted, and be exercised, moved, or repositioned, which activity shall be documented in the health record.
- 7.12 SAFETY DEVICES. A safety device such as an alarm, helmet or pillow is used to protect the resident from injury to self, maintain body alignment, or facilitate comfort. Prior to using any safety device, the facility shall assess the resident to properly identify the resident's needs and medical symptom/s that the safety device is being employed to address. The facility shall also evaluate whether any safety device being used meets the definition of a physical restraint as defined at section 7.11(A).
- 7.12.1 Linen shall not be used as safety devices.
- 7.12.2 Safety devices shall not be used for disciplinary purposes, for the convenience of staff, or to reduce the need for care of residents during periods of understaffing.
- 7.12.3 The facility shall establish written policies and procedures governing the use of safety devices and shall assure that they are followed by all staff members.
- 7.12.4 If a safety device meets the definition of a restraint, then all regulations under section 7.11 apply. A registered nurse may order a safety device after assessing and determining the need exists. Through the nursing assessment, if the need is ongoing, a comprehensive, documented physical and functional assessment shall be completed no less often than after the first 24 hours, at the end of the week, and monthly thereafter.
- 7.12.5 At least every two hours residents with safety devices shall be monitored and such monitoring shall be documented.
- 7.12.6 Residents with safety devices shall have either a call signal switch or similar device within reach or some other appropriate means of communication provided.
- 7.13 PHYSICIAN NOTIFICATION. Facility staff shall notify the attending physician promptly in cases of significant change in resident status and any incident or accident involving the resident.

## **Part 8. SOCIAL SERVICES**

8.1 SOCIAL SERVICES. The facility shall identify, plan care for, and meet the identified emotional and social needs of each resident to enhance resident psycho-social health and well-being.

8.1.1 Social services staff shall be involved in the pre-admission process, providing input as to appropriateness of placement from a psycho-social perspective, except in emergency admissions. Such involvement may include contact with the prospective resident or family member, or interdisciplinary conferences that consider psycho-social issues as well as medical/nursing criteria.

8.1.2 Social services staff shall provide for addressing needs of individuals or groups, either directly by staff or by referral to community agencies.

8.1.3 Social services staff shall assist residents and families in coping with the medical and psycho-social aspects of the resident's illness and disability and the stay in the facility.

8.1.4 Social services staff shall assist residents in planning, for discharge by coordinating service delivery with the nursing staff and by assessing availability and facilitating use of financial and social support services in the community.

8.1.5 When services, such as community mental health services, are available in the community to meet special residents' social and emotional needs, social services staff shall provide appropriate referrals to community services.

8.1.6 Social services staff shall coordinate transfers (other than medical transfers) within and out of the facility and assist residents in adjusting to intra-facility transfers.

8.1.7 Social services staff shall participate in resident assessment and care planning as prescribed by 5.2, 5.4, and 5.7, and shall provide social services to residents. Staff shall review and update the assessment and care plan at least every six months.

8.1.8 Social services staff shall record information on social history in the health record and review it at least annually.

8.1.9 Social services staff shall record progress notes in the resident's health record at least quarterly for the first six months that a resident is in a long-term care facility and at least semi-annually thereafter.

8.1.10 Social services staff shall participate in developing policies and procedures pertaining to social services in the facility.

8.1.11 Social services staff shall provide orientation to new residents and their families (including explanation of residents' rights) and assistance to residents and families in raising concerns about resident care.

8.2 STAFFING. The facility shall employ social services staff qualified as provided in Subsections 8.2.1 and 8.2.2 and sufficient in number to meet the social and emotional needs of the residents.

8.2.1 A qualified social work staff member of a public or private non-profit facility\* is a person who is either:

- (1) A social worker licensed or authorized expressly by state law to practice under supervision of a licensed social worker; or

- (2) a person with a Master's or Bachelor's Degree in social work; or
- (3) a person with a Master's or Bachelor's Degree in a related human services field who has monthly consultation from a person meeting the qualifications in subsections 1, or 2. The consultation shall be sufficient in amount to assist the social work staff to meet resident needs.

8.2.2 A qualified social work staff member of a for-profit facility\* is a person who is either a social worker licensed or authorized expressly by state law to practice under supervision of a licensed social worker or a person with a Master's or Bachelor's Degree in social work or other human services field who has monthly consultation from a person so licensed or authorized; the consultation shall be sufficient in amount to assist the social work staff to meet resident needs.

8.2.3 Any facility that on the effective date of these regulations employed a person with a high school degree or GED as social services staff may continue to employ that individual with prescribed consultation.

8.2.4 Any facility located in a rural area as defined by subsection 7.6.1 may apply for a waiver under Part 4 of chapter II of the qualifications for a social services staff member under this section if it demonstrates that it has made a good faith effort to hire staff with the required qualifications, but that qualified social services staff are unavailable in the area.

8.3 FACILITIES AND EQUIPMENT. The facility shall provide for social services staff suitable space, equipped with a telephone, for confidential interviews with residents and families. The space shall provide visual and auditory privacy and locked storage for confidential records and be accessible to non-ambulatory persons.

## **Part 9. RESIDENT ACTIVITIES**

9.1 ACTIVITIES PROGRAM. The facility shall offer a program of organized activities that promotes residents' physical, social, mental, and intellectual well-being, encourages resident independence and pursuit of interests, maintains an optimal level of psycho-social functioning, and retains in residents a sense of continuing usefulness to themselves and the community.

9.1.1 Activities shall be broad enough in scope to stimulate participation of all residents, including residents with mental and emotional impairments, but no resident shall be compelled to participate in any activity. Each month, activities shall include at least one from each of the following categories: social/recreational, intellectual, physical, spiritual, and creative.

9.1.2 The facility shall provide individual and group activities designed to meet each resident's individual needs.

9.1.3 Activities staff shall participate in resident assessment and care planning as prescribed by 5.2, 5.5, and 5.7, and shall implement activity programs.

9.1.4 The facility shall develop programs to encourage community contact, including use of community volunteers inside the facility and activities for residents outside the facility. The facility shall make reasonable arrangements for transportation for residents to such activities.

9.1.5 The facility shall provide activities daily, including at least one evening per week. Activities in addition to religious services shall be provided on weekends each week.

9.1.6 The facility shall post a monthly activities schedule where it is visible to all residents and families indicating date and time of each activity that is open to all residents.

9.1.7 The facility shall retain activity attendance records, maintained in a location other than the health record.

9.2 STAFFING. The facility shall employ activities staff sufficient in number to meet resident needs and qualified as either:

- (1) an activity professional certified by the National Certification Council for Activity Professionals as an Activity Director Certified or Activity Consultant Certified;
- (2) an occupational therapist or occupational therapy assistant meeting the requirements for certification by the American Occupational Therapy Association and having at least one year of experience in providing activity programming in a long term care facility;
- (3) a therapeutic recreation specialist (registered by the National Therapeutic Recreation Society) having at least one year of experience in providing activity programming in a long term care facility;
- (4) a person with a Master's or Bachelor's degree in the social or behavioral sciences who has at least one year of experience in providing activity programming in a long term care facility;
- (5) a person who has completed, within a year of employment, a training course for activity professionals in an accredited state facility [if available] and who has at least two years experience in social or recreational program work, at least one year of which was full-time in an activities program in a health care setting; or
- (6) a person with monthly consultation from a person meeting the qualifications set forth in subsections (1) through (5). The consultation shall be sufficient in amount to assist the activity staff members to meet resident needs.

9.3 RELIGIOUS SERVICES. The facility shall assist residents who are able and wish to do so to attend religious services of their choice. The facility shall honor resident requests to see their clergy and provide private space for such visits.

9.4 SPACE AND EQUIPMENT. The facility shall make available the supplies, space, and equipment to provide an activities program that meets each resident's individual needs. The facility shall provide an activities and recreation area and provide at least: books, current newspapers, games, stationery, radio, and television.

## **Part 10. DENTAL SERVICES**

10.1 DENTAL EXAMINATION. Upon admission, each resident of a facility upon his/her consent or upon the consent of a responsible person, shall have an oral examination by a licensed dentist or an initial oral inspection by a licensed dental hygienist designated by a dentist.

10.1.1 The facility shall take all necessary steps to assure that the dental examination is conducted according to current dental practice.

10.1.2 The facility is not responsible to pay for such services.

10.1.3 If the local dental society provides a list of dentists who are willing to participate, the facility shall make the list available to the residents.

10.1.4 In lieu of the admission examination, the resident may present written results, for entry into his/her medical record, of an oral examination administered during a period not to exceed six months prior to admission.

10.2 DENTAL RECORDS. The dentist or the designated dental hygienist is responsible for the dental record. For residents agreeing to participate in the program, the facility shall take all necessary steps to assure that there are complete, accurate dental records that include the following:

10.2.1 Results of all current dental examinations and plans for treatment.

10.2.2 One of the following to document provision of planned treatment:

(1) Record of treatment provided pursuant to a plan for treatment.

(2) A document signed by each resident of a nursing care facility or responsible party that states that the resident or responsible party is aware of any and all specific oral pathology identified during an oral examination of the resident, but elects not to obtain treatment because of cost or other reasons.

(3) In the event that the resident or responsible party elects not to obtain the initial oral examination, a signed statement to that effect in the resident's permanent medical record, which substitutes for the dental record requirement.

10.3 ORAL APPLIANCES. Upon consent, all residents' removable oral appliance and personal hygiene appliances (including without limitation, full dentures, partial dentures, and toothbrushes) shall be clearly identified and marked in a permanent manner with the user's name, as recommended by the dentist designated as advisory dentist to the facility.

10.4 DENTAL HYGIENE. Each facility shall implement policies for an oral hygiene for its residents, in consultation with the advisory dentist or the designated dental hygienist.

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**

11.1 DIETARY SERVICES. The facility shall provide meals that are nutritious, attractive, well balanced, in conformity with physician orders, and served at the appropriate temperature in order to enhance residents' health and well being. It shall also offer nourishing snacks.

11.2 ORGANIZATION. The facility shall have an organized food service, appropriately planned, equipped, and staffed to prepare and serve the number of meals created in the kitchen. The facility shall offer at least three meals or their equivalent per day, at regular times, with not more than 14 hour between the beginning of the evening meal and breakfast. Routine seatings shall be no later than 8 A.M. for breakfast and no earlier than 5 P.M. for the evening meal. Timing of meals shall generally comport with cultural practices in the community, unless inconsistent with these regulations.

11.3 PERSONNEL. The administrator shall designate a dietician or person qualified by training and experience to be responsible for the dietary services.

- 11.3.1 If not a professional dietician, the designee shall obtain frequent regularly scheduled consultation from a registered dietician or a person eligible for registration who meets the American Dietetic Association's qualifications standards or a graduate from a baccalaureate degree program with major studies in food and nutrition.
- 11.3.2 The number of trained food service personnel shall be sufficient to provide food service to the residents in the facility over a period of 12 hours or more per day.
- 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.
- 11.5 ORDERS. All diets and nourishments shall be provided and served as by the attending physician.
- 11.6 NUTRITIONAL ASSESSMENT AND PROGRESS NOTES. The dietary supervisor consultant shall participate, in resident, assessment and care planning as prescribed by 5.2, 5.6, and 5.7.
- 11.6.1 The supervisor or consultant shall write progress notes on each resident at least at six month intervals.
- 11.6.2 The facility shall reasonably accommodate individual resident references in meals by offering appropriate and nutritionally adequate substitutes. (See Section 5.1.13(4).)
- 11.7 DIET MANUAL. The facility shall maintain a current diet manual conveniently available to the dietary and nursing staffs. For purposes of this section, current means initially published or revised within five years.
- 11.8 MENUS. Menus shall meet the requirements of the Dietary Guidelines for Americans, 2005, U.S. Department of Health and Human Services and U.S. Department of Agriculture, 6th Edition. Menus shall be written, approved by a dietitian and planned at least one week in advance, with consideration given to residents' personal tastes, desires, and cultural patterns. Menus shall be posted in the kitchen area and retained by the facility for at least four weeks after the menu is used. If menus are changed, all changes shall be posted as served. A standard meal planning guide shall be used primarily for menu planning and food purchasing. It is not intended to meet the nutritional needs of all residents. This guide shall be adjusted to consider individual differences since residents may have different nutritional needs based upon age, size, gender, physical activity, and state of health. There are many meal planning guides from reputable sources; i.e., American Diabetes Association, American Dietetic Association, American Medical Association, or U.S. Department of Agriculture, that are available and appropriate for use when adjusted to meet each resident's needs. Recipes appropriate to the menus and needs of the facility shall be available to the cooks.
- 11.9 SPACE. The facility shall provide adequate space to accommodate fixed and movable equipment and employee functions; receive, store, refrigerate, and prepare food; assemble trays; store carts; and clean dishes, pots, and pans.
- 11.10 REFRIGERATOR SAFETY. Walk-in refrigerators and freezers shall have inside lighting and inside lock releases. In facilities constructed after the effective date of these regulations, there shall be an alarm system that is clearly audible throughout the food preparation and storage areas of the facility and that may be readily activated by staff members from within walk-in refrigerators or freezers.
- 11.11 EQUIPMENT. The facility shall provide equipment sufficient in amount, adequate in type for efficient and timely preparation of meals.

- 11.12 STORAGE OF DISHES AND GLASSES. Clean glasses, cups, and other dishes shall not be stored in such a manner as to entrap moisture.
- 11.13 ISOLATION. Dishes and utensils with which food is served to residents in isolation because of infectious diseases shall be sanitized if they are contaminated with infectious material such as blood drainage or secretions or shall be disposable.
- 11.14 MILK. Milk for drinking shall be provided to consumers in an unopened, commercially filled container not exceeding a one pint capacity, or drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser, or poured directly into the drinking vessel from a commercially filled half-gallon or gallon container that has been refrigerated until served to maintain a temperature of 45 degrees FAHRENHEIT or less.
- 11.15 NAIL POLISH AND FALSE NAILS. Staff involved in preparing and serving food shall not wear nail polish or false nails.
- 11.16 DINING AND RECREATIONAL FACILITIES. Dining and recreation areas shall be readily accessible to all residents, and shall not be in a hallway or lane of traffic in or out of the facility. Such space shall be sufficient to accommodate activities conducted there, consistent with resident comfort and safety. The dining and recreation areas may be separate or combined.

#### **Part 11.001. FEEDING ASSISTANTS**

##### **11.001.1 Definitions.**

Unless otherwise indicated, as used in Part 11.001:

(1)

- (a) "Feeding assistant" means an individual who assists residents by performing feeding assistant tasks, meets the requirements of Section 11.001.2 and 11.001.3; and, is paid as an employee of a facility; used by a facility under arrangement with another agency or organization; or, who is an unpaid volunteer.
- (b) The following individuals may provide feeding assistance to residents without meeting the requirements of section 11.001.2 and 11.001.3:
- (i) Registered or licensed nurses;
  - (ii) Certified nurse aides;
  - (iii) Registered dietitians;
  - (iv) Licensed health care practitioners with appropriate experience in feeding and hydrating residents;
  - (v) Private duty aides and students in nursing education programs and other allied health programs who utilize facilities as clinical practice sites; or,
  - (vi) Resident family members.

- (2) "Employing facility" means a facility that employs paid feeding assistants or utilizes the services of volunteer feeding assistants.
- (3) "Feeding assistant tasks" include and are limited to the provision of feeding and hydration services provided in accordance with this Section 11.001. A feeding assistant may not perform or be assigned to perform any task that constitutes: the practice of professional nursing as defined in §12-38-103 (10), C.R.S.; the practice of practical nursing as defined in §12-38-103 (9), C.R.S.; or the practice of a nurse aide as defined in §12-38.1-102 (5), C.R.S.
- (4) "Training program provider" means, an employing facility or other training entity approved by the department pursuant to 11.001.6 to administer a feeding assistant training program.

#### **11.001.2 Authorization; Qualifications**

- (1) A facility may employ or use an individual as a volunteer feeding assistant if: the individual meets all applicable requirements of this Chapter V; and, the facility first verifies that the individual:
  - (a) Has successfully completed a feeding assistant training program in accordance with 11.001.5; and,
  - (b) Is at least sixteen 16 years of age.
- (2)
  - (a) An employing facility must screen prospective feeding assistants to ensure individuals have no history that would preclude their interaction with residents.
  - (b) In addition to applicable facility pre-employment screening procedures, an employing facility shall obtain from each prospective paid and volunteer feeding assistant a copy of the recognition of completion document evidencing successful completion of the feeding assistant training program issued in accordance with 11.001.5 (1)(b)(II). Additionally, an employing facility shall verify the following:
    - (I) In the case of an individual who has not previously been employed or volunteered as a feeding assistant and who has received feeding assistant training administered by an entity other than the employing facility, successful completion of the feeding assistant training program with the training entity that provided such training;
    - (II) In the case of an individual who has been previously employed as a feeding assistant, feeding assistant employment history with the prospective employee's previous long-term care facility employer;
    - (III) In the case of an individual who has previously volunteered as a feeding assistant, feeding assistant volunteer history with the long-term care facility that previously utilized the services of that individual.
- (3) Feeding assistants may not be counted toward meeting or complying with any requirement for nursing care staff and functions of a facility, including minimum nurse staffing requirements.

#### **11.001.3 Supervision; emergencies**

- (1) A feeding assistant shall work under the supervision of and shall report to a registered or licensed practical nurse. Each feeding assistant shall be given instruction by a registered nurse, licensed



practical nurse or registered dietitian concerning the specific feeding and hydration needs of each resident the feeding assistant will be assigned to assist.

(2)

(a) Feeding assistants may perform feeding assistant tasks in congregate dining areas. A nurse shall be immediately available in case of an emergency during meals.

(b) Upon a determination by the charge nurse pursuant to 11.001.4 that it is safe to do so, based on assessments conducted pursuant to 11.001.4(1), a feeding assistant may perform feeding assistant tasks in a resident room for a resident who is unable or unwilling to dine in a congregate dining area.

(3) In an emergency, a feeding assistant must immediately secure the assistance of a supervisory nurse or physician. Feeding assistants shall know how to use resident call systems. This includes use of call light systems and other methods of immediately securing the assistance of supervisory nurses and physicians.

#### **11.001.4 Resident Selection**

(1) The facility must base resident selection on the charge nurse's assessment of the resident's present condition and the following provisions of this Chapter V:

(a) Most recent resident assessment performed pursuant to Section 5.2;

(b) Nutritional care plan developed pursuant to Section 5.6; and,

(c) Plan of care developed pursuant to Section 5.7.

(2) A feeding assistant may perform feeding assistant tasks for those residents who require assistance or encouragement with feeding and hydration. Consistent with the assessments and care plans specified in (1) of this section 11.001.4, a facility must ensure that a feeding assistant feeds only residents who do not have a complicated feeding problem. Such problems include, but are not limited to, difficulty with swallowing, recurrent lung aspirations, and tube or parenteral/intravenous feedings.

#### **11.001.5 Feeding Assistant Training Program**

(1)

(a) The feeding assistant training program shall be administered by a training program provider approved in accordance with 11.001.6 and shall consist of not less than twelve (12) actual clock hours of classroom instruction. Class size shall be limited to twenty (20) enrollees. Classroom instruction shall be conducted in accordance with current standards of practice and shall conform to the "Feeding Assistant Curriculum Specifications and Program Requirements" available from the department. Curriculum subjects shall include, but need not be limited to, the following:

(I) Feeding techniques;

(II) Assistance with feeding and hydration;

(III) Communication and interpersonal skills;

(IV) Appropriate responses to resident behavior;

- (V) Safety and emergency procedures, including the Heimlich maneuver;
- (VI) Infection control;
- (VII) Resident rights; and,
- (VIII) Recognizing changes in residents that are inconsistent with their normal behavior and the importance of reporting those changes to the supervisory nurse.

(b)

- (I) Successful completion of the feeding assistant training program requires each individual enrolled to obtain a score of eighty (80) percent or greater in a written examination provided at the conclusion of classroom instruction. Written examination questions shall be of an appropriate level of difficulty to reflect proficiency in each module of the "Feeding Assistant Curriculum Specifications and Program Requirements" and, at the discretion of the training program provider, may include ancillary feeding assistant-related curriculum subjects. Written examination questions shall not be disclosed to candidates in advance and shall be varied in format and content from test-to-test.
- (II) Within ten (10) calendar days from successful completion of a feeding assistant training program, a training program provider approved in accordance with 11.001.6 shall furnish each individual who successfully completes the program with a uniform recognition of completion document. Said document shall be in the format designated by and available from the department to be used by the individual to whom it is issued for the purpose of establishing successful completion of the training program. The document shall bear the notarized signature of an authorized representative of the training program provider.
- (III) An individual who successfully completes a feeding assistant training program is not required to repeat the program upon employment or upon providing volunteer feeding assistant services at another facility unless the individual has not worked or volunteered in a long term care facility as a feeding assistant for a period of twenty-four (24) consecutive months. In such case, the individual shall not be employed or used as a volunteer feeding assistant by a facility as a paid feeding assistant until the person successfully repeats the feeding assistant training program.

(c) An individual who fails to score eighty (80) percent or greater in the written knowledge test may be retested one time by a training program provider. An individual who fails to pass on the second attempt shall not be retested without the individual first repeating the twelve (12) actual clock hours of classroom instruction specified in subparagraph (1) (a) of this section.

#### **11.001.6 Feeding Assistant Training Program Provider Approval**

- (1) A feeding assistant training program may be administered by an employing facility or other training entity approved pursuant to this 11.001.6. As used in this 11.001.6, "other training entity" includes: an accredited college, university or vocational school; or, a program, seminar or in-service training sponsored by an organization, association, corporation, group or agency with specific expertise concerning the provision of feeding and hydration services.
- (2) Feeding assistant training programs shall use as instructors only individuals who have appropriate experience in feeding and hydrating residents and who hold: a valid Colorado license to practice

as a registered or practical nurse; a certificate of registered dietitian through the commission on dietetic registration; a certificate of speech-language pathologist through the American speech-language-hearing association; or, a certificate of registered occupational therapist through the national board for certification in occupational therapy.

(3)

(a) An employing facility or other training entity seeking approval to administer a feeding assistant training program shall complete and submit to the department an initial attestation in the format designated by the department certifying that the feeding assistant training program conforms to the "Feeding Assistant Curriculum Specifications and Program Requirements." Program approval may be granted, for a period not to exceed one year to those programs that meet minimum requirements. Department approval is required prior to initiating feeding assistant training.

(b) A training program provider approved to administer a feeding assistant training program pursuant to this section shall submit annual renewal attestation forms in the format designated by the department in the following manner:

(I) For employing facilities, annually with the facility's annual license renewal application.

(II) For other training entities, not less than sixty (60) days in advance of the date department approval expires.

(4) Training program providers approved to administer a feeding assistant training program shall maintain the training record of each individual who attends the feeding assistant training program for a period of not less than three (3) years. Based on such records, training program providers shall verify successful completion of the feeding assistant training program pursuant to a request by an employing facility in accordance with 11.001.2 (2)(b) (I).

(5) The department may deny, suspend, or withdraw approval granted under this 11.001.6 upon a determination by the department that good cause exists to do so. Good cause may include, but is not limited to, a determination that a feeding assistant training program is not operated in compliance with applicable regulations.

#### **11.001.7 Policies and Procedures**

An employing facility shall develop and implement policies and procedures concerning the use of paid feeding assistants developed in accordance with this section.

#### **11.001.8 Records Maintenance**

(1)

(a) An employing facility shall maintain a record of all individuals employed as feeding assistants and all individuals who serve as volunteer feeding assistants, including but not limited to records evidencing successful training program completion. Such records shall be maintained for not less than three (3) years from the date of separation or completion of volunteer service.

(b) Based on such records, a facility shall verify previous feeding assistant employment and volunteer history pursuant to a request by an employing facility in accordance with 11.001.2 (2)(b) (II).

#### **11.001.9 Reporting Requirements**

- (1) Periodically, facilities and training program providers may be required to submit information regarding their feeding assistant program and feeding assistant training program. Such reports may include, but not be limited to:
  - (a) The number of feeding assistants routinely utilized by the facility to assist residents;
  - (b) The number of residents identified as benefiting from the feeding assistant program; and,
  - (c) Information concerning the feeding assistant training program administered by the training program provider.

## **Part 12. RESIDENTS' RIGHTS**

- 12.1 RESIDENTS' RIGHTS. The facility shall adopt a statement of the rights and responsibilities of their residents, post it conspicuously in a public place, and provide a copy to each resident or guardian before admission. The facility and staff shall observe these rights in the care, treatment, and supervision of the residents. Rights shall include at least:
- 12.1.1 The right to receive adequate and appropriate health care consistent with established and recognized practice standards within the community and with long-term care facility rules issued by the Department;
  - 12.1.2 The right to civil and religious liberties, including:
    - (1) Knowledge of available choices and the right to independent personal decisions, which will not be infringed upon;
    - (2) The right to encouragement and assistance from the staff of the facility in the fullest possible exercise of these rights;
    - (3) The right to vote;
    - (4) The right to participate in activities of the community both inside and outside the facility;
  - 12.1.3 The right to present grievances on behalf of him/herself or others to the facility's staff or administrator, to governmental officials, or to any other person, without fear of reprisal, and to join with other patients or individuals within or outside of the facility to work for improvements in resident care, including:
    - (1) The right to participate in the resident council;
    - (2) The right to be informed of the address and telephone number for the Department and the state and local Nursing Home Ombudsman; the facility shall post these numbers conspicuously;
  - 12.1.4 The right to manage his or her own financial affairs or to have a quarterly accounting of any financial transactions made in his or her behalf, should the resident delegate such responsibility to the facility for any period of time;
  - 12.1.5 The right to be fully informed, in writing, prior to or at the time of admission and during his or her stay, of services available in the facility and of related charges, including charges for services not covered under Medicare or Medicaid or not covered by the basic per diem rate;

- 12.1.6 The right to be adequately informed of his or her medical condition and proposed treatment unless otherwise indicated by his or her physician, and to participate in the planning of all medical treatment, including:
- (1) The right to refuse medication and treatment, unless otherwise indicated by his or her physician, and to know the consequences of such actions;
  - (2) The right to participate in discharge planning; and
  - (3) The right to review and obtain copies of his or her medical records in accordance with Part 5 of chapter II of these regulations.
  - (4) For residents whose primary language is other than English, the facility shall arrange for persons speaking the resident's language to facilitate daily communications and to attend assessment and care planning conferences in order to allow the resident to participate in those activities. This section does not require a translator to be present daily as long as the resident is enabled to engage in necessary daily communication within the facility.
  - (5) For residents with sensory impairments that inhibit daily communication, the facility shall provide assistance so that they may participate in care and activities of daily living.
- 12.1.7 The right to have private and unrestricted communications with any person of his or her choice; including
- (1) The right to privacy for telephone calls.
  - (2) The right to receive mail unopened;
  - (3) The right to private consensual sexual activity;
- 12.1.8 The. right to be free from mental and physical abuse and from physical and chemical restraints, except those restraints initiated through the. judgment of professional staff for a specified and limited period of time or on the written authorization of a physician;
- 12.1.9 The right to freedom of choice in selecting a health care facility;
- 12.1.10 The right of copies of the facility's rules and regulations, including a copy of these rights, and an explanation of his or her rights and responsibility to obey all reasonable rules and regulations of the facility and to respect the personal rights and private property of the other patients;
- (1) If the resident does not speak English, the right to an explanation of rights and responsibilities in a language the resident can understand; and
  - (2) The right to see facility policies, upon request, and state survey reports on the facility;
- 12.1.11 The right to be transferred or discharged only for medical reasons or his or her welfare, or that of other residents, or for nonpayment for his or her stay, not for raising concerns or complaints, and the right to be given reasonable advance notice of any transfer or discharge, except in the case of an emergency as determined by professional staff, in accordance with the transfer procedures prescribed by Section 12.6;

12.1.12 The right to have privacy in treatment and in caring for personal needs, confidentiality in the treatment of personal and medical records, and security in storing and using personal possessions;

12.1.13 The right to be treated courteously, fairly, and with the fullest measure of dignity and to receive a written statement of the services provided by the facility, including those required to be offered on an as-needed basis;

12.1.14 The right of any person eligible to receive Medicaid to select any long-term care facility certified for participation in Medicaid where space is available.

12.2 DEVOLUTION OF RIGHTS. The rights of a Long-term care resident who is adjudicated incompetent under state Law devolve to the resident's legal guardian or sponsoring agency, who are responsible to assure that the resident is provided with adequate, appropriate, and respectful health care and that his or her rights are observed. In the case of devolution, the facility shall observe these rights with respect to the guardian or sponsoring agency.

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.

12.4 GRIEVANCE PROCEDURE. The facility shall develop a grievance procedure, which it shall post conspicuously in a public place, for presentation of grievances by residents, the resident council, or members of the resident's family regarding any conditions, treatment, or violations of rights of any resident by the facility or staff (regardless of the consent of the victim of the alleged improper conduct).

12.4.1 The facility shall designate a full-time staff member ("staff designee" ) to receive all grievances.

12.4.2 The facility shall establish a grievance committee consisting of the chief administrator or his or her designee, a resident selected by the facility's residents, and a third person agreed upon by the administrator and the resident representative.

12.4.3 Any resident or legal representative, or member of a resident's family or the resident council may present a grievance to the facility staff designee orally or in writing within 14 days of the incident giving rise to the grievance.

12.4.4 The staff designee shall confer with persons involved in the incident and other relevant persons and within 3 days of receiving the grievance shall provide a written explanation of findings and proposed remedies to the complainant and the aggrieved party, if other than the complainant, and legal representative, if any. Where appropriate due to the mental or physical condition of the complainant or aggrieved party, an oral explanation shall accompany the written one.

12.4.5 If the complainant or aggrieved party is dissatisfied with the findings and remedies of the staff designee or their implementation, within 10 days of receiving the designee's explanation, the complainant or aggrieved party may file the grievance orally or in writing along with any additional information it wishes to the grievance committee.

12.4.6 The committee shall confer with persons involved in the incident and other relevant persons, including the complainant, and within 10 days of the date of the appeal shall provide a written explanation of its findings and proposed remedies to the complainant

and the aggrieved party, if other than the complainant, and to the legal representative, if any. Where appropriate due to the mental or physical condition of the complainant, or aggrieved party, an oral explanation shall accompany the written one.

12.4.7 If the complainant or aggrieved party is dissatisfied with the findings and remedies of the grievance committee or their implementation (except for grievances regarding physician or physician-prescribed treatment), the person may file the grievance in writing with the Executive Director of the Department within 10 days of receipt of the written findings of the grievance committee. The Department shall then investigate the facts and circumstances of the grievance and make written findings of fact, conclusions, and recommendations and provide them to the complainant, aggrieved party, legal representative, if any and the facility administrator.

12.4.8 If the complainant or facility administrator is aggrieved by the Department's findings and recommendations, he or she may request, within 30 days of receipt of the findings and recommendations, a hearing to be conducted by the Department pursuant to C.R.S. 24-4-105.

12.5 RESIDENT ADVISORY COUNCIL. Each facility shall establish a resident advisory council consisting of no less than five members selected from the facility's residents.

12.5.1 The council shall be conducted by residents. It shall have the opportunity to meet without staff present and shall meet at least monthly with the administrator and a staff representative to make recommendations concerning facility policies. Staff shall respond to these suggestions in writing by the next meeting. Minutes of council meetings shall be maintained and posted or otherwise available to residents.

12.5.2 The council may present grievances to the grievance committee on behalf of residents.

12.5.3 The council shall elect its officers and establish a process for obtaining views of all facility residents.

12.6 TRANSFER, DISCHARGE, AND. ROOM CHANGE PROCEDURES AND APPEALS.

12.6.1 Definitions:

- (1) "Discharge" means movement of a resident from a nursing facility to a noninstitutional setting when the discharging facility ceases to be legally responsible for the care of the resident.
- (2) "Transfer" means -movement of a resident from a nursing facility to another institutional setting when the legal responsibility for the care of the resident changes from the transferring facility to the receiving facility.
- (3) "Room change" refers to the movement of a resident from one room to another.

12.6.2 A resident shall not be transferred or discharged unless:

- (1) The transfer or discharge is necessary for the resident's welfare. Facilities that are certified to participate in the Medicaid and/or Medicare reimbursement program must also demonstrate that the resident's needs cannot be met in the facility;
- (2) the transfer or discharge is only for medical reasons. Facilities that are certified to participate in the Medicaid and/or Medicare reimbursement program must also demonstrate that the resident's needs cannot be met in the facility;

- (3) the transfer or discharge is necessary to preserve the welfare of other residents; or
- (4) the resident has failed to pay for (or to have paid under Medicaid or Medicare) a stay at the facility. Facilities that are certified to participate in the Medicaid and/or Medicare reimbursement program must also provide reasonable and appropriate notice of non-payment and its consequences to the resident prior to initiating a transfer or discharge of a resident for reasons of non-payment.

12.6.3 When the facility transfers or discharges a resident under any of the circumstances specified in 12.6.2, the resident's clinical record must be documented. The documentation must be made by:

- (1) the resident's physician when the transfer or discharge is necessary under 12.6.2 (1) and (2); and
- (2) a physician when transfer or discharge is necessary under 12.6.2 (3).

12.6.4 Whenever a resident is transferred or discharged for the reasons in 12.6.2 (1), 12.6.2 (2) or 12.6.2 (3), the facility must provide assessment and reasonable intervention prior to determining the need for the transfer or discharge. The assessment, attempted intervention and reason for the discharge or transfer shall be documented in the clinical record.

12.6.5 The facility shall provide reasonable advance notice to the resident and the family member or legal representative of the resident of its intent to transfer or discharge a resident. Reasonable advance notice means notice in writing at least thirty (30) days before the transfer or discharge except in the following circumstances in which the professional staff determines there is an emergency, in which case the notice must be made as soon as practicable before the transfer or discharge:

- (1) the safety of residents in the facility is endangered;
- (2) the health of residents in the facility is endangered; or
- (3) an immediate transfer or discharge is required by the resident's urgent medical needs.

12.6.6 The written notice shall be in a language and manner understandable to the resident and the resident's legal representative, if applicable, and shall include:

- (1) The reason for the transfer or discharge;
- (2) The effective date of the transfer or discharge;
- (3) The location to which the resident is transferred or discharged;
- (4) The grievance procedure; and
- (5) the following text:

"You have a right to appeal the nursing care facility's decision to transfer or discharge you. If you think you should not be transferred or discharged, you may appeal to \_\_\_\_\_ (staff designee). If you do not wish to handle the appeal yourself, you may use an attorney, relative, or friend. If your appeal is not resolved to your satisfaction by the staff designee, you can continue your appeal to the nursing care facility's grievance



committee and, if necessary, the Colorado Department of Public Health and Environment. You may direct questions regarding this notice to the Department of Public Health and Environment at \_\_\_\_\_ (division name, address and phone number).”

- (a) Nursing care facilities that are certified for Medicaid and/or Medicare reimbursement, must also add the following statement:

“In addition, if you have questions or complaints about the transfer or discharge or would like help to appeal, call or write the State or Local Long Term Care Ombudsman at \_\_\_\_\_ (phone numbers/addresses).”

- (b) If the resident who is being involuntarily transferred is a person with a developmental disability for whom an agency has been authorized by law as the agency responsible for advocacy and protection of the rights of persons with developmental disabilities, the nursing care facility must also furnish to resident and the resident's family member or legal representative, the following statement:

“In addition, if you have questions or complaints about the transfer or discharge or would like help to appeal, call or write the \_\_\_\_\_, (name, phone number and address of the agency.)”

- (c) If the resident who is being transferred is a person with mental illness for whom an agency has been authorized by law as the agency responsible for the advocacy and protection of persons with mental illness, the nursing care facility must also furnish to the resident and the resident's family member or legal representative the following statement:

“In addition, if you have questions or complaints about the transfer or discharge or would like help to appeal, call or write the \_\_\_\_\_, (name, phone number and address of the agency.)”

- 12.6.7 In cases where a resident is being involuntarily transferred or discharged from a nursing care facility that is certified to participate in the Medicaid and/or Medicare reimbursement program, a copy of the written notice (including the grievance and appeal rights, and the name, address and telephone number of the State and Local Long Term Care Ombudsman) shall also be sent the State or Local Long Term Care Ombudsman at the same time it is sent to the resident or as soon as the determination is made that the transfer or discharge is involuntary.
- 12.6.8 A facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer and discharge from the facility.
- 12.6.9 When the facility intends to move a resident to another room in the facility without the resident's consent, the facility shall provide the resident and a family member or legal representative with written notice of such intent to be received at least 5 days before such move, including an explanation on their right to appeal.
- 12.6.10 A resident shall not be involuntarily transferred, discharged, or moved to another room within the facility until:
- (1) The expiration of the notice period, or
  - (2) The time for any further administrative appeals has expired, or

(3) The grievance or appeal has been resolved.

12.7 RESIDENT RELOCATION. If a facility intends to close or change bed classification, it shall notify the Department of Public Health and Environment and the Colorado Department of Health Care Policy And Financing, if it has Medicaid residents, at least 60 days before it expects to cease or change operations and at least 7 days before it notifies residents and families.

12.7.1 The facility shall appoint one staff person to coordinate resident relocation activities.

12.7.2 If the facility has Medicaid residents, it shall review its relocation plan with the Department of Health Care Policy And Financing.

12.7.3 Any facility certified for participation in Medicaid shall follow the relocation procedures prescribed by regulations of the Department of Social Services. Other facilities shall provide for an orderly relocation of residents, designed to minimize risks and ensure optimal placement of all residents, in coordination with the Department of Health, the Nursing Home Ombudsman, and local public and private social services agencies.

### **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; 4) 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. The facility shall provide or make arrangements for referral to occupational therapy services for all residents whom a physician refers to such therapy. If the facility provides occupational therapy services directly, it shall comply with the following requirements:

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.

15.1.2 Only a qualified occupational therapist, who is a graduate of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association or is eligible for certification by the AOTA, shall provide occupational therapy. All personnel assisting residents with occupational therapy shall be under supervision of a qualified occupational therapist.

15.1.3 Records of occupational therapy shall include the physician's referral for treatment, resident progress notes, and results of special tests and measurements.

15.1.4 The facility shall take all necessary steps to assure that therapist communicates to the facility the resident's condition and response to treatment within two weeks of initiation of treatment and every thirty days thereafter while treatment continues.

15.1.5 The facility shall provide space, appropriate equipment, and storage areas adequate for occupational therapy on all referred residents. Services shall be provided in an area readily accessible to residents. Equipment shall be properly maintained to ensure safety of residents and staff.

15.2 PHYSICAL THERAPY. The facility shall provide or make arrangements for referral to physical therapy services for all residents whom a physician refers to such therapy. If the facility provides physical therapy services directly or holds itself out through advertisement or door sign to provide such care, it shall comply with the following requirements:

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.

15.2.2 Only a physical therapist who is registered by Physical Therapy Registration (Department of Regulatory Agencies) shall provide physical therapy. All personnel assisting residents with physical therapy shall be under supervision of a qualified physical therapist.

15.2.3 Records of physical therapy shall include the physician's order for treatment, resident progress notes, and results of special tests and measurements.

15.2.4 The facility shall take all necessary steps to assure that therapist communicates to the facility the resident's condition and response to treatment within two weeks of initiation of treatment and every thirty days thereafter while treatment continues.

15.2.5 The facility shall provide space, appropriate equipment, and storage areas adequate for physical therapy on all referred residents. Services shall be provided in an area readily accessible to residents. Equipment shall be properly maintained to ensure safety of residents and staff.

15.3 **SPEECH THERAPY.** The facility shall provide or make arrangements for referral to speech therapy services for all residents whom a physician refers to such therapy. If the facility provides speech therapy services directly or holds itself out through advertisement or door sign to provide such care, it shall comply with the following requirements:

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.

15.3.2 Only a speech pathologist who is eligible for certification by the American Speech and Hearing Association or meets educational requirements thereof and is obtaining the supervised experience required for certification shall provide speech therapy. All personnel assisting residents with speech therapy shall be under supervision of a qualified speech pathologist.

15.3.3 Records of speech therapy shall include the physician's order for treatment, resident progress notes, and results of special tests and measurements.

15.3.4 The facility shall take all necessary steps to assure that the therapist communicates to the facility the resident's condition and response to treatment within two weeks of initiation of treatment and every thirty days thereafter while treatment continues.

15.3.5 The facility shall provide space, appropriate equipment, and storage areas adequate for speech therapy on all referred residents. Services shall be provided in an area readily accessible to residents. Equipment shall be properly maintained to ensure safety of residents and staff.

## **Part 16. PHARMACEUTICAL SERVICES**

16.1 **ORGANIZATION.** The pharmaceutical services of the facility shall be organized and maintained exclusively for the benefit of the facility's residents.

16.1.1 The pharmaceutical service shall be supervised by a consultant pharmacist licensed to practice pharmacy in the State of Colorado.

16.1.2 All compounding and dispensing shall be from a pharmacy licensed by the Colorado Board of Pharmacy in accordance with all pharmacy laws and regulations.

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.

16.3.1 Resident drugs shall be obtained from a licensed pharmacy on an individual prescription basis for each resident.

16.3.2 Unless the facility uses a unit dose system, each resident drug shall be stored in individual, originally received containers or "blister" or "bubble" cards that are clearly and legibly labeled with the name, strength, dosage, frequency and mode of administration, date of issue and expiration of the drug; physician's name; name, address, and telephone number of the dispensing pharmacy; and the full name of the resident for whom the drug is prescribed.

16.3.3 The facility shall protect each resident's drugs from use by other residents, visitors, and staff.

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:

- (1) Legal compounding;
- (2) Prompt dispensing of properly labeled individual resident prescriptions;
- (3) Inventory control; establishment of necessary records;
- (4) Periodic inspection of all pharmaceutical supplies and drugs on all resident care units;
- (5) Provision of an emergency medical kit, which remains the property of a licensed pharmacy approved by the pharmaceutical advisory committee and the Colorado State Board of Pharmacy;
- (6) Regularly scheduled visits and consultations and at least annual in-service training to staff;
- (7) Inspection of prescriptions all drugs for proper labeling, proper storage, and drug deterioration or expiration of shelf life;
- (8) Determination of proper procurement and maintenance of all prescriptions and other drugs;
- (9) Development of proper accounting procedures for controlled substances and legend drugs;
- (10) Evaluation of the rule 01 policies of the pharmaceutical advisory committee; and
- (11) Quarterly reports to the Pharmacy Advisory Committee on the status of pharmacy services.

16.5 CONTROLLED SUBSTANCES. Only practitioners authorized under the laws of the State of Colorado and properly registered with the federal government shall prescribe controlled substances, The facility shall comply with all federal and state laws and regulations relating to procurement, storage, administration, and disposal of scheduled drugs. Unless the facility uses a unit dose system, it shall maintain a record on a separate sheet for each resident receiving a scheduled drug, which contains the name of the drug, strength, date, time administered, resident name, dose, physician's name, signature of person administering, and the quantity of the drug remaining.

16.6 DISPOSITION OF MEDICATIONS [Eff. 07/30/2006]

16.6.1 If controlled substances (Schedules 2 through 5) are being held by a facility on behalf of a resident and the controlled substances are no longer needed, the facility shall conduct on-site destruction of the controlled substances as follows:

- (1) The facility shall properly inventory the destruction and keep the inventory copy on file for at least two years.
- (2) At least the administrator or designee, the supervisory nurse, and the consulting pharmacist shall witness each destruction and sign the destruction inventory.
- (3) The destruction shall be performed in a manner that renders the controlled substances totally irretrievable.

16.6.2 Except as provided herein, all prescriptions and other drugs (except controlled substances) remaining upon death or discharge shall be destroyed by the administrator, a registered nurse, and a pharmacist who shall record the quantity of the drugs destroyed. In accordance with state law, including Section 12-22-133, C.R.S. (2005), the facility may return unused medications to a pharmacist for redispensing if those medications were donated to the facility by the resident or the resident's next of kin. For purposes of this paragraph, unused medications means prescription medications that are not controlled substances. If a facility accepts donated medications for redispensing by a pharmacist, it shall implement a written policy that addresses inventory control and prevents the diversion of such medications.

16.7 MEDICATION RELEASE. The facility staff shall release medications to a resident only upon written physician authorization.

16.8 RESIDENT DRUG PROFILE RECORD. The dispensing pharmacist shall maintain drug profile records on each resident for whom he or she dispenses medications.

## **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 18. RESIDENT CARE UNIT**

18.1 RESIDENT CARE UNIT. A resident care unit means a designated area of a long-term care facility consisting of a bedroom or a grouping of bedrooms with supporting facilities and services that are planned, organized, operated, and maintained to provide adequate nursing and supportive care of not more than sixty residents.

18.2 PRIVATE AND MULTIPLE BEDROOMS. The long-term care facility shall provide private and multiple bedrooms to meet resident needs. There shall be no more than four beds per room.



- 18.2.1 \* Minimum room area, exclusive of closets, lockers, wardrobes of any type, vestibules and toilet rooms, shall be 100 sq. ft. for one-bed rooms and 80 sq. ft. per bed in multi-bed rooms.
- 18.2.2 \* Privacy shall be provided for each resident in a multiple bedroom by the installation of opaque flame retardant cubicle curtains or movable screening.
- 18.2.3 \* Each bedroom shall have an exterior window with area not less than 1/8 of the floor area. The sills of such windows shall not be located below the finished ground level and shall not be more than 32 inches above the floor level. The ground level shall be maintained at or below the window sill for a distance of at least eight feet measured perpendicular to the window. One-half of the required window area shall be openable without the use of tools.
- 18.2.3 \* Each bedroom shall have an exterior window with area not less than 1/8 of the floor area. The sills of such windows shall not be located below the finished ground level and shall not be more than 32 inches above the floor level. The ground level shall be maintained at or below the window sill for a distance of at least eight feet measured perpendicular to the window. One-half of the required window area shall be openable without the use of tools.
- If a mechanical ventilation system is provided, a portion of the required window shall be openable without the use of tools. Privacy for the resident and control of light shall be provided at each window.
- 18.2.4 \* Each bedroom shall have direct entry from a corridor. Such entry shall have a door at least equal in fire resistance to 1-3/4 inches thick solid core wood door. The door shall be at least 3'8" in width (4' width is recommended) and shall not swing into the corridor.
- 18.2.5 \* Artificial light shall be provided and include: 1) General illumination; 2) Other sources of illumination for reading, observation, examinations, and treatments; 3) Night light controlled at the door of the bedroom; 4) Quiet-operating switches.
- 18.2.6 \* A lavatory complete with mixing faucet, blade controls, soap and sanitary hand-drying accommodations shall be provided in each bedroom.

The lavatory may be installed within the toilet room in private bedrooms. Mirrors should be arranged for convenient use by residents in wheelchairs as well as by residents in a standing position.

- 18.2.7 \* A toilet room, directly accessible from each bedroom, without going through a general corridor, shall be provided. One toilet may serve two resident rooms but not more than four beds. The minimum dimensions for any room containing only one water closet shall be 3'0" x 6'0". The door to the toilet room must be at least 2'10" in width and shall not swing into the toilet room unless provided with rescue hardware permitting the door to swing outward. The toilet room shall be provided with the following: 1) Toilet preferably with bedpan flushing equipment; 2) Grab bars convenient for the safety of residents; 3) Waste paper receptacle with a removable impervious liner.
- 18.2.8 Comfortable bedrooms shall be equipped with movable furniture and equipment with the following for each resident: 1) Adjustable, washable bed (roll away type beds, cots and folding beds shall not be used) mattress protected by water-proof material, mattress pad, and a comfortable pillow; 2) Cabinet or bedside table; 3) Over bed table as applicable; 4) Waste paper receptacle with impervious, disposable liner or disposable waste receptacle; 5) Complete personal care equipment including water carafe, mouth wash cup, emesis

basin, wash basin, bedpan and, when necessary, a urinal; 6) Comfortable chair; 7) Storage facilities adequate for residents' personal articles and grooming.

18.2.9 \*Each bedroom shall be provided with a separate closet or locker for each resident. The minimum size of closet or locker in a nursing care facility shall be - 1'8" wide by 1'10" deep with full length hanging space, clothes rod and shelf.

18.2.10 \* Each resident shall be furnished with a nurse call signal system that registers a visual signal from the resident at the corridor bedroom door and at the clean and soiled holding areas and a visual and audible signal at the Nurse's Station. Calling stations shall be located at the resident's bed, toilet room and at each tub and shower. The nurses call in toilet, tub or shower shall be an emergency call.

\* Other approved facilities for resident services may be substituted to meet the requirements specified in 18.2.1 through 18.2.7, 18.2.9 through 18.2.10, 18.3.1 through 18.3.10 and 18.4.

18.3 SERVICE FACILITIES. The following service areas shall be provided on each floor housing residents and located conveniently for patient care.

18.3.1 \* The Nurses Station shall be designed and equipped for medical record recording, communications, and storage for supplies and nurses' personal effects.

18.3.2 \* The medication preparation area shall be equipped with: 1) Cabinets with suitable locking devices to protect drugs stored therein; 2) Refrigerator equipped with thermometer and used exclusively for pharmaceutical storage; 3) Counter work space; 4) sink with approved handwashing facilities; 5) Antidote, incompatibility, and metriapotheary conversion charts. Only medications, equipment, and supplies for their preparation and administration shall be stored in the medication preparation area. Test reagents, general disinfectants, cleaning agents, and other similar products shall not be stored in the medication area.

18.3.3 \* The clean supply holding room shall be equipped with: 1) Counter, sink with mixing faucet, blade controls, soap, and sanitary hand-drying facility; 2) Waste container with cover (foot controlled recommended) and impervious, disposable liner; 3) Cupboards or carts for supplies.

18.3.4 \* There shall be a separate closed area in the clean supply holding room, on a cart, or in a separate closet for clean linen supplies.

18.3.5 \* The soiled holding room shall be equipped with: 1) Suitable counter, double-sink with mixing faucet, blade controls, soap, and sanitary hand-drying facility; 2) Waste container with cover (foot controlled recommended) and impervious, disposable liner; 3) Soiled linen cart or hamper with impervious liner; 4) Accommodations and provisions for enclosed soiled articles; 5) Space for short-time holding of specimens awaiting delivery to laboratory; 6) Adequate shelf and counter space; and in nursing care facilities 7) Clinical flushing sink.

18.3.6 \* The janitor's closet shall be equipped with: 1) Sink, preferably depressed or floor mounted, with mixing faucets; 2) Hook strip for mop handles from which soiled mopheads have been removed; 3) Shelving for cleaning materials; 4) Approved handwashing facilities; 5) Waste receptacles with impervious liner. The floor area should be adequate to store mop buckets on a roller carriage, wet and dry vacuum machine, and floor scrubbing machine.

18.3.7 \* A storage room should be provided on the Resident Care Unit. Storage space for stretchers and wheelchairs should be recessed off the corridor.

18.3.8 \* BATHING FACILITIES. Resident bathing facilities shall be provided in the ratio of one tub or one shower for each fifteen residents. Approved grab bars shall be installed at each tub or shower and tubs shall be of non-slip surface. The room shall provide privacy and be sufficiently large to provide space for wheelchair movement. The entry door shall be at least 36" in width. Curbs should be omitted from showers. There shall be toilet and lavatory facilities in the bathroom with mixing faucet, blade controls, soap, and sanitary hand-drying accommodations.

18.3.9 \* Nourishment stations shall be provided with storage space and sink for serving between-meal nourishments.

18.3.10 \* An examination and treatment room shall be provided on at least one Resident Care Unit and shall be equipped with a treatment table, storage cabinet for supplies and instruments; and a lavatory complete with blade controls.

\* Other approved facilities for resident services may be substituted to meet the requirements specified in 18.2.1 through 18.2.7, 18.2.9 through 18.2.10, 18.3.1 through 18.3.10 and 18.4.

18.4 \* PERSONNEL TOILET FACILITIES. Toilet facilities shall be provided for personnel on each Resident Care Unit.

\* Other approved facilities for resident services may be substituted to meet the requirements specified in 18.2.1 through 18.2.7, 18.2.9 through 18.2.10, 18.3.1 through 18.3.10 and 18.4.

18.5 EMERGENCY EQUIPMENT AND SUPPLIES. The following shall be readily available at all times:  
1) Oxygen; 2) Suction; 3) Portable emergency equipment, supplies and medications; and in nursing care facilities 4) Compatible supplies and equipment for immediate intravenous therapy to be administered only in accordance with applicable Colorado laws.

18.6 THERMOMETER. A disinfected thermometer shall be used each time a resident's temperature is taken.

18.7 DRESSINGS. There shall be individual resident equipment and supplies for changing dressings.

18.8 MODIFICATIONS. If the facility was licensed as a nursing home before July 1, 1988, the facility shall comply with Life Safety Code requirements, except as modified herein. The modifications are as follows: *[Eff. 04/30/2009]*

18.8.1 Notwithstanding Section 18.2.1, the minimum room area shall be 100 sq. ft. for one-bed room and 80 sq. ft. per bed in multiple-bed rooms.

18.8.2 Notwithstanding Section 18.2.4, the door width for bedroom doors with direct entry into the corridor may be 3'6".

18.8.3 Notwithstanding Section 18.2.5, the facility shall provide artificial lighting for general illumination, reading lamps, and night lights (plug-in types approved). However, lighting shall conform to Life Safety Code requirements.

18.8.4 Notwithstanding Section 18.2.6, handwashing facilities may be installed in a toilet room adjacent to the bedroom.

18.8.5 Notwithstanding Section 18.2.7, if centralized toilet facilities are provided, one toilet shall be provided for each eight residents of each sex. If toilet facilities are provided between adjacent bedrooms, the ratio shall be one facility for not more than four beds.

18.8.6 Notwithstanding Section 18.2.10, the resident call signal is not required to register at clean or soiled areas. Calling stations are not required at toilets, tubs, or showers.

## 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.

19.2 MENTAL HEALTH FACILITIES. Any facility that is a "designated" or "placement" facility under 27-10-101 C.R.S., et seq, shall comply with the regulations or the Department of Human Services. In the case of conflicting regulations, the stricter shall apply.

### 19.3 ADMISSIONS.

19.3.1 Residents on a secure unit shall be placed so as to insure that those placed in the unit because they are dangerous to self or wander out of the building and are unable to return on their own are protected from harm by residents who are a danger to others or whose behavior seriously disrupts the rights of other residents.

19.3.2 Placement on a secure unit shall not be used for the punishment of a resident or the convenience of the staff and shall be the least restrictive alternative available.

19.3.3 A facility shall have written programs to treat residents whom it admits, as required by 19.7.

19.3.4 Residents of a secure unit shall be allowed to have visitors on the unit. Residents of the facility may participate in organized activities on the unit.

19.4 PRE-ADMISSION SCREENING AND PLACEMENT. The-facility shall not place a resident into a secure unit unless the requirements of this section are met:

19.4.1 An evaluation team finds, based on available evidence, that:

- (1) the resident is a serious danger to self or others, or
- (2) the resident habitually wanders or would wander out of buildings and is unable to find the way back, or
- (3) the resident has a significant behavior problem that seriously disrupts the rights of other residents; and in all cases
- (4) less restrictive alternatives have been unsuccessful in preventing harm to self or others; and
- (5) legal authority for such restrictive authority has been established.

19.4.2 The evaluation team shall consist of at least the Director of Nursing, Social Services staff member, member of the facility's utilization control committee, if any, and a person with mental health or social work training (as appropriate to the needs of the unit's residents) who is not a facility staff member. Such non-staff member need not participate in prior review of admissions. A facility that is a mental health "placement facility" under 27-10-101, C.R.S., et seq. shall have a person from its contracting "designated facility" on the evaluation team for evaluations of clients referred by the designated facility.

19.4.3 Written findings and their factual basis shall be documented in the health record.

19.4.4 The resident or his/her legally responsible and authorized representative gives informed, written consent, and

19.4.5 A physician has authenticated the placement.

19.5 **PLACEMENT EVALUATION.** A resident's placement in or restriction to a secure unit shall terminate when the condition or behavior justifying the placement have diminished to the extent that the criteria in 19.4.1 are no longer met or when consent is terminated or withdrawn or if the facility and physician determine that such continued placement would adversely affect resident health or safety.

19.5.1 The facility shall provide the same notice and appeal rights required by Section 12.6 before moving a resident out of a secure unit.

19.5.2 The evaluation team described in Subsection 19.4.2 shall re-evaluate the placement of each resident 30 days after initial placement and no less often than every 180 days thereafter. Persons under involuntary mental health placement under 27-10-101, C.R.S., et seq, shall be evaluated as prescribed in rules of the Department of Human Services.

19.5.3 For residents with Alzheimer's disease whose conditions have stabilized, the evaluation team may recommend continued placement on the unit if it finds that placement is necessary to avoid a likely recurrence of the condition that was the purpose of the initial placement on the unit.

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.

19.6.3 For residents with mental illness, the facility shall provide staff who have demonstrated knowledge and skill in caring for residents with mental illness.

19.7 **PROGRAMS.** In addition to meeting the special medical and nursing needs of each resident in the secure unit, the facility shall provide social services and activity programs especially designed for the residents of the secure unit to avoid programmatic isolation.

19.7.1 Activities and social services programs shall include the opportunity for regular interaction with non-confused residents of the facility and regular interaction with the community outside the facility.

19.7.2 Residents of the secure unit may not be locked into or out of their rooms, except that facilities that are "designated" or "placement" facilities under 27-10-101, C.R.S. et seq, may use seclusion under procedures prescribed by Department of Human Services' regulations.

19.8 **PHYSICAL FACILITIES.** In addition to the physical plant requirements of these regulations, the facility shall provide at least 10 square feet per resident (excluding hallways) of common areas within the secure unit.

- 19.8.1 The facility shall identify its method for securing the unit and establish and implement procedures for monitoring the effectiveness of the security system.
- 19.8.2 Any facility that has an outside area or yard that residents in the non-secure areas of the facility may use shall establish a secure outside area for residents of the secure unit.
- 19.8.3 In accordance with 6 CCR 1011-1, Chapter II, Part 4, a facility may seek a waiver from the standards required in Part 18 of this Chapter that may be detrimental to resident needs, safety, or health.

19.9 REVIEW OF PLANS. A facility wishing to open a secure unit shall submit the fee for opening a secured unit, along with its plans for physical plant, staffing, and program to the Department for prior review of conformity with these standards.

## **Part 20. HOUSEKEEPING SERVICES**

- 20.1 ORGANIZATION. Each facility shall establish an organized housekeeping service that keeps the facility clean and orderly and free from odor resulting from poor housekeeping practices.
  - 20.1.1 The facility shall provide a sufficient number of housekeeping personnel and adequate equipment.
  - 20.1.2 Deodorizers shall not be used to cover up odors caused by unsanitary conditions, poor nursing care, or housekeeping practices.
- 20.2 EQUIPMENT AND SUPPLIES. Suitable equipment and supplies shall be provided for cleaning of all surfaces. Such equipment shall be maintained in a safe, sanitary condition.
- 20.3 DISINFECTANTS. Disinfectants shall be only those registered by the manufacturer with the United States Environmental Protection Agency and shall be stored in a manner approved by the Department.
- 20.4 STORAGE. Storage areas, attics, and cellars shall be kept safe and free from accumulations of extraneous materials such as refuse, discarded furniture, and old newspapers.
  - 20.4.1 Combustibles such as cleaning rags and compounds shall be kept in closed metal containers.
  - 20.4.2 Cleaning compounds and other hazardous substances (including products labeled "Keep out of reach of children" on their original containers) shall be clearly labeled to indicate contents and (except when a staff member is present) shall be stored in a location sufficiently secure to deny access to confused residents. Janitors' rooms used for storing disinfectants and detergent concentrates, caustic bowl and tile cleaners, and insecticides shall be locked.
  - 20.4.3 Paper towels, tissues, and other absorbent paper goods shall be stored in a manner that prevents their contamination prior to use.
- 20.5 CLEANING METHODS. Cleaning shall be performed in a manner to minimize the spread of pathogenic organisms. Floors shall be cleaned regularly.
- 20.6 FLOOR SURFACES. Uncarpeted floors and adjacent base coving shall be maintained to provide a smooth, continuous, washable surface that is free of discoloration or staining. Polishes applied to uncarpeted floors shall provide a nonslip surface; throw or scatter rugs shall not be used except for nonslip entrance mats.

20.7 HANDWASHING. All personnel shall wash their hands thoroughly after handling waste products.

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

20.9 POISON CONTROL. The facility shall maintain at each nurses' station a current list of potentially hazardous substances in regular use by housekeeping and other staff and the name, manufacturer, EPA registration number, notation of where used and by whom, where stored, cautionary information, antidote if any, and phone number of the poison control center.

## **Part 21. LINEN AND LAUNDRY**

21.1 LAUNDRY FACILITIES. Laundry facilities and/or contract with commercial laundry shall be provided with the necessary washing, drying, and ironing equipment having sufficient capacity to process a continuous seven-day supply based on ten pounds of dry laundry per bed per day. Laundry equipment shall meet all safety and sanitary requirements. The equipment shall be designed and installed to comply with all state and local laws. Laundry equipment, processing, and procedures shall render soiled linen and patient clothing clean and free from detergent, soap, and other chemical residues.

21.1.1 Laundry facilities and operations shall be located in an area separated from Resident Care Units.

21.1.2 In facilities constructed after the effective date of these regulations, there shall be proper spacing and placing of the equipment to minimize material transportation and operation, to avoid all cross traffic between clean and soiled linen, to provide balance of operations, and to provide storage between operations. The general air movement shall be from the cleanest areas to the most contaminated areas. Soiled laundry shall be processed frequently enough to prevent excessive unsanitary accumulations.

21.2 WASHING TEMPERATURE. The temperature of water during the washing and hot rinsing process shall be a minimum of 130 degrees F and for a combined period of time of at least 25 minutes, and the detergent shall be compatible with the wash cycle and temperature (as evidenced by purveyor statement or literature kept for inspection). Washers shall not be overloaded so as to limit adequate movement of contents and flow of water through the fabrics.

21.3 COMMERCIAL LAUNDRY SERVICES. If laundry facilities are not provided entirely within the facility there shall be a written contract between the facility and a commercial laundry service that provides for compliance with Section 21.2.

21.4 RESIDENT LINEN SUPPLY. Linen supply (top and bottom sheets, pillowcases, washcloths, bath and face towels) shall be at least three complete changes times the number of licensed beds. All linens shall be maintained clean, in good repair.

21.5 SOILED LINEN HANDLING. In removing and handling soiled linen from a bed, there shall be minimal shaking of the linen. Soiled linen, including blankets, shall be placed in bags tightly closed before removal from a bedroom. The bags shall remain closed, shall be removed from the Resident Care Unit at least every eight hours.

21.6 INFECTIOUS DISEASE LINEN. All linens and blankets from residents with infectious disease shall be placed in special bags identified "contaminated" and transported in these closed bags. Special measures shall be taken to insure the disinfection of contaminated laundry and protection of persons doing laundry.

- 21.7 SORTING AND PRE-RINSING. Pre-rinsing shall be permitted only in a designated room where approved facilities are provided. Sorting and all other linen and laundry operations shall be confined to the laundry facility and shall not be permitted in the resident's room, bathtub, shower, lavatory or janitor's closets.
- 21.8 LINEN CHUTES. If linen chutes are used, all soiled linen, clothing, and other items deposited in them shall first be enclosed in bags before placing them in chute. Linen chutes shall be cleaned regularly by methods approved by the Department.
- 21.9 SOILED LINEN CARTS. Carts and hampers used to transport soiled linen shall be constructed of or lined with impervious materials, cleaned and disinfected after use, and used only for transporting soiled linen.
- 21.10 SOILED LINEN STORAGE. The facility shall provide a separate soiled linen storage and sorting area, mechanically ventilated to the outside atmosphere. No re-circulation of air from this area is permitted.
- 21.11 HANDWASHING EQUIPMENT. Handwashing facilities shall be provided in the laundry facility.
- 21.12 HANDWASHING. All personnel shall wash their hands thoroughly after handling any soiled linen.
- 21.13 RESIDENT CLOTHING. Resident clothing and other laundry shall be processed and stored in a manner approved by the Department.
- 21.14 CLEAN LINEN STORAGE. A clean linen folding/storage room shall be provided as part of the laundry area, located adjacent to the drying equipment. Positive pressure shall be maintained in this area. Storage for clean linen for current use shall be provided on each Resident Care Unit.
- 21.15 CLEAN LINEN HANDLING. Clean linen shall be transported in a manner that preserves its clean condition so that it is clean at the site of its use.

## **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 or local health department, pursuant to regulations promulgated by the Board of Health pertaining to control of communicable diseases.
- 22.2.1 By itself the fact that a resident or employee has a communicable infection that is primarily transmitted either sexually or by blood products shall not prevent admission to or employment by the facility. Decisions concerning the admission or employment of such individuals should be made by the individual's personal physician in conjunction with the professional staff of the facility. Upon order of a physician, residents with such infectious diseases may be admitted to facilities. The facility shall observe the following precautions for residents with such conditions:
- (1) Staff shall wash hands before and after working with such residents.



- (2) Staff shall exercise caution when handling sharp objects such as needles around such residents. Needles shall not be recapped, broken off, or disposed of in other than puncture-proof containers.
- (3) Linen and clothing of such residents shall be washed in water of at least 140 degree temperature.
- (5) Staff shall wear disposable gloves when handling items soiled with blood or body fluids, but gowns and masks are not necessary except where staff performs a procedure requiring extensive contact with blood or body fluids.
- (6) If resuscitation appears necessary, equipment shall be immediately at hand to minimize the need for mouth-to-mouth resuscitation.
- (7) Wearing disposable gloves, staff shall immediately clean up spills of blood or bodily fluid from such residents. Staff shall then disinfect the contaminated area using an appropriate concentration of a disinfectant certified by the manufacturer to be effective as used. Appropriate concentrations of phenol disinfectant or chlorine bleach may be used.
- (8) All disposable equipment containing infective waste shall be disposed of in the room where it is used in sturdy plastic bags and then rebagged outside the room. It shall either be autoclaved or incinerated prior to disposal in a sanitary landfill.
- (9) A private room is indicated if resident hygiene is poor (e.g., the resident does not wash hands after touching infective material, contaminates the environment with infective material, or shares contaminated material with other residents). In general, residents infected with the same organism may share a room. The resident shall be permitted to eat with other residents and be encouraged to participate in activities inside and outside the facility.
- (10) Health care workers with colds or other communicable diseases shall not be assigned to care for such residents, since the residents are highly vulnerable to infection. Health care workers with HIV infection or other immunosuppressive disorders should not be required to work with residents with communicable diseases.

22.3 RESIDENT ISOLATION. Facilities shall provide for the isolation of residents with communicable diseases, as determined by the Department. Facilities shall provide well-ventilated single-bed rooms and separate toilet facilities for residents, when indicated.

22.4 SANITATION OF NURSING AND RESIDENT CARE EQUIPMENT. Nursing and resident care equipment shall be properly cleaned, sanitized, disinfected or sterilized, and stored. Nursing care equipment that is to be used internally shall be properly cleaned, sterilized and stored after each use; thermometers shall be properly disinfected.

22.5 DISPOSABLE EQUIPMENT AND SUPPLIES. Single service disposable nursing care equipment shall be used only once and shall be disposed of in an approved manner. Other disposable nursing care equipment shall be used only for the resident to which assigned. Disposable sterile equipment shall be certified by the distributor as sterile and be destroyed after initial use.

22.6 PRESSURIZED STEAM. When pressurized steam sterilizers or equivalents are used, they shall be of approved type and necessary capacity for adequate sterilization and all sterilization equipment shall be maintained in good operating condition. Bacteriological methods shall be used to

evaluate the effectiveness of pressurized steam sterilization, by at least monthly testing with records maintained.

22.7 STERILE SOLUTIONS. Water used for sterile solutions shall be distilled and sterilized in flasks that are resistant to heat, chemical and electrical action and are properly sealed, labeled, and stored.

22.8 HANDWASHING. Personnel shall wash their hands after contact with a resident or with a contaminated object and observe the following techniques: 1) Remove watches and rings, and roll sleeves of clothing above elbows; 2) Wash hands and forearms with soap or detergent with friction, not a brush, and rinse under running water; 3) Repeat the washing procedure two or three times; 4) Dry hands with a disposable towel.

22.9 SANITATION OF AIR. Design, installation, and operation of heating/cooling/ventilation system shall insure adequate microbial control of the air.

22.10 PETS. If the facility allows pets, it shall be responsible for their proper care and feeding and shall have them vaccinated and licensed, as appropriate.

### **Part 23. PEST CONTROL**

23.1 INSECT, PEST AND RODENT CONTROL. The facility shall be maintained free of infestations of insects, arachnids, rodents, and other vermin.

23.1.1 The facility shall have a pest control program provided by maintenance personnel or by contract with a pest control company using the least toxic and least flammable effective pesticides. The pesticides shall not be stored in patient or food areas and shall be kept under lock and only properly trained responsible personnel shall be allowed to apply them. The application of pesticides shall conform to applicable State of Colorado Pesticide Applicators' Act, Section 35-10-101, *et seq.*, C.R.S.

23.1.2 Screens or screen doors shall be provided on all exterior openings except where prohibited by fire regulations. Facility doors, door screens, and window screens shall fit with sufficient tightness at their perimeters to exclude vermin.

### **Part 24. WASTE DISPOSAL**

24.1 SEWAGE AND SEWER SYSTEMS. All sewage shall be discharged into a public sewer system, or if such is not available, disposed of in a manner approved by the State and local health authorities and the Colorado Water Quality Control Commission.

24.1.1 When private sewage disposal systems are in use, records of maintenance and the system design plans shall be kept on the premises.

24.1.2 No unprotected exposed sewer line shall be located directly above working, storage or eating surfaces in kitchens, dining rooms, pantries, or food storage rooms, or where medical or nursing supplies are prepared, processed, or stored.

24.2 REFUSE. All garbage and rubbish that is not disposed of as sewage shall be collected in impervious containers in such manner as not to become a nuisance or a health hazard and shall be removed to an outside approved storage area at least once a day.

24.2.1 The refuse storage area shall be kept clean, and free from nuisance.

24.2.2 A sufficient number of impervious containers with tight fitting lids shall be provided and kept clean and in good repair.

24.3 REFUSE CART. Carts used to transport refuse shall be constructed of impervious materials, enclosed, used solely for refuse, and maintained in a sanitary manner.

24.4 INCINERATORS. Incinerators shall comply with state and local air pollution regulations and be so constructed as to prevent insect and rodent breeding and harborage. The facility shall obtain a permit to operate an incinerator from the State Air Pollution Control Division and maintain the permit on file. *[Eff. 04/30/2009]*

**Part 25. GENERAL BUILDING AND LIFE SAFETY CODE REQUIREMENTS [Eff. 04/30/2009]**

25.1 COMPLIANCE WITH THE LIFE SAFETY CODE. Facilities shall be compliant with the National Fire Protection Association (NFPA) 101, Life Safety Code (2000), which is hereby incorporated by reference. Such incorporation by reference, as provided for in 6 CCR 1011-1, Chapter II, excludes later amendments to or editions of referenced material.

25.1.1 Facilities licensed on or before March 11, 2003 shall meet Chapter 19, Existing Health Care Occupancies, NFPA 101 (2000).

25.1.2 Facilities licensed after March 11, 2003 or portions of facilities that undergo remodeling on or after October 1, 2003 shall meet Chapter 18, New Health Care Occupancies, NFPA 101. In addition, if the remodel represents a modification of more than 50 percent of the smoke compartment, or more than 4,500 square feet, the entire smoke compartment shall be renovated to meet Chapter 18, New Health Care Occupancies, NFPA 101(2000).

25.1.3 Notwithstanding Life Safety Code (2000) provisions to the contrary:

- (1) when differing fire safety standards are imposed by federal, state or local jurisdictions, the most stringent standard shall apply.
- (2) any story containing an exterior door or an exterior window that opens to grade level shall be counted as a story.
- (3) licensed facilities shall be separated from unlicensed contiguous occupancies by an occupancy separation with a fire resistance rating of not less than 2 hours.

25.2 PLAN REVIEW AND PLAN REVIEW FEES. Plan review and plan review fees are required as listed below. If the facility has been approved by the Department to use more than one building for the direct care of residents on its campus, each building is subject to the applicable base fee plus square footage costs. Fees are nonrefundable and shall be submitted prior to the Department initiating a plan review for a facility.

25.2.1 Initial Licensure, Additions, Relocations

- (1) Plan review is applicable to the following, and includes new facility construction and new occupancy of existing structures:
  - (a) applications for an initial license, when such initial license is not a change of ownership and the application is submitted on or after July 1, 2009.
  - (b) additions of previously uninspected or unlicensed square footage to an existing occupancy and the building permit for such addition is issued on or after July 1, 2009 or if no permit is required by the local jurisdiction, construction began on or after July 1, 2009.

(C) relocations of a currently licensed facility in whole or in part to another physical plant, where the occupancy date occurs on or after July 1, 2009.

(2) Initial licensure, addition, and relocation plan review fees: base fee of \$2,500, plus square footage costs as shown in the table below.

<b>Square Footage</b>	<b>Cost per Square Foot</b>	<b>Explanatory Note</b>
0-25,000 sq ft	\$0.10	This is the cost for the first 25,000 sq ft of any plan submitted.
25,001+ sq ft	\$0.01	This cost is applicable to the additional square footage over 25,000 sq ft.

### 25.2.2 Remodeling

(1) Plan review is applicable to remodeling for which the application for the building permit from the local authority having jurisdiction is dated on or after July 1, 2009, or if no permit is required by the local jurisdiction, construction began on or after July 1, 2009. Remodeling includes, but is not limited to:

- (a) alteration, in patient sleeping areas, of a structural element subject to Life Safety Code standards, such as egress door widths and smoke or fire resisting walls.
- (b) relocation, removal or installation of walls that results in alteration of 25% or more of the existing habitable square footage or 50% or more of a smoke compartment.
- (c) conversion of existing space not previously used for providing resident services, including storage space, to resident sleeping areas.
- (d) changes to egress components, specifically the alteration of a structural element, relocation, or addition of an egress component. Examples of egress components include, but are not limited to, corridors, stairwells, exit enclosures, and points of refuge.
- (e) installation of any new sprinkler systems or the addition, removal or relocation of 20 or more sprinkler heads.
- (f) installation of any new fire alarm system, or addition, removal or relocation of 20 or more fire alarm system appliances including, but not limited to, pull stations, detectors and notification devices.
- (g) installation, removal or renovation of any kitchen hood suppression system.
- (h) essential electrical system: replacement or addition of a generator or transfer switch.
- (i) alteration of an existing area of the facility into a resident services area that restricts resident egress through the use of locking devices. Such areas include but are not limited to secured units. In addition to construction plans, the following information shall also be submitted:

- (i) cut sheets and sequence operations for locking devices for egress and egress access doors.
- (ii) location of locked egress and egress access doors.
- (iii) if applicable, how the fencing or other enclosure around the secured outdoor area designed to prevent elopement will be installed such that it and protects the safety and security of the residents.

(2) Remodeling plan review fees: base fee of \$2,000, plus square footage costs as shown in the table below.

<b>Square Footage</b>	<b>Cost per Square Foot</b>	<b>Explanatory Note</b>
0-20,000 sq ft	\$0.08	This is the cost for the first 20,000 sq ft of any plan submitted.
20,001+ sq ft	\$0.01	This cost is applicable to the additional square footage over 20,000 sq ft.

25.3 The “Guidelines of Design and Construction of Health Care Facilities” (2006 Edition), American Institute of Architects (AIA), may be used by the Department in resolving health, building, and life safety issues for construction initiated or systems installed on or after July 1, 2009. The AIA Guidelines are hereby incorporated by reference. Such incorporation by reference, as provided for in 6 CCR 1011-1, Chapter II, excludes later amendments to or editions of referenced material.

**Part 26. RELIGIOUS TREATMENT EXCLUSIONS**

26.1 EXCEPTION OF CERTAIN FACILITIES. Nothing in this Part applies to any nursing facility conducted by or for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend exclusively upon spiritual means through prayer for healing in the practice of the religion of such church or denomination

26.2 EXCEPTION FOR RELIGIOUS BELIEFS. Nothing in this chapter authorizes the Department to impose on a resident any mode of treatment inconsistent with the resident's religious belief.

**Part 27. MEDICAID CERTIFICATION STANDARDS**

27.1 For the purpose of fulfilling its facility certification responsibilities as the State Survey Agency pursuant to the requirements of Title XIX (Medicaid) of the Social Security Act (42 U.S.C. Section 1396(a), *et seq.* ) and the Colorado Medical Assistance Act, Section 25.5-4-104, *et seq.* , C.R.S., the Department shall apply and enforce the Skilled Nursing Facility and Intermediate Care Facility certification standards of the U.S. Department of Health and Human Services as those standards presently exist pursuant to Title XIX. (These standards are presently contained in Title 42 of the Code of Federal Regulations (C.F.R.)).

**Part 28. ENFORCEMENT REMEDIES**

28.1 Sections 25-2-107.5 and 25.5-6-205,C.R.S. provide the authority for the Department to recommend to the Department of Health Care Policy and Financing that a civil money penalty imposed against a nursing facility that violates federal regulations for participation in the Medicaid program as enumerated in 42 USC 1396r(h) (2006).

28.2 Collection, enforcement, and assessment of a civil money penalty pursuant to this chapter and the denial of Medicaid payments, shall be the responsibility of the Department of the Health Care Policy and Financing and shall be made upon recommendation of the Department of Public Health and Environment pursuant to section 25.5-6-205, C.R.S.

28.3 Definitions. For purposes of this part, the following definitions shall apply:

- (a) "Deficiency" or "violation" means any failure to comply with a requirement of participation for which the facility is required to take some form of corrective action.
- (b) "Enforcement remedy or remedies" means any remedy or combination of remedies, in accordance with 42 USC 1396r(h) and sections 25-1-107.5 and 25.5-6-205, C.R.S., which may be imposed by the Department or recommended by the Department for imposition by the Department of Health Care Policy and Financing against any nursing facility which fails to meet any one of the enumerated requirements for participation in the Medicaid program. Remedies include, but are not limited to:
  - (1) a plan of correction,
  - (2) a directed plan of correction,
  - (3) monitoring of a facility by the state survey agency,
  - (4) full or partial bans on admissions,
  - (5) denial of payment under the state Medicaid plan with respect to any individual admitted to the nursing facility involved after such notice to the public and the facility as may be provided for by law,
  - (6) civil money penalties,
  - (7) temporary management,
  - (8) termination of the facility's participation under the state plan, and
  - (9) receivership as provided by section 25-3-108, C.R.S.
- (c) "HCPF" means the Colorado Department of Health Care Policy and Financing.
- (d) "Nursing facility" means any skilled or intermediate nursing care facility which receives federal and state funds under the Title XIX of the federal Social Security Act.
- (e) "Nursing Home Penalty Cash Fund" means the fund created pursuant to section 25.5-6-205, C.R.S.
- (f) "Plan of correction" means a written plan prepared by the facility and approved by the department that describes the actions the facility will take to correct noted deficiencies and specifically sets the date the corrective action will be accomplished.
- (g) "Requirements of participation" means those requirements of participation in the medicaid program as enumerated in 42 USC 1396r (h) of the federal Omnibus

Budget Reconciliation Act of 1987, 1989, and 1990, regulations promulgated pursuant to those acts, and section 25-1-107.5, C.R.S.

- (h) "Secretary" means the secretary of the federal department of Health and Human Services.
- (i) "Scope" means the frequency of the occurrence of the deficiency in one of the following levels:
  - (1) Level 1. The deficiency exists in only one or a limited number of cases.
  - (2) Level 2. The deficiency exists in more than a limited number of cases, but no pattern can be identified.
  - (3) Level 3. The deficiency exists in more than a limited number of cases and indicates a pattern.
  - (4) Level 4. The deficiency occurs in sufficient number among residents or staff or with sufficient regularity that it can be considered systemic/pervasive.
- (j) "Severity" means the seriousness of the deficiency in one of the following levels:
  - (1) Level 1. Any deficiency not meeting the criteria for Levels 2, 3, or 4.
  - (2) Level 2. Any deficiency which may result in a negative outcome to the resident or residents.
  - (3) Level 3. Any deficiency which has resulted in a negative outcome to the resident or residents.
  - (4) Level 4. Any deficiency which has a high probability that serious harm or serious injury to residents could occur at any time, or already has occurred and may well occur again if residents are not protected effectively from the harm, or the threat is not removed.
- (k) "Temporary management" means the temporary utilization of a substitute manager pursuant to either an agreement between the licensee and the department or pursuant to section 25-3-108, et seq., C.R.S.
- (l) "Negative outcome" means that the impact of the facility's deficient practice on the resident or residents is:
  - (1) The physical, mental or psychosocial deterioration of the resident or residents, or
  - (2) The ability of the resident or residents to achieve the highest practicable physical, mental, or psychosocial well-being has been compromised.
- (m) "Repeat deficiency" means a subsequent deficiency with comparable circumstances or the same tag number, unless the department determines that the circumstances of the previous deficiency are so dissimilar that it would not be proper to consider the deficiency to be a repeat.

28.4 If the Department, as a result of a standard survey, extended survey, or verified complaint or other investigation by the Department at any time upon reasonable cause, determines that a facility

fails to meet the requirements of participation as defined herein and further determines that such failure places the health or safety of the facility's residents in serious and immediate jeopardy, the Department shall take immediate action to remove such jeopardy and correct the deficiency, by either:

- (a) temporary management, or
- (b) termination of the facility's participation in the state plan.

28.4.1 In addition to the action taken pursuant to 28.4, the Department may apply any other remedy as provided by law or regulation.

28.4.2 If the Department, as a result of a standard survey, extended survey, or verified complaint or other investigation by the Department at any time upon reasonable cause, determines that a facility fails to meet the requirements of participation and further determines that such failure does not place the health or safety of the facility's residents in serious and immediate jeopardy, the Department may take action to correct the deficiency including the application of any remedy designed to minimize the length of time between the identification of a deficiency indicating failure to meet a requirement of participation and the correction of that deficiency. Such a remedy shall not be limited to those remedies enumerated in 28.3(b).

28.5 In determining which remedies to apply, the Department shall consider the severity of the deficiency and shall, in addition to any other remedies provided by law or regulation, impose the remedies provided by 28.3(b) as follows:

- (a) For a deficiency of severity Level 1, the Department shall impose the remedy specified in 28.3(b)(1) and may impose the remedies specified in 28.3(b)(2). For a repeat deficiency within a fifteen (15) month period, the Department shall impose the remedy specified in 28.3(b)(1), or (2), and may impose the remedy specified in 28.3(b)(6).
- (b) For a deficiency of severity Level 2, the Department shall impose the remedies specified in 28.3(b)(1), or (2), and may impose the remedies specified in 28.3(b)(3) and/or (6). For a repeat deficiency within a fifteen (15) month period, the Department shall impose the remedies specified in 28.3(b)(1) or (2) and may impose the remedies specified in 28.3(b)(3) and/or (6).
- (c) For a deficiency of severity Level 3, the Department shall impose the remedies specified in 28.3(b)(1) or (2), and if the scope of the deficiency is Level 4, shall impose the remedies specified in 28.3(b)(3) or (4) or (5) or (6), and may impose any available remedies. For a repeat deficiency within a fifteen (15) month period, the Department shall impose the remedies specified in 28.3(b)(1) or (2), and (3), or (4), or (5), or (6) and may impose any available remedy.
- (d) For a deficiency of severity Level 4, the Department shall impose the remedies specified in 28.3(b)(1) or (2), and (6) and (7) or (8). In addition, the Department may impose any other available remedy. For a repeat deficiency within a fifteen (15) month period, the Department shall impose the remedies specified in 28.3(b)(2) and (6) and (7) or (8). In addition, the Department may impose any available remedy.

28.6 The Department shall make a recommendation in a timely manner to HCPF that a civil money penalty be assessed against a facility for failure to comply with a requirement of participation if the Department determines that a civil money penalty is an appropriate remedy.



- (a) The Department shall consider all mitigating factors, including but not limited to, a change of ownership of the facility subject to the approval of the Department as provided in 6 CCR 1011-1, Chapter II.
- (b) A civil money penalty shall not be recommended under circumstances where the relevant deficiency occurred for reasons outside the nursing facility's reasonable control or despite reasonable, good faith efforts to avoid the deficiency.

28.7 Pursuant to 25-1-107.5, C.R.S., if the Department determines that recommendation of a civil money penalty is appropriate, the Department shall adopt criteria for determining the amount of the penalty to be recommended for assessment by HCPF. Such criteria shall include, but need not be limited to, consideration of the following factors:

- (a) The period of time over which the violation occurred;
- (b) The frequency of the violation;
- (c) The nursing facility's history concerning the type of violation for which the penalty is assessed;
- (d) The nursing facility's intent or reason for the violation;
- (e) The effect, if any, of the violation on residents' health, safety, security, or welfare; i.e., severity;
- (f) The existence of other violations, in combination with the violation for which the penalty is assessed, which increase the threat to residents' health, safety, security, or welfare;
- (g) The accuracy, thoroughness and availability of records regarding the violation which the nursing facility is required to maintain; and
- (h) The number of additional related violations occurring within the same time span as the violation in question.

28.7.1 In determining the amount of a civil money penalty, multiple violations of different requirements of participation resulting from a single act shall be considered as one violation. However, this shall not preclude their consideration under 28.7(f) or (h) above.

28.7.2 Any civil money penalty which is recommended to HCPF for imposition by that Department shall be not less than \$100 nor more than \$10,000 for each day the facility is found to have been in violation of the federal regulations. Penalties assessed shall include interest at the statutory rate.

28.7.3 Any such civil money penalty shall accrue from the date the facility receives written notice from the Department regarding its recommendation of a civil money penalty. In the event the Department determines that a violation is life threatening to one or more residents or creates a direct threat or serious adverse harm to the health, safety, security, rights or welfare of one or more residents, a penalty shall be imposed for each day the deficiencies which constitute the violation are found to exist. The period of time during which the civil money penalty accrues shall be as follows:

- (a) No longer than six (6) months in the case of non-serious or non-immediate threat.

(b) Until the Department verifies the deficiency is corrected or the facility notifies the Department that the deficiency is corrected, whichever is earlier.

(1) If the facility acts in a timely and diligent manner to correct the violation in accordance with a plan of correction as agreed to by the Department, the Department shall recommend to HCPF that the penalty be suspended or reduced for the period of the plan of correction.

(2) In the event the facility has not corrected the violation, pursuant to the notice provided by the facility, the penalty shall be reinstated at an increased amount retroactive to the date the penalty was tolled.

(3) For the purposes of this provision, the plan of correction must contain a reasonable and appropriate plan of action and timetable to completely correct the deficiency. This provision (plan of correction) shall not apply in cases of repeat deficiencies or those with a severity level of 4.

28.8 The Department shall notify the facility, by personal service, first class mail, or electronic transmission ("fax" ), of its recommendation of the imposition of a civil money penalty and the amount of any such penalty not later than the fifth day following the last day of the inspection or survey on which the deficiencies which constitute the violation were found. The notice shall explain the deficiencies that are the basis for the recommendation and shall provide instructions for responding to the notice, including that the facility submit a written plan of correction.

28.8.1 After notice pursuant to 28.8 above, a facility may notify the Department of the correction of the deficiency for which the civil money penalty is being recommended. Such initial notice to the Department may be given by telephone, electronic transmission ("fax" ), or in person, but shall be documented by a writing postmarked within five (5) business days of the initial notification to the Department.

28.8.2 It shall be the responsibility of HCPF pursuant to section 25.5-6-205, C.R.S., to provide for an appeal process for any facility which has a civil money penalty assessed against it for failure to meet a requirement of participation.

28.9 If a facility fails to correct a deficiency or deficiencies within three (3) months after the date the facility is found by HCPF to be out of compliance with a requirement of participation pursuant to 25-1-107.5, C.R.S., the Department shall recommend to HCPF denial of payment under the state plan with respect to any individual admitted to the facility. involved after such notice to the public and the facility as is provided for by the state.

28.10 If a facility has provided a substandard quality of care to the residents as evidenced by three consecutive standard surveys, the Department shall take the actionS set forth in (a) and (b) below and may take any such additional action allowed by statute or regulation, including recommending that a civil money penalty be imposed by HCPF.

(a) Recommend to HCPF that payment be denied under the state plan with regard to any individual admitted to the facility involved after such notice to the public and to the facility as may be provided for by the state; and

(b) Monitor the facility until such time as it has demonstrated to the satisfaction of the Department that it is in compliance with the requirements and that it has the management capacity to remain in compliance.

28.11 Nothing in this Part shall preclude the Department from recommending alternative remedies as provided by law so long as such remedy or remedies are deemed to be at least as effective in

correcting the violation and deterring future violations as those remedies enumerated in the federal Omnibus Budget Reconciliation Act of 1987, 1989, and 1990, 42 USC 1396r(h).

28.11.1 Nothing in this Part shall be construed as limiting, negating, or superseding any other remedy available for use by the Department to correct a deficiency or deficiencies. In recommending or selecting a particular remedy, the primary consideration shall be the selection of the remedy or remedies most likely to achieve correction of the relevant deficiency and long-term compliance.

28.12 The Department shall, in conjunction with HCPF, establish circumstances under which the funds of the Nursing Home Penalty Cash Fund may be disbursed in order to protect the health or property of residents. Those circumstances shall include, but not be limited to, the following:

- (a) relocating residents to other facilities if necessary;
- (b) maintaining the operation of a facility pending completion of a plan of correction or directed plan of correction;
- (c) maintaining the operation of a facility pending closure; and
- (d) reimbursing residents for personal funds lost.

28.12.1 Neither the Department nor HCPF may use money from the Nursing Home Penalty Cash Fund to pay the costs of administration of those departments.

28.12.2 At the end of the fiscal year, all unexpended and unencumbered moneys remaining in the Nursing Home Penalty Cash Fund must remain in the fund and may not be transferred or credited to the general fund.

## **Part 29. LICENSING FEES**

29.1 All license fees are non-refundable. The total fee shall be submitted with the appropriate license application.

29.2 Initial license - \$6,000 per facility.

29.3 Renewal license - Effective April 1, 2011, the annual renewal fee shall be as follows.

Medicare and/or Medicaid certified facility: \$1,600 base fee plus \$8 per bed.

Non-certified facility: \$3,480 base fee plus \$8 per bed.

29.4 Change of ownership - Change of ownership shall be determined in accordance with the criteria set forth in 6 CCR 1011-1, Chapter II, Part 2. The fee shall be \$6,000 per facility.

29.5 Opening a secure unit - A facility that wishes to open a secure unit shall submit a fee of \$1,600 in addition to any other applicable license fees.

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### **Editor's Notes**

6 CCR 1011-1 has been divided into separate chapters for ease of use. Versions prior to 05/01/2009 and rule history are located in the main section, 6 CCR 1011-1. Prior versions can be accessed from the

History link that appears above the text in 6 CCR 1011-1. To view versions effective on or after 05/01/2009, select the desired chapter, for example 6 CCR 1011-1 Chap IV or 6 CCR 1011-1 Chap XVIII.

### **History**

Chapter V Section 2.5 eff. 07/30/2008.

Chapter V Parts Definitions, 18.8, 19.8.3, 24.4, 25, and Delete 28.3 – 28.5 eff. 04/30/2009.

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# COLORADO REVISED STATUTES

## Title 12 **Professions and Occupations**

### Article 39 **Nursing Home Administrators**

Effective July 1, 2010

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**12-39-101. Legislative declaration.**

The general assembly declares that the intent of this article is to provide a measure of protection to the residents of nursing homes in this state who are aged or who have disabilities by establishing a means to regulate nursing home administrators to ensure quality administration and sound management of nursing homes. It is also the intent of the general assembly that the board of examiners of nursing home administrators be adequately funded to carry out the duties and functions specified by this article as well as the legislative intent expressed in this section.

**12-39-102. Definitions.**

As used in this article, unless the context otherwise requires:

- (1) "Board" means the board of examiners of nursing home administrators.
- (2) "Nursing home administrator" means any individual licensed and responsible for planning, organizing, directing, and controlling the operation of a nursing home or who in fact performs such functions, whether or not such functions are shared by one or more other persons.
- (3) "Nursing home administrator-in-training" means an individual registered with the board pursuant to the provisions of this article.
- (4) "Nursing home facility" shall have the same meaning as that set forth in section 25-1-1002, C.R.S., and shall include nursing care facilities, whether proprietary or nonprofit, which are licensed under section 25-1.5-103 (1) (a) (I), C.R.S., or pursuant to the rules for nursing homes promulgated by the department of public health and environment. The term "nursing home" includes but is not limited to nursing homes owned or administered by the state government or any agency or political subdivision thereof.
- (5) "Practice of nursing home administration" means the planning, organizing, directing, and control of the operation of a nursing home.
- (6) "Reasonable grounds" means facts and circumstances sufficiently strong to warrant a prudent person to believe that the facts and circumstances are true.

**12-39-103. Administrator license required.**

No person shall practice or offer to practice nursing home administration in this state or use any title, sign, card, or device to indicate that such person is a nursing home administrator, unless such person has been duly licensed as a nursing home administrator as required by this article.

**12-39-103.5. State training school.**

The nursing home administrator in each of the three state home and training schools at Grand Junction, Pueblo, and Wheat Ridge is not required to be the superintendent of such facility.

**12-39-104. Board of examiners of nursing home administrators - creation - subject to termination - repeal.**

(1) (a) There is hereby created a board of examiners of nursing home administrators in the division of registrations in the department of regulatory agencies, which board shall be composed of the following members appointed by the governor:

(I) Three members shall be practicing nursing home administrators duly licensed under this article and shall be from the following areas of discipline, with no two members from the same area:

- (A) Hospital administration;
- (B) Nonprofit facility administration;
- (C) Proprietary facility administration; or
- (D) Continuum of care administration;

(II) (A) Two members shall be professionals from the long-term care industry, one of whom shall be a licensed health care professional.

(B) Notwithstanding sub-subparagraph (A) of this subparagraph (II), upon the expiration of the term of office of the long-term care professional member whose term expires on July 1, 2009, the board shall have one member who is a professional from the long-term care industry.

(C) Notwithstanding sub-subparagraph (A) of this subparagraph (II), upon the expiration of the term of office of the long-term care professional member whose term expires on July 1, 2011, the board shall not have any members who are professionals from the long-term care industry.

(D) This subparagraph (II) is repealed, effective July 1, 2011.

(III) Three members shall be representative of the public at large; except that upon the expiration of the term of office of the one member of the board representing the public whose term expires on July 1, 2011, the board shall consist of two members representative of the public at large.

(b) No more than three of the members of the board shall be officials or full-time employees of state government or local governments. The term of office for each member of the board shall be four years. No member of the board shall serve more than two consecutive terms. All the members of the board shall be residents of this state.

(2) Appointments to the board shall be made by the governor. The governor may remove any board member for negligence, incompetency, unprofessional conduct, or willful misconduct. Actions constituting neglect of duty shall include but not be limited to three unexcused absences from scheduled meetings in any one calendar year. Appointments to fill vacancies shall be made for the remainder of the unexpired term. A member who is a practicing nursing home administrator or long-term care professional shall serve for a full term only if, during such term, such member is actively employed as a practicing member of his or her profession without a lapse of employment greater than one hundred twenty days.



(3) The board shall elect annually from its membership a chair and vice-chair. The board shall hold two or more meetings each year. At any meeting a majority shall constitute a quorum.

(4) The board shall exercise its powers and perform its duties and functions specified by this article under the department of regulatory agencies and the executive director thereof and the division of registrations as if the same were transferred to the department by a **type 1** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(5) The director of the division of registrations in the department of regulatory agencies may appoint, subject to section 13 of article XII of the state constitution, a program director to the board. The program director shall not be a member of the board, but shall have such powers and shall perform such duties as are prescribed by law and the rules of the board. Additional staff may be appointed by the director of the division of registrations to adequately assist the board and the program director in keeping records and in the performance of their duties. These employees, if any, shall be appointed and serve in accordance with section 13 of article XII of the state constitution.

(6) The provisions of section 24-34-104, C.R.S., concerning the termination schedule for regulatory bodies of the state unless extended as provided in that section, are applicable to the board of examiners of nursing home administrators created by this section.

(7) Repealed.

**12-39-104.5. Qualifications of board members.**

(1) A nursing home administrator shall be qualified to be appointed to the board if such person:

(a) Is a legal resident of Colorado;

(b) Is currently licensed as a nursing home administrator;

(c) Has been actively engaged as a licensed nursing home administrator for at least five years.

(2) Notwithstanding subsection (1) of this section, a person convicted of a felony in Colorado or any other state or of violating this article or any law governing the practice of nursing home administrators shall not be appointed to or serve on the board.

**12-39-105. Powers and duties of the board - rules.**

(1) (a) The board has the following powers and duties:

(I) (A) To adopt rules defining standards of nursing home administration, including the responsibilities and duties of nursing home administrators, consistent with this article. The standards established in the rules shall be met by individuals in order to receive and retain a license and shall be designed to ensure that nursing home administrators are qualified by education and training in the appropriate field to serve as nursing home administrators.

(B) To develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

(II) To issue licenses to individuals determined, after application of such techniques, to meet such standards specified in subparagraph (I) of this paragraph (a);

(III) To revoke, suspend, withhold, or refuse to renew any license previously issued by the board, to place a licensee or temporary license holder on probation, or to issue a letter of admonition to a licensee in accordance with section 12-39-111 (3) in any case where the individual holding any such license is determined to have failed to conform to the standards developed pursuant to subparagraph (I) of this paragraph (a) or to have committed an act that constitutes grounds for discipline as set forth in section 12-39-111;

(IV) To establish and carry out procedures designed to ensure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards specified in subparagraph (I) of this paragraph (a);

(V) To conduct investigations, hold hearings, and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the board and, in connection with any investigation following the filing of a signed complaint, an investigation initiated by the board, or any hearing, to administer oaths and issue subpoenas compelling the attendance and testimony of witnesses and the production of books, papers, or records relevant to an investigation or hearing;

(VI) (Deleted by amendment, L. 2009, (SB 09-169), ch. 225, p. 1023, § 6, effective May 4, 2009.)

(b) The board or an administrative law judge shall have the power to administer oaths, take affirmations of witnesses, and issue subpoenas to compel the attendance of witnesses and the production of all relevant papers, books, records, documentary evidence, and materials in any hearing, investigation, accusation, or other matter coming before the board. The board may appoint an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., to take evidence and to make findings and report them to the board. The person providing documents shall prepare them from the original record and shall delete from the copy provided pursuant to the subpoena the name of the resident, but shall identify the resident by a numbered code, to be retained by the custodian of the records from which the copies were made. Upon certification of the custodian that the copies are true and complete except for the resident's name, they shall be deemed authentic, subject to the right to inspect the originals for the limited purpose of ascertaining the accuracy of the copies. No privilege of confidentiality shall exist with respect to the copies, and no liability shall lie against the board, the custodian, or the custodian's authorized employee for furnishing or using the copies in accordance with this subsection (1).

(c) Upon failure of any witness to comply with such subpoena or process, the district court of the county in which the subpoenaed person or licensee resides or conducts business, upon application by the board or director with notice to the subpoenaed person or licensee, may issue to the person or licensee an order requiring that person or licensee to appear before the board or director; to produce the relevant papers, books, records, documentary evidence, or materials if so

ordered; or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

(2) Repealed.

(3) (a) The board shall develop rules, with input from long-term care facility provider associations, the department of public health and environment, the office of the state attorney general, and consumer representatives, concerning factors to be considered in determining performance that fails to meet generally accepted standards for nursing home administrators and whether or not remedial or disciplinary actions are warranted. The board may create an advisory committee to assist the board in developing standards that describe the responsibilities and duties of nursing home administrators.

(b) If after an investigation the board determines that there are reasonable grounds to believe that the performance of a licensed administrator is inconsistent with the health or safety of residents in the care of the facility in which the administrator works and is contrary to standards adopted by the board, the board may initiate disciplinary action as may be warranted.

(4) The board shall have the authority to make rules consistent with law as may be necessary for the proper performance of its duties and to take such other actions as may be necessary to enable the state to meet the requirements set forth in section 1908 of the federal "Social Security Act", the federal rules promulgated thereunder, and other pertinent federal requirements.

**12-39-106. Qualifications for admission to examination.**

(1) The board shall admit to examination for licensure as a nursing home administrator any applicant who pays a fee as determined by the board, who submits evidence of suitability prescribed by the board, who is twenty-one years of age or older, and who provides written documentation that the applicant meets one of the following requirements:

(a) The applicant has successfully completed the administrator-in-training program pursuant to section 12-39-107; or

(b) The applicant has successfully completed a bachelor's degree in public health administration, health administration, or any degree or degrees deemed appropriate by the board; or

(c) The applicant has successfully completed an associate's degree or higher degree in a health care-related field and has a minimum of two years experience in administration in a nursing home or hospital. For the purposes of this section, a registered nurse who is a graduate of a three-year diploma program shall be considered to have met the associate degree requirement.

(2) If the applicant fails to provide evidence satisfactory to the board that the applicant meets the requirements of subsection (1) of this section, the applicant shall not be admitted to take the licensing examination, and the applicant shall not be entitled to or be granted a license as a nursing home administrator.

(3) (Deleted by amendment, L. 99, p. 361, § 4, effective July 1, 1999.)

**12-39-107. Administrator-in-training.**

(1) An applicant for a nursing home administrator's license who meets the board's criteria for education and experience, pursuant to section 12-39-107.5, may be granted admission into the nursing home administrator-in-training program. Upon successful completion of the two-thousand-hour training period, said applicant shall be eligible to take the examination.

(2) (Deleted by amendment, L. 2009, (SB 09-169), ch. 225, p. 1024, § 8, effective May 4, 2009.)

(3) Every nursing home administrator-in-training shall register the fact of such training with the board in accordance with the rules and on forms provided by the board.

(4) The board shall, by rule, establish a monitoring mechanism that will provide oversight of the administrator-in-training program, including a requirement that an administrator-in-training submit periodic progress reports to the board.

(5) (Deleted by amendment, L. 99, p. 362, § 5, effective July 1, 1999.)

(6) The board may waive any portion required by subsection (1) of this section if it finds that the applicant has prior experience or training sufficient to satisfy requirements established by rule of the board.

**12-39-107.5. Board to promulgate rules.**

The board shall promulgate rules defining the criteria for the education and experience necessary for admittance to the administrator-in-training program. The board shall furnish copies of the appropriate rules to members of the public upon request. Such criteria for the education and experience necessary for admittance to the administrator-in-training program shall not exceed successful completion of two years of college level study in an accredited institution of higher education in areas relating to health care or two years of board approved experience in nursing home administration or comparable health management experience for each year of required education.

**12-39-108. Licenses.**

(1) Any license issued by the board shall be valid for a period determined pursuant to a schedule established by the director of the division of registrations within the department of regulatory agencies and shall be renewed or reinstated pursuant to section 24-34-102 (8), C.R.S. The director of the division of registrations within the department of regulatory agencies may establish renewal fees and delinquency fees for reinstatement pursuant to section 24-34-105, C.R.S. If a person fails to renew his or her license pursuant to the schedule established by the director of the division of registrations, such license shall expire. Any person whose license has expired shall be subject to the penalties provided in this article or section 24-34-102 (8), C.R.S.

(2) Repealed.

(3) Only an individual who has qualified as a licensed nursing home administrator under the provisions of this article and who holds a valid current license pursuant to the provisions of this section has the privilege of using the title "nursing home administrator" and the right and the privilege of using the abbreviation "N.H.A." after such person's name.

(4) The board shall maintain a list of all licensed nursing home administrators, which list shall show: the place of residence, the name and age of each licensee, any action taken by the board, the number of the license issued to the licensee, and such other pertinent information as the board may deem necessary. The department shall keep a list of applicants who are denied.

(5) The board may issue a temporary license to an applicant for a period not to exceed six months. The board shall promulgate rules and regulations for the issuance of such a temporary license.

(6) A temporary license shall be granted to an applicant who is employed as a hospital administrator by a general hospital licensed or certified by the department of public health and environment. Such temporary permit shall be granted for a period not to exceed twelve months and shall be void at such time the license holder is no longer employed by the general hospital.

(7) The board shall establish, pursuant to section 24-34-105, C.R.S., and publish annually a schedule of fees for the licensing of nursing home administrators.

(8) All moneys collected or received by the board shall be transmitted to the state treasurer who shall credit the same as provided in section 24-34-105, C.R.S., and the general assembly shall make annual appropriations pursuant to said section for the expenditures of the board incurred in the performance of its duties under this article, which expenditures shall be made from such appropriations upon vouchers and warrants drawn pursuant to law.

(9) No nursing home administrator who has had a license revoked may apply for licensure before a one-year waiting period following the date of such revocation and must comply with all requirements established by rules and regulations of the board.

(10) Each licensee shall, within thirty days, notify the board of any conviction of a felony or the acceptance of a guilty plea or a plea of nolo contendere to a felony.

**12-39-109. Examinations.**

(1) The board shall determine the subjects of the state examination for all applicants for licensure as nursing home administrators.

(2) Examinations shall be held at least semiannually at such times and places as the board shall designate. Any examination shall be prepared or approved by the board.

(3) The board shall have the authority to select and administer a national examination.

**12-39-110. Endorsement.**

(1) The board shall issue a license to any person duly licensed to practice nursing home administration in another state or territory of the United States who possesses credentials and qualifications which are substantially equivalent to the requirements of section 12-39-106 and who successfully completes the Colorado state examination provided in section 12-39-109. For purposes of this section, "state or territory" includes the District of Columbia and the commonwealth of Puerto Rico.

(2) An applicant for licensure under this section shall submit to the board, in a form prescribed by the board, all of the following:

**Editor's note:** This version of the introductory portion to subsection (2) is effective until July 1, 2011.

(2) An applicant for licensure under this section shall submit to the board, in a manner prescribed by the board, all of the following:

**Editor's note:** This version of the introductory portion to subsection (2) is effective July 1, 2011.

(a) Evidence that the applicant holds a current, active license to practice nursing home administration issued by a state or territory of the United States other than Colorado. Such evidence shall include a license history from the state or territory that issued the license, indicating whether any disciplinary or other adverse actions are currently pending or have ever been taken in connection with that license and the final disposition of such actions, if any. If an applicant is or has been licensed in more than one state or territory other than Colorado, the applicant shall submit a license history or similar record as described in this paragraph (a) from each such state or territory.

(b) A license history or similar record, as described in paragraph (a) of this subsection (2), relating to any license or registration which the applicant holds or has held in any other health care occupation in any state or territory other than Colorado. For purposes of this section, "health care occupation" includes without limitation the practices of medicine, dentistry, psychiatry, psychology, nursing, physical therapy, gerontology, chiropractic, podiatry, midwifery, optometry, pharmacy, and any other practice in which individuals are treated for medical or psychological problems or conditions, as well as the rendition of any service supportive to or ancillary to those practices.

(c) Verification that the applicant has been engaged in the practice of nursing home administration, has taught in a health care administration program, or has served as a member of a nursing home survey or accreditation team for one year immediately preceding the date of application, or has been engaged in one of the services described in this paragraph (c) for three of the five years immediately preceding the date of application.

**Editor's note:** This version of paragraph (c) is effective until July 1, 2011.

(c) (I) Verification that the applicant has been engaged in the practice of nursing home administration, has taught in a health care administration program, or has served as a member of a nursing home survey or accreditation team for one year immediately preceding the date of the receipt of the application, or has been engaged in one of the services described in this subparagraph (I) for three of the five years immediately preceding the date of the receipt of the application; or

(II) Evidence that the applicant has demonstrated competency as a nursing home administrator as determined by the board.

**12-39-111. Grounds for discipline.**

(1) The board has the power to revoke, suspend, withhold, or refuse to renew any license, to place on probation a licensee or temporary license holder, or to issue a letter of admonition to a licensee in accordance with the procedures set forth in subsection (3) of this section, upon proof that such person:

(a) Has procured or attempted to procure a license by fraud, deceit, misrepresentation, misleading omission, or material misstatement of fact;

(b) Has been convicted of a felony or pled guilty or nolo contendere to a felony. A certified copy of the judgment of conviction by a court of competent jurisdiction shall be prima facie evidence of such conviction. In considering a possible revocation, suspension, or nonrenewal of a license or temporary license the board shall be governed by the provisions of section 24-5-101, C.R.S.

(c) Has had a license to practice nursing home administration or any other health care occupation suspended or revoked in any jurisdiction. A certified copy of the order of suspension or revocation shall be prima facie evidence of such suspension or revocation.

(d) Has violated or aided or abetted a violation of any provision of this article, any rule or regulation adopted under this article, or any lawful order of the board;

(e) Has committed or engaged in any act or omission which fails to meet generally accepted standards for such nursing home administration practice or licensure;

(f) Has falsified or made incorrect entries or failed to make essential entries on resident records;

(g) Is addicted to or dependent on alcohol or habit-forming drugs, abuses or engages in the habitual or excessive use of any such habit-forming drug or any controlled substance as defined in section 12-22-303 (7) or 18-18-102 (5), C.R.S., or participates in the unlawful use of controlled substances as specified in section 18-18-404, C.R.S.; except that the board has the discretion not to discipline the licensee if such person is participating, in good faith, in a program approved by the board designed to end such addiction or dependency;

(h) Has a physical or mental disability that renders the licensee unable to practice nursing home administration with reasonable skill and safety to the residents and that may endanger the health or safety of persons under the licensee's care;

(i) Has violated the confidentiality of information or knowledge as prescribed by law concerning any resident;

(j) Has violated section 18-13-119, C.R.S., concerning the abuse of health insurance;

(k) Has failed to post in the nursing home facility in a conspicuous place and in clearly legible type a notice giving the address and telephone number of the board and stating that complaints may be made to the board;

(l) Has practiced as a nursing home administrator without a license;

(m) Has used in connection with the person's name any designations tending to imply that the person is a licensed nursing home administrator, unless the person in fact holds a valid license;

(n) Has practiced as a nursing home administrator during a period when the person's license has been suspended or revoked; or

(o) Has sold, fraudulently obtained, or furnished a license to practice as a nursing home administrator, or has aided or abetted therein.

(2) The board need not find that the actions which are grounds for discipline were willful or negligent, but it may consider the same in determining the nature of disciplinary sanctions to be imposed.

(3) (a) When a complaint or investigation discloses an instance of misconduct that, in the opinion of the board, does not warrant formal action by the board but that should not be dismissed as being without merit, a letter of admonition may be issued and sent, by certified mail, to the licensee.

(b) When a letter of admonition is sent by the board, by certified mail, to a licensee, such licensee shall be advised that he or she has the right to request in writing, within twenty days after receipt of the letter, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the letter of admonition is based.

(c) If the request for adjudication is timely made, the letter of admonition shall be deemed vacated and the matter shall be processed by means of formal disciplinary proceedings.

(4) If the board finds the charges proven and orders that discipline be imposed, it may also require the licensee to participate in a treatment program or course of training or education as a requirement for reinstatement as may be needed to correct any deficiency found in the hearing.

(5) When a complaint or an investigation discloses an instance of misconduct that, in the opinion of the board, warrants formal action, the complaint shall not be resolved by a deferred settlement, action, judgment, or prosecution.

**12-39-112. Withholding or denial of license - hearing.**

The board has the authority, pursuant to article 4 of title 24, C.R.S., to determine whether an applicant for a license or a temporary license to practice as a nursing home administrator possesses the qualifications required by this article, or whether there are reasonable grounds to believe that such applicant has done any of the acts set forth in section 12-39-111 as grounds for discipline. As used in this section, "applicant" does not include a person seeking the renewal of a license.

**12-39-113. Mental and physical examination of licensees.**

(1) (a) If the board has reasonable grounds to believe that a licensee or temporary license holder is unable to practice with reasonable skill and safety to residents because of a condition described in section 12-39-111 (1) (g) or (1) (h), it may require the person to submit to a mental



or physical examination by a physician or other licensed health care professional it designates. Upon the failure of the person to submit to the mental or physical examination, unless due to circumstances beyond the person's control, the board may suspend the person's license until the person submits to the required examinations.

(b) Every licensee or temporary license holder by engaging in the practice of nursing home administration in this state or by applying for the renewal of a license or temporary license shall be deemed to have given consent to submit to a mental or physical examination when so directed in writing by the board. The direction to submit to such an examination shall contain the basis of the board's reasonable grounds to believe that the licensee is unable to practice with reasonable skill and safety to residents because of a condition described in section 12-39-111 (1) (g) or (1) (h). The licensee shall be deemed to have waived all objections to the admissibility of the examining physician's or other licensed health care professional's testimony or examination reports on the ground of privileged communication.

(2) Nothing in this section shall prevent the licensee from submitting testimony or examination reports of a physician or other licensed health care professional designated by the licensee that pertains to a condition described in section 12-39-111 (1) (g) or (1) (h) that may be considered by the board in conjunction with, but not in lieu of, testimony and examination reports of the physician or other licensed health care professional designated by the board.

(3) The results of any mental or physical examination ordered by the board shall not be used as evidence in any proceeding other than one before the board and shall not be deemed public records nor made available to the public.

**12-39-114. Disciplinary proceedings - administrative law judge - judicial review.**

(1) The board, through the department of regulatory agencies, has the authority to designate an administrative law judge to conduct hearings on any matter within the board's jurisdiction. Any designated administrative law judge shall have the powers and duties set forth in article 4 of title 24, C.R.S., and shall be appointed pursuant to part 10 of article 30 of title 24, C.R.S.

(2) Disciplinary proceedings may be commenced when the board has reasonable grounds to believe that a licensee under the board's jurisdiction has committed acts in violation of section 12-39-111.

(3) Disciplinary proceedings shall be conducted in the manner prescribed by article 4 of title 24, C.R.S., and the hearing and opportunity for review shall be conducted pursuant to said article by the board or an administrative law judge, at the board's discretion.

(4) No previously issued license to engage in the practice of nursing home administration shall be revoked or suspended until a hearing has been conducted pursuant to section 24-4-105, C.R.S., or, for emergency situations, pursuant to section 24-4-104 (4), C.R.S. The denial of an application to renew an existing license shall be treated in all respects as a revocation.

(5) Any person participating in good faith in the making of a complaint or report or participating in any investigative or administrative proceeding pursuant to this article shall be immune from any liability, civil or criminal, that otherwise might result by reason of such action.

(6) Complaints, investigations, hearings, meetings, or any other proceedings of the board conducted pursuant to the provisions of this article and relating to disciplinary proceedings shall be exempt from the provision of any law requiring that proceedings of the board be conducted publicly or that the minutes or records of the board with respect to action of the board taken pursuant to the provisions of this article be open to public inspection; except that this exemption shall apply only when the board, or an administrative law judge acting on behalf of the board specifically determines that it is in the best interest of a complainant or other recipient of services to keep such proceedings or documents relating thereto closed to the public, or if the licensee is violating section 12-39-111 (1) (g), participating in good faith in a program approved by the board or designed by the board to end any addiction or dependency specified in said section, and the licensee has not violated any provisions of the board order regarding participation in such a treatment program. If the board determines that it is in the best interest of a complainant or other recipient of services to keep such proceedings or documents relating thereto closed to the public, then the final action of the board shall be open to the public without disclosing the name of the client or other recipient. Final board actions and orders appropriate for judicial review may be judicially reviewed in the court of appeals in accordance with section 24-4-106 (11), C.R.S.

(7) When a complaint or investigation discloses an instance of conduct that does not warrant formal action by the board and, in the opinion of the board, the complaint should be dismissed, but the board has noticed indications of possible errant conduct by the licensee that could lead to serious consequences if not corrected, a confidential letter of concern may be issued and sent to the licensee.

**12-39-115. Temporary advisory committees - immunity.**

(1) The board may appoint temporary advisory committees, including temporary professional review committees, to assist in the performance of its duties with respect to individual investigations. Each temporary advisory committee shall consist of at least three licensees who have expertise in the area under review. Members of temporary advisory committees shall receive no compensation for their services but shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties.

(2) If a professional review committee is established pursuant to subsection (1) of this section to investigate the quality of care being given by a person licensed pursuant to this article, such committee shall include in its membership at least three persons licensed in the same category as the licensee under review, but such committee may be authorized to act only by the board.

(3) Any member of the board or of a professional review committee, any member of the board's or committee's staff, any person acting as a witness or consultant to the board or committee, any witness testifying in a proceeding authorized under this article, and any person who lodges a complaint pursuant to this article shall be immune from liability in any civil action brought against him or her for acts occurring while acting in his or her capacity as board or committee member, staff, consultant, or witness, respectively, if such individual was acting in good faith within the scope of his or her respective capacity, made a reasonable effort to obtain the facts of the matter as to which he or she acted, and acted in the reasonable belief that the action taken by him or her was warranted by the facts. Any person participating in good faith in lodging a complaint or participating in any investigative or administrative proceeding pursuant to

this article shall be immune from any civil or criminal liability that may result from such participation.

**12-39-116. Unauthorized practice - penalties.**

(1) Repealed.

(2) Any person who practices or offers or attempts to practice as a nursing home administrator without an active license issued under this article commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., for the first offense, and any person who commits a second or subsequent offense commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

**12-39-117. Cease-and-desist orders.**

(1) (a) If it appears to the board, based upon credible evidence as presented in a written complaint by any person, that a licensee is acting in a manner that is an imminent threat to the health and safety of the public, or a person is acting or has acted without the required license, the board may issue an order to cease and desist such activity. The order shall set forth the statutes and rules alleged to have been violated, the facts alleged to have constituted the violation, and the requirement that all unlawful acts or unlicensed practices immediately cease.

(b) Within ten days after service of the order to cease and desist pursuant to paragraph (a) of this subsection (1), the respondent may request a hearing on the question of whether acts or practices in violation of this article have occurred. Such hearing shall be conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S.

(2) (a) If it appears to the board, based upon credible evidence as presented in a written complaint by any person, that a person has violated any other portion of this article, then, in addition to any specific powers granted pursuant to this article, the board may issue to such person an order to show cause as to why the board should not issue a final order directing such person to cease and desist from the unlawful act or unlicensed practice.

(b) A person against whom an order to show cause has been issued pursuant to paragraph (a) of this subsection (2) shall be promptly notified by the board of the issuance of the order, along with a copy of the order, the factual and legal basis for the order, and the date set by the board for a hearing on the order. Such notice may be served by personal service, by first-class United States mail, postage prepaid, or as may be practicable upon any person against whom such order is issued. Personal service or mailing of an order or document pursuant to this subsection (2) shall constitute notice thereof to the person.

(c) (I) The hearing on an order to show cause shall be commenced no sooner than ten and no later than forty-five calendar days after the date of transmission or service of the notification by the board as provided in paragraph (b) of this subsection (2). The hearing may be continued by agreement of all parties based upon the complexity of the matter, number of parties to the matter, and legal issues presented in the matter, but in no event shall the hearing commence later than sixty calendar days after the date of transmission or service of the notification.

(II) If a person against whom an order to show cause has been issued pursuant to paragraph (a) of this subsection (2) does not appear at the hearing, the board may present evidence that notification was properly sent or served upon such person pursuant to paragraph (b) of this subsection (2) and such other evidence related to the matter as the board deems appropriate. The board shall issue the order within ten days after the board's determination related to reasonable attempts to notify the respondent, and the order shall become final as to that person by operation of law. Such hearing shall be conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S.

(III) If the board reasonably finds that the person against whom the order to show cause was issued is acting or has acted without the required license, or has or is about to engage in acts or practices constituting violations of this article, a final cease-and-desist order may be issued, directing such person to cease and desist from further unlawful acts or unlicensed practices.

(IV) The board shall provide notice, in the manner set forth in paragraph (b) of this subsection (2), of the final cease-and-desist order within ten calendar days after the hearing conducted pursuant to this paragraph (c) to each person against whom such order has been issued. The final order issued pursuant to subparagraph (III) of this paragraph (c) shall be effective when issued and shall be a final order for purposes of judicial review.

(3) If it appears to the board, based upon credible evidence presented to the board, that a person has engaged in or is about to engage in any unlicensed act or practice, any act or practice constituting a violation of this article, any rule promulgated pursuant to this article, any order issued pursuant to this article, or any act or practice constituting grounds for administrative sanction pursuant to this article, the board may enter into a stipulation with such person.

(4) If any person fails to comply with a final cease-and-desist order or a stipulation, the board may request the attorney general or the district attorney for the judicial district in which the alleged violation exists to bring, and if so requested such attorney shall bring, suit for a temporary restraining order and for injunctive relief to prevent any further or continued violation of the final order.

(5) A person aggrieved by the final cease-and-desist order may seek judicial review of the board's determination or of the board's final order as provided in section 12-39-114 (6).

**12-39-118. Injunctive proceedings.**

The board, in the name of the people of the state of Colorado, may apply for injunctive relief through the attorney general or the district attorney in any court of competent jurisdiction to enjoin any person who does not possess a currently valid or active nursing home administrator's license from committing any act declared to be unlawful or prohibited by this article. In any action taken pursuant to this section the court shall not require the board to plead or prove irreparable injury or inadequacy of a remedy at law or to post a bond. If it is established that the defendant has been or is committing an act declared to be unlawful or prohibited by this article, the court or any judge thereof shall enter a decree perpetually enjoining said defendant from further committing such act. In the case of a violation of any injunction issued under the provisions of this section, the court or any judge thereof may summarily try and punish the offender for contempt of court. Such injunctive proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this article.

**12-39-119. Administration of nursing homes relying on treatment by spiritual means.**

A person who serves as an administrator of a nursing home conducted exclusively for persons who rely upon treatment by spiritual means alone, through prayer in accordance with the creed or tenets of a church or religious denomination, shall be exempt from the provisions of this article.

**12-39-120. Records.**

The board shall keep formal records of all complaints it receives and of the final disposition of such complaints. The board shall be responsible for implementing a tracking system to facilitate the retrieval of such records.

**12-39-121. Repeal of article.**

(1) This article is repealed, effective July 1, 2018.

(2) Prior to such repeal, the licensing functions of the board of examiners of nursing home administrators shall be reviewed as provided in section 24-34-104, C.R.S.

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## **RELATED STATUTES**

Title 18

*Criminal Code*

Article 13

*Miscellaneous Offenses*

### **18-13-119. Health care providers - abuse of health insurance.**

(1) The general assembly hereby finds, determines, and declares that:

(a) Business practices that have the effect of eliminating the need for actual payment by the recipient of health care of required copayments and deductibles in health benefit plans interfere with contractual obligations entered into between the insured and the insurer relating to such payments;

(b) Such interference is not in the public interest when it is conducted as a regular business practice because it has the effect of increasing health care costs by removing the incentive that copayments and deductibles create in making the consumer a cost-conscious purchaser of health care; and

(c) Advertising of such practices may aggravate the adverse financial and other impacts upon recipients of health care.

(2) Therefore, the general assembly declares that such business practices are illegal and that violation thereof or the advertising thereof shall be grounds for disciplinary actions. The general assembly further declares that nothing contained in this section shall be construed to otherwise prohibit advertising by health care providers.

(3) Except as otherwise provided in subsections (5) and (6) of this section, if the effect is to eliminate the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan, a person who provides health care commits abuse of health insurance if he knowingly:

(a) Accepts from any third-party payor, as payment in full for services rendered, the amount the third-party payor covers; or

(b) Submits a fee to a third-party payor which is higher than the fee he has agreed to accept from the insured patient with the understanding of waiving the required deductible or copayment.

(4) Abuse of health insurance is a class 1 petty offense.

(5) (a) Reimbursements made pursuant to articles 4 and 15 of title 26, C.R.S., federal medicare laws for inpatient hospitalization, and mental health services purchased in accordance with article 66 of title 27, C.R.S., are exempt from the provisions of this section.

(b) Health care services are exempt from the provisions of this section if such health care services are provided:

(I) In accordance with a contract or agreement between an employer and an employee or employees and the contract includes, as a part of an employee's salary or employment benefits, terms that authorize a practice that would otherwise be prohibited by subsection (3) of this section; or

(II) In accordance with a contract or agreement between a town, city, city and county, or municipality or a special health assurance district pursuant to section 31-15-302 (1), C.R.S., under terms that authorize a practice that would otherwise be prohibited by subsection (3) of this section.

(6) (a) The waiver of any required deductible or copayment for charitable purposes is exempt from the provisions of subsection (3) of this section if:

(I) The person who provides the health care determines that the services are necessary for the immediate health and welfare of the patient; and

(II) The waiver is made on a case-by-case basis and the person who provides the health care determines that payment of the deductible or copayment would create a substantial financial hardship for the patient; and

(III) The waiver is not a regular business practice of the person who provides the health care.

(b) Any person who provides health care and who waives the deductible or copayment for more than one-fourth of his patients during any calendar year, excluding patients covered by subsection (5) of this section, or who advertises through newspapers, magazines, circulars, direct mail, directories, radio, television, or otherwise that he will accept from any third-party payor, as payment in full for services rendered, the amount the third-party payor covers shall be presumed to be engaged in waiving the deductible or copayment as a regular business practice.

(7) Repealed.