

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 94

SKILLED NURSING/INTERMEDIATE CARE FACILITIES

Subchapter 1 Skilled Nursing/Intermediate Care Facilities

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[Eff. May 3, 1985;]

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§11-94-1 Purpose. The purpose of this chapter is to establish minimum requirements for the protection of health, welfare and safety of patients, personnel and public in skilled nursing/intermediate care facilities. This chapter shall not be construed to lower standards, ordinances, or rules established by other divisions or subdivisions of government. In all instances the more stringent rules shall apply. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §§321-9, 321-10, 321-11)

§11-94-2 Definitions. As used in this chapter:

"Cardiopulmonary resuscitation" or "CPR" means an emergency first aid procedure that consists of opening and maintaining a patient's airway, providing artificial ventilation by means of rescue breathing, and providing artificial circulation by means of external cardiac compression.

"Controlled drugs" includes drugs listed as being subject to high incidences of abuse as defined in chapter 329, HRS.

"Department" means the department of health, State of Hawaii.

"Dentist" means any person holding a valid license to practice dentistry in the State of Hawaii, pursuant to chapter 448, HRS.

"Dietetic service supervisor" is a person who:

- (1) Is a qualified dietitian; or
- (2) Is a graduate of a dietetic technician training program; or
- (3) Is a graduate of a state approved course that provided ninety or more hours of classroom instruction food service supervision and has experience as a supervisor in a health care institution with consultation from a dietitian; or
- (4) Has training and experience in food service supervision and management equivalent in content to the program in paragraphs (2) and (3).

"Dietitian" means a person who:

- (1) Is registered by the Commission on Dietetics Registration; or
- (2) Is eligible for such registration.

"Director" means the director of health, State of Hawaii, or a duly authorized agent.

"Drug administration" means the act in which a single
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dose of a prescribed drug or biological substance is given to a patient by an authorized person in accordance with all existing laws and rules governing those acts. The entire act of administration entails removing an individual dose from a previously dispensed properly labeled container (unit dose included), verifying the dosage with the physician's orders, giving the specified dose to the proper patient and promptly recording the time and dose given to the patient and signing the record. Only a licensed nurse or physician may administer medications.

"Drug dispensing" means the act which involves the interpretation of the physician's order and, pursuant to that order, the proper selection, measuring, packaging, labeling and issuance of the drug or biological substance

for a patient or a specified unit of the facility.

"Governing body" means the policy making authority, whether an individual or a group, who exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individual it serves.

"Intermediate care facility" is a facility which provides appropriate care to persons referred by a physician. Such persons are those who:

- 1) Need twenty-four hour a day assistance with the normal activities of daily living;
- 2) Need care provided by licensed nursing personnel and paramedical personnel on a regular, long-term basis, and;
- 3) Do not need skilled nursing or paramedical care twenty-four hours a day.

"License" means a license issued by the department of health certifying the compliance with all existing Hawaii state laws and rules relative to the operation of a skilled nursing or intermediate care facility.

"Licensed practical nurse" means a nurse licensed as such by the State of Hawaii, as defined by chapter 457, HRS.

"Licensed nurse" means a licensed practical nurse or a registered professional nurse.

"Nurse aide" means a person who has successfully completed a nurse aide training course or an orientation and training program in the tasks to be performed, and works under the supervision of a registered nurse in either a skilled nursing or intermediate care facility.

"Occupational therapist" means a person currently registered or eligible for registration by the American Occupational Therapy Association.

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"Occupational therapy assistant" means a person who is currently registered or eligible for registration by the American Occupational Therapy Association as an occupational therapy assistant.

"Pharmacist" means a person who is licensed as a "registered pharmacist" by the State of Hawaii, pursuant to chapter 461, HRS.

"Physical therapist" means a person who has a permit to practice as a physical therapist issued by the State of Hawaii.

"Physical therapy assistant" means a person who has graduated from a two year college-level program approved by the Section on Education of the American Physical Therapy Association.

"Physician" means a person holding a valid license to practice medicine and surgery or osteopathy issued by the State of Hawaii, pursuant to chapter 453 or 460, HRS.

"Provisional license" means a license issued for a specified period of time at the discretion of the director in order to allow additional time for compliance with all licensing requirements. No more than two successive provisional licenses shall be issued to a facility.

"Registered professional nurse" means a person who is licensed as a registered nurse by the State of Hawaii, pursuant to chapter 457, HRS.

"Skilled nursing facility" means a health facility which provides skilled nursing and related services to patients whose primary need is for twenty-four hours of skilled nursing care on an extended basis and regular rehabilitation services.

"SNF/ICF swing bed facility" means a facility which may provide care for patients requiring either skilled nursing care or intermediate nursing care in any of its beds.

"Social worker" means a person who has a master's degree from a school of social work accredited by the Council on Social Work Education or has a bachelor's degree from an accredited school of social work, plus two years experience in a hospital, skilled nursing or intermediate care facility, or some other health care agency or facility.

"Social work designee" means a staff person with on-the-job training who is supervised by means of consultation with a qualified social worker.

"Speech pathologist, therapist, or audiologist" means a person who is licensed by the state, pursuant to chapter 468E, HRS, and is:

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- (1) Eligible for a certificate of clinical competence in the appropriate area of speech therapy, pathology, or audiology, granted by the American Speech and Hearing Association; or
- (2) Meets the educational requirements for certification and is in the process of accumulating the supervised experience required for examination for certification.

"Tuberculin skin test" means an intradermal injection of .0001 mg (5 tuberculin units) of purified protein derivative in 0.1 cc of sterile diluent. If the size of any resulting palpable induration at forty-eight hours to seventy-two hours after injection is 10 mm or greater in its transverse diameter, the reaction to the skin test shall be considered significant.

"Waiver" means an exemption from a specific rule or regulation which may be granted to a facility for a specified period of time at the discretion of the director. No waiver shall be for a duration longer than one year.

The meaning of all adjectives and adverbs such as "proper", "convenient", "good", "minimum", "thorough", "sufficient", "satisfactory", "adequate", "suitable",

clearly used to qualify a person, equipment, service, or building being difficult or impossible to define shall be determined by the director or duly authorized agent. Whenever the singular is used in this chapter it can include the plural. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-3 Licensing. (a) The facility shall meet all requirements for licensure under state law. All skilled nursing and intermediate care facilities shall be licensed except those operated by the federal government or agency thereof. The proprietor, the governing body, or the person in charge shall file an application with the director on forms furnished by the department, and the facility shall be licensed pursuant to this chapter prior to admitting patients.

(b) The director or designated representative shall inspect each skilled nursing and intermediate care facility at least annually for relicensing. The director or designated representative, without prior notice, may enter the premises at any reasonable time to secure compliance with or to prevent a violation of this chapter.

(c) Summary reports of annual licensing inspections shall be kept on file in the facility.

(d) No facility licensed under the provisions of this §11-93-3

chapter, shall deny admission to any individual on account of race, religion, ancestry, or national origin.

(e) The director shall prescribe the content and form of the license, and may authorize a waiver or waivers for a particular facility.

(f) In the event of a change of name, location, ownership, or occupancy, the director shall be notified fifteen days prior to the change; an inspection at the discretion of the director, shall be conducted and, if the provisions of this chapter are met, a new license issued.

(g) Every regular license shall continue in force for a period of one year unless otherwise specified, or unless it is suspended or revoked.

(h) Following the annual inspection a list of deficiencies, if any, shall be presented to the facility. The facility shall return a plan of correction of the deficiencies to the department within ten days. Facilities shall be allowed a reasonable time to implement the plan of correction. A follow-up survey shall be made by the department to determine the progress in the plan of correction. If there has not been substantial progress in carrying out the plan of correction, the license shall not be renewed. At the discretion of the director a provisional

license may be issued.

(i) The current license shall be posted in a conspicuous place visible to the public within the facility. A facility which has fulfilled the requirements to be licensed both as a skilled nursing facility and as an intermediate care facility shall be known as an SNF/ICF swing bed facility and this shall be indicated on their license.

(j) The director may suspend, revoke, or refuse to issue a license for failure to comply with the requirements of this chapter, or for any cause deemed a hazard to the health and safety of the patients, employees, or the general public. Any person affected by the director's final decision of denial, suspension, or revocation may appeal in accordance with chapter 91, HRS.

(k) An application for a license may be denied for any of the following reasons:

- (1) Failure to meet requirements of this chapter.
- (2) Financial inability to operate and conduct the facility in accordance with these required minimum standards and rules.

(l) Penalties, hearing and appeals. In addition to any other appropriate action to enforce this chapter, the director may initiate procedures for invoking fines as

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provided in §321-18, HRS, and to withdraw the license after hearings held in accordance with chapter 91, HRS.

- (1) Infractions which may require invoking the above procedures include, but are not limited to the operation of a skilled nursing or intermediate care facility without a license granted by the department or if substantive violations of this chapter are found as a result of routine or unannounced inspection of a facility which has a license.

- (2) Any person affected by the director's final decision of denial, suspension, or revocation, may appeal in accordance with chapter 91, HRS.

(m) Appropriate fees, if any, as determined by the director, shall be charged by the department for obtaining a new license or obtaining a license renewal. Prior notice of the amount of the fee shall be provided the licensee.

[Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-4 Activities program. (a) A plan for independent and group activities shall be developed for each patient in accordance with the patient's needs, capacities, and interests.

(1) The activities plan shall be incorporated in the patient's overall plan of care, reviewed regularly in conjunction with it, and altered as needed.

(2) Records shall be kept of the extent and level of each patient's participation in the activities program.

(b) Organized recreational activities consistent with the patient's needs, capabilities and interests shall be coordinated with other services and programs provided the patient.

(c) A staff member, qualified by experience or training in directing group activities or recreation, shall be responsible primarily for the activities program.

(d) There shall be sufficient, appropriately qualified activities or recreation staff and necessary supporting staff to carry out the various activities in accordance with stated goals and objectives.

(e) Recreation areas, facilities and equipment shall be designed and constructed or modified so as to be easily accessible to all patients regardless of their disabilities.
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(f) Recreation equipment and supplies in sufficient quantity and variety shall be provided to carry out the stated objectives of the activity program.

[Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-5 Adult day health center. If an SNF/ICF facility chooses to operate an adult day health center in its facility, the following must be observed:

(1) The space and staff requirements for the adult day health center activities shall not affect reduction in the space and staff requirements of the SNF/ICF facility.

(2) The medical records for the patients in the adult day health center shall satisfy the same requirements as the SNF/ICF facility, but must be filed separately from the medical records of the SNF/ICF facility.

(3) Where appropriate, as determined by the director, all or part of sections 11-94-1 through 11-94-32 shall apply to the adult day health center. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §§321-9, 321-10, 321-11)

§11-94-6 Administrator. The facility shall be administered on a full time basis by:

(1) A person licensed in the State of Hawaii as a

- nursing home administrator; or
- (2) In the case of a hospital qualifying as a skilled nursing or intermediate care facility, by the hospital administrator; or
 - (3) In the absence of the administrator by a suitable employee who has been designated, in writing, to act on the administrator's behalf.
[Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11)
(Imp: HRS §§321-9, 321-11)

§11-94-7 Arrangement for services. Where the facility does not employ a qualified person to render a required or necessary service, it shall have a written agreement or contract with an outside person or provider to provide the needed service. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

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§11-94-8 Construction requirements. (a) The facility shall be fully accessible to and functional for physically handicapped patients, personnel and the public.

- (1) Patient living areas shall be designed and equipped for the comfort and privacy of the patient.
- (2) Temperature and humidity shall be maintained within a normal comfort range.
- (3) There shall be provisions within the facility for one or more areas of patient dining, diversional, and social activities. Total area for recreational and dining activities shall be not less than fifty square feet per bed for seventy-five percent of total bed capacity.
 - (A) Dayrooms shall be equipped with reading lamps, tables, chairs, or their equivalent, for the use and comfort of the patients.
 - (B) Dining areas shall be equipped with tables and safe chairs. A sufficient number of tables shall be of proper height to accommodate wheelchair patients.
 - (C) If a multi-purpose room is used for dining, diversional and social activities, there shall be sufficient space to accommodate all activities and prevent their interference with each other.
 - (D) In the event that adult nonresidents utilize part of the facilities twenty hours or more a week on a regular basis, additional space and facilities must be provided on the following basis for those persons:

- (i) Twenty square feet per person in dining areas;
 - (ii) Thirty square feet per person in recreational areas;
 - (iii) One conveniently located toilet for each eight persons;
 - (iv) Sufficient additional staff persons shall be provided to care for the needs of such persons.
- (4) Illumination shall be provided for the comfort and safety of patients and personnel.
 - (5) Wall or door mirrors shall be provided and placed at convenient heights for patients' use.
 - (b) Accessibility to living and service areas.
 - (1) There shall be adequate space to allow free movement of occupants using wheelchairs, walkers,

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- canes, and crutches to bed, bathroom, closet, and common hallway areas.
- (2) Areas used for recreation, cooking, dining, storage, bathrooms, laundries, foyers, corridors, lanais, libraries, and other areas not suitable for sleeping shall not be used as bedrooms.
- (3) Access from each bedroom to a bathroom, toilet, corridor, central utility or other areas of the facility shall not require passing through another bedroom, cooking, dining, or recreational area.
- (4) All occupants of any bedroom shall be of the same sex except for those semi-private rooms which may be occupied by married couples upon request.
- (c) Toilet and bath facilities.
- (1) One toilet room shall serve not more than eight patients.
- (2) The toilet room shall contain a toilet and lavatory. The washbasin may be omitted from a toilet room which serves single and multi-bed rooms if each such patient's room contains a lavatory.
- (3) There shall be one shower or tub for each fourteen beds which are not otherwise served by bathing facilities within patient's rooms.
- (4) Appropriately placed grab bars shall be provided in each toilet, bathtub, or shower enclosure.
- (5) Curtains or doors to ensure privacy shall be provided.
- (6) Separate toilet and bathing facilities for each sex, except where couples occupy a semi-private room with a bathroom, shall be provided.
- (7) An adequate supply of hot and cold potable running water must be provided at all times. Temperatures

of hot water at plumbing fixtures used by patients shall be automatically regulated and shall not exceed 110°F.

- (8) Each toilet and bath facility shall have a call system which permits the occupant to signal the nursing station in an emergency.
- (9) Where bedpans are used, equipment for their care shall be provided in an appropriate area of the facility. Where toilets adjoin patient's bedroom and are used for bedpan cleaning, they shall be equipped with bedpan flushing attachments with vacuum breakers.

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- (10) Provision shall be made for terminal sterilization of permanent personal care equipment unless disposables are used.
- (11) Separate toilet facilities shall be provided for the use of patients and personnel.
 - (d) Patient bedrooms.
 - (1) Each room shall be at or above grade level.
 - (2) Windows in each habitable room shall have adequate means of ensuring privacy.
 - (3) Patient bedrooms shall have not more than four beds.
 - (4) Single patient rooms shall measure at least one hundred square feet of usable space, excluding closets, bathrooms, alcoves, and entryways.
 - (5) Multi-patient rooms shall provide a minimum of eighty square feet per bed of usable space, excluding closets, bathrooms, alcoves, and entryways.
 - (6) Bedside screens or curtains shall be provided in multi-bed rooms to ensure privacy for each patient.
 - (7) Beds shall be placed at least three feet apart and three feet from the wall at the side of the bed.
 - (8) Each patient shall be provided with:
 - (A) A separate bed of proper size and height for the convenience of the patient and permitting an individual in a wheelchair to get in and out of bed unassisted.
 - (B) A comfortable mattress with permeable mattress cover, and a pillow with an impermeable cover.
 - (C) Sufficient clean bed linen and blankets to meet the patient's needs.
 - (D) Appropriate furniture, cabinets and closets, accessible to and usable by the physically handicapped. Locked containers shall be

available upon patient's request.

(E) An effective signal call system at the patient's bedside.

(e) Ramps must be designed to permit use by patients in wheelchairs. Ramps shall meet the provisions of the Uniform Building Code 1979 and its revisions, as it existed on October 1, 1983.

(f) Floors and walls.

(1) Floor coverings shall be of slip-resistant material which does not retain odors and is flush

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at doorways.

(2) Walls, floors, and ceilings of rooms used by patients shall be made of materials which shall permit washing, cleaning, and painting.

(g) Windows and lighting.

(1) Each bedroom shall have at least one outside window.

2) A habitable room shall have an aggregate window area of not less than one-tenth of the gross floor area.

(3) Patient's rooms shall have artificial light adequate for reading at bedside.

(4) There shall be night lighting in patient's rooms, toilets, and service areas.

(5) In rooms containing wheelchair patients, at least one window shall be low enough to permit outdoor viewing by the wheelchair-bound patient.

(h) Where appropriate, screening of doors and windows shall be provided, using screening having sixteen meshes per inch.

(i) Doors.

(1) Sliding doors or folding doors shall not be used as exit doors, and if used in other areas, shall be of light material and easy to handle.

(2) Double acting doors shall be provided with vision panels of sufficient height to permit use by walkers as well as wheelchair riders.

(j) Corridors.

(1) The minimum clear width of a corridor shall be forty-four inches except that corridors serving one or more non-ambulatory or semi-ambulatory patients shall be not less than eight feet in width.

(2) Stationary handrails shall be installed along both sides of corridors.

(k) Storage space.

(1) Locked space shall be provided for janitor's supplies and equipment.

(2) Space, conveniently located, for other equipment

shall be provided.

(1) The water supply shall be in accordance with chapter 340E, HRS.

(m) Chapter 11-39, Administrative Rules, relating to air conditioning and ventilating, shall be followed.

(n) Additions and alterations or repairs to existing buildings.

(1) Where the structure was in use for this type

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occupancy prior to the effective date of this chapter, the director, with discretion, may waive or modify any portion of the standard provided such exceptions do not create a hazard to patients, personnel, or public.

(2) The provisions of this section shall not prohibit the use of equivalent alternate space utilizations, new concepts of plan designs and material or systems if written approval of those alternatives is granted by the director.

(3) Drawings and specifications for all new construction or additions, alterations, or repairs to existing buildings subject to the provisions of this chapter shall be submitted to the director for review and a certificate of need where applicable.

(4) Construction shall not commence prior to the director's approval of construction drawings and specifications. Construction drawings and specifications shall comply with this chapter, the county fire marshal's regulations, and with county building codes and ordinances.

(5) The director shall review such submittals and advise the applicant in writing of the determination.

(6) The director may make written recommendations to the applicant for its consideration but the recommendations shall not be considered mandatory.

(7) Unless construction is commenced within the year of the approval of final construction drawings and specifications, the construction drawings and specifications together with their application shall be resubmitted for review and approval.

(8) Minor alterations which do not affect structural integrity, fire safety, or change functional operation, or which do not increase beds or services over that for which the facility is licensed may be submitted by free hand drawings or by more conventional drawings and specifications.

(9) Maintenance and repair routinely performed by the facility shall not require review or approval by

the director.

- (10) Facilities shall be constructed and maintained in accordance with provisions of state and county zoning, building, fire safety, and sanitation

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laws and ordinances. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-9 Dental services. (a) Emergency and restorative dental services shall be available to the patient.

(b) The patient or patient's guardian shall select the dentist of their choice.

(c) The facility shall assist each patient to obtain the necessary dental care.

(d) Nursing staff shall receive inservice training in oral hygiene and denture care at least annually.

[Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

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

[Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-11 Dietetic services. (a) The food and nutritional needs of patients shall be met through a nourishing, well-balanced diet in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, and adjusted for age, sex, activity, and disability. The service shall be directed by a dietetic service supervisor.

(b) At least three meals shall be served daily at regular times with:

(1) Not more than a fourteen hour span between a substantial evening meal and breakfast on the following day.

(2) Between meal nourishments consistent with need shall be offered routinely to all patients.

(c) All diets shall be:

(1) Prescribed by the patient's physician with a record of the diet as ordered kept on file.

(2) Planned, prepared, and served by qualified personnel using the current Hawaii Dietetic Association manual.

- (3) Reviewed and adjusted as needed.
- (d) Therapeutic diets shall be planned by a qualified
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dietitian, as prescribed by the patient's physician. There shall be prompt and appropriate replacement of foods offered to, but rejected by, patients on therapeutic diets.

(e) A nutritional assessment and plan for each patient shall be recorded in the medical record. The plan should be incorporated in the overall plan of care and reviewed regularly.

(f) Food services, planning and storage.

(1) Menu planning:

(A) Menus shall be written at least one week in advance.

(B) Menus shall provide a sufficient variety of foods served in adequate amounts at each meal, and adjusted for seasonal changes along with patient's preferences as much as possible.

(C) A different menu shall be followed for each day of the week. If a cycle menu is used, the cycle menu shall cover a minimum of four weeks.

(D) All menus shall be filed and maintained with any recorded changes, for at least three months.

(2) Records of food purchased shall be filed and maintained for at least thirty days.

(3) Storing and handling of food.

(A) All food shall be procured, stored, prepared, distributed, and served under sanitary conditions.

(B) Dry or staple food items shall be stored above the floor in a ventilated room not subject to seepage or waste-water backflow, or contamination by condensation, leakages, rodents, or vermin.

(C) Perishable foods shall be stored at the proper temperatures to conserve nutritive values and prevent spoilage.

(4) Food service.

(A) Food shall be served in a form consistent with the needs of the patient and the patient's ability to consume it.

(B) Food shall be served with the appropriate utensils.

(C) Effective procedures to promptly and consistently clean all equipment and work areas shall be enforced.

(D) All personnel handling food shall be given

appropriate personal hygienic instructions at regular intervals and this procedure shall be documented.

- (E) Handwashing facilities, including hot and cold water, soap, and paper towels adjacent to the work areas shall be provided.
- (F) Individuals needing special equipment, implements, or utensils to assist them when eating shall have such items provided by the facility.
- (G) There shall be a sufficient number of competent personnel to fulfill the food and nutrition needs of patients.
- (H) If the food service is directed by a person other than a qualified dietitian, there shall be frequent and regularly scheduled consultation by a dietitian or public health nutritionist. This consultation shall be given in the facility at the rate of four hours per every twenty-five patients per month and shall not be less than six hours per month. Consultation, training, and inservice education shall be appropriate to staff and patient needs and shall be documented.
- (I) Provision may be made for food service by contract with an outside supplier. The method of transport, storage, preparation, and serving of such food as well as the method of providing prompt appropriate replacement foods in therapeutic diets shall be approved by the director prior to initiating such a service. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-12 Emergency care of patients. (a) There shall be written procedures for personnel to follow in an emergency including:

- (1) Care of the patient;
 - (2) Notification of the attending physician and other persons responsible for the patient;
 - (3) Arrangements for transportation, hospitalization, or other appropriate services.
- (b) Personnel trained in appropriate first aid procedures and cardiopulmonary resuscitation shall be

available on each shift. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-13 Engineering and maintenance. (a) The facility shall have an appropriate written preventive maintenance program.

(b) There shall be sufficiently trained and experienced personnel to accomplish the required engineering and maintenance functions within the facility or available through contract with appropriate community resources.

(c) There shall be records that document that inspection of all devices essential to health and safety of patients and personnel shall be carried out daily or at sufficiently frequent intervals to insure proper operational performance. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 31-11)

§11-94-14 General policies and practices. (a) There shall be written policies and procedures available to staff, patients, and the public which govern:

- (1) All services provided by the facility.
- (2) Admission, transfer, and discharge of patients.
- (b) There policies shall insure that:
 - (1) The facility shall not deny admission to any individual on account of race, religion, color, ancestry, or national origin.
 - (2) Only those patients are accepted whose needs can be met by the facility directly or in cooperation with community resources or other providers of care with which it is affiliated or has contracts.
 - (3) As changes occur in a patient's physical or mental condition necessitating a different level of service or care which cannot be adequately provided by the facility, the patients are transferred promptly to a facility capable of providing an appropriate level of care.
 - (4) Except in the case of an emergency, the patient or the patient's guardian, the next of kin, attending physician, and the responsible agency, if any, shall be informed in advance of the transfer or discharge to another facility.
 - (5) The facility's buildings are constructed and equipped to protect the health and assure the

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safety of patients, personnel, and visitors.
[Eff. May 3, 1985] (Auth: §§321-9, 321-11) (Imp:

§§321-9, 321-11)

§11-94-15 Governing body and management. (a) Each facility shall have an organized governing body, or designated persons so functioning, who has overall responsibility for the conduct of all activities. The facility shall maintain methods of administrative management which assure that the requirements of this section are met.

(b) Staffing.

- (1) There shall be on duty twenty-four hours of each day, staff sufficient in number and qualifications to carry out the policies, responsibilities and program of the facility.
- (2) The numbers and categories of personnel shall be determined by the number of patients and their particular needs.

(c) Personnel policies.

- (1) There shall be written job descriptions available for all positions. Each employee shall be informed of their duties and responsibilities at the time of employment.
- (2) All professional employees shall have appropriate licenses as required by law and their licenses shall be readily available for examination by the director or the director's representative.
- (3) Ethical standards of professional conduct shall apply in the facility.
- (4) The facility's personnel policies and practices shall be in writing and shall be available to all employees.
- (5) Written policy shall prohibit mistreatment, neglect, or abuse of patients. Alleged violations shall be reported immediately, and thoroughly investigated and documented. The results of any investigation shall be reported to the administrator or designated representative within twenty-four hours of the report of the incident; and appropriate sanctions shall be invoked when the allegation is substantiated.
- (6) There shall be an organization chart showing the major operating programs of the facility, with staff division, administrative personnel in charge of programs and divisions, and their lines

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of authority, responsibility, and communication.

- (7) There shall be documented evidence that every employee has a pre-employment and an annual health evaluation by a physician. These evaluations shall be specifically oriented to determine the

presence of any infectious disease liable to harm a patient. Each health evaluation shall include a tuberculin skin test or a chest x-ray.

- (8) Skin lesions, respiratory tract symptoms, and diarrhea shall be considered presumptive evidence of infectious disease. Any employee who develops evidence of an infection must be immediately excluded from any duties relating to food handling or direct patient contact until such time as a physician certifies it is safe for the employee to resume such duties.
- (9) If the tuberculin skin test is positive, a standard chest x-ray with appropriate medical follow-up must be obtained, as well as three subsequent yearly chest x-rays. Additional chest x-rays may be required at the discretion of the director.
- (10) If the tuberculin skin test is negative, a second tuberculin skin test must be done after one week, but not later than three weeks after the first test. The results of the second test shall be considered the baseline test and used to determine appropriate treatment and follow-up. That is, if the second skin test is positive, then proceed, as above, with a chest x-ray which should be repeated as indicated in the previous paragraph (9). If the second skin test is negative, a single skin test shall be repeated yearly until it becomes positive.
- (11) When a known negative tuberculin skin test on a particular employee or patient converts to a positive test, it shall be considered a new case of tuberculosis infection and shall be reported to the department as required in chapter 11-164, Administrative Rules. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-16 Housekeeping. (a) A plan shall be made for routine periodic cleaning of the entire building and

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premises.

(b) After discharge of any patient the patient's unit and equipment shall be thoroughly cleansed prior to re-use.

(c) Floors, lavatories, toilets, and showers in patient areas shall be cleaned at least once daily.

(d) The facility shall be kept free of unreasonable accumulation of personal possessions.

(e) All floors, walls, ceilings, windows, and fixtures shall be kept clean and in good repair.

(f) All safety procedures shall be in accordance with the rules of the department of labor and industrial relations, State of Hawaii.

(g) All areas which have contained infectious patients and materials shall be thoroughly cleaned with appropriate sanitizing methods. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-17 Infection control. (a) There shall be appropriate policies and procedures written and implemented for the prevention and control of infectious diseases.

(b) Provision shall be made for isolating patients with infectious diseases until appropriate transfer can be made.

(1) There shall be a written policy which outlines proper isolation and infection control techniques and practices.

(2) At least one single bedroom shall be designated for an isolation room as needed and shall have:

(A) An adjoining toilet room with nurses' call system, a lavatory, and a toilet.

(B) The lavatory shall be provided with controls not requiring direct contact of the hands for operation.

(C) Appropriate methods for cleaning and disposing of contaminated materials and equipment.

(c) Provisions shall be made in each isolation room for visual observation of the patient.

(1) By means of the view window located in door or walls of the room; or

(2) By an approved mechanical system, i.e., closed circuit television monitoring.

[Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11)

(Imp: HRS §§321-9, 321-11)

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§11-94-18 Inservice education. (a) There shall be a staff inservice education program that includes:

(1) Orientation for all new employees to acquaint them with the philosophy, organization, program, policies, and procedures, practices, and goals of the facility.

(2) Inservice training for employees who have not achieved the desired level of competence, and continuing inservice education to update and improve the skills and competencies of all employees.

(3) Inservice training which shall include annually: prevention and control of infections, fire prevention and safety, accident prevention, patient's rights, and problems and needs of the aged, ill, and disabled. Provision shall be made for training appropriate personnel in cardiopulmonary resuscitation and appropriate first aid techniques.

(b) Records shall be maintained for all orientation and staff development programs. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§ 321-9, 321-11)

§11-94-19 Laundry service. (a) Laundry service shall be managed so that daily clothing and linen needs are met without delay.

(b) Provision shall be made for the handling, storage, and transportation of soiled and clean laundry and for satisfactory cleaning procedures.

(1) Provisions may be made for contract service outside the facility in a laundry approved by the department.

(2) Infectious laundry shall be handled in accordance with section 325-7, HRS, relating to potentially infectious laundry.

(3) Clean linen shall be stored in enclosed areas.

(4) Hampers shall be provided for soiled linen. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp. HRS §§321-9, 321-11)

§11-94-20 Life safety. (a) Facilities licensed under this chapter shall be inspected at least annually by appropriate fire authorities for compliance with state and county fire and life safety rules and ordinances.

(b) Smoking rules shall be adopted. "No Smoking"

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signs shall be posted where flammable liquids, combustible gases, or oxygen are used or stored. Smoking by patients shall be permitted only under supervision, and ash trays shall be provided.

(c) Electric heating pads shall be prohibited.

(d) Facilities shall have written procedures in case of fire and disasters.

(e) Evacuation plans shall be posted in prominent locations on each floor.

(f) Fire drills shall include the transmission of a fire alarm signal and be held at least quarterly, for each shift, under varied conditions. At least twelve drills shall be held every year and reports filed in the facility.

(g) All employees shall be instructed and kept informed respecting their duties under the fire and disaster programs. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp. HRS §§321-9, 321-11)

§11-94-21 Medical director. Skilled nursing facilities shall have a physician to serve full time or part time as a medical director whose responsibilities are as specified in 42 C.F.R. §405.1122. Intermediate care facilities shall have a physician designated to serve as a medical advisor as needed for infectious disease control. [Eff. May 3, 1985] (Auth: §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-22 Medical record system. (a) There shall be available sufficient, appropriately qualified staff and necessary supporting personnel to facilitate the accurate processing, checking, indexing, filing, and prompt retrieval of records and record data.

(b) If the employee who supervises medical records is not a registered records administrator, or accredited record technician, there shall be regularly scheduled visits by a consultant so qualified who shall provide reports to the administrator.

(c) The following information shall be obtained and entered in the patient's record at the time of admission to the facility:

- (1) Identifying information such as: name, date, and time of admission, date and place of birth, citizenship status, marital status, Social Security number or an admission number which can be used to identify the patient without use of

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name when the latter is desirable.

- (2) Name and address of next of kin or legal guardian.
 - (3) Sex, height, weight, race, and identifying marks.
 - (4) Reason for admission or referral.
 - (5) Language spoken and understood.
 - (6) Information relevant to religious affiliation.
 - (7) Admission diagnosis, summary of prior medical care, recent physical examination, tuberculosis status, and physician's orders.
- (d) Records during stay shall also include:
- (1) Appropriate authorizations and consents for medical procedures.
 - (2) Records of all periods of restraints with justification and authorization for each.
 - (3) Copies of initial and periodic examinations,

- evaluations, as well as progress notes at appropriate intervals.
- (4) Regular review or an overall plan of care setting forth goals to be accomplished through individually designed activities, therapies and treatments and indicating which professional services or individual is responsible for providing the care or service.
 - (5) Entries describing treatments, medications, tests, and all ancillary services rendered.
 - (e) When a patient is transferred to another facility or discharged, there shall be:
 - (1) Written evidence of the reason.
 - (2) Except in an emergency, documentation to indicate that the patient understood the reason for transfer, or that the guardian and family were notified.
 - (3) A complete summary including current status and care, final diagnosis, and prognosis.
 - (f) There shall be a master alphabetical index of all patients admitted to the facility.
 - (g) All entries in the patient's record shall be:
 - (1) Legible, typed or written in ink.
 - (2) Dated.
 - (3) Authenticated by signature and title of the individual making the entry.
 - (4) All entries shall be written completely without the use of abbreviations except for those abbreviations approved by a medical consultant or the medical director.
 - (h) All information contained in a patient's record,

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including any information contained in an automated data bank, shall be considered confidential.

(i) The record shall be the property of the facility, whose responsibility shall be to secure the information against loss, destruction, defacement, tampering, or use by unauthorized persons.

(j) There shall be written policies governing access to, duplication of, and dissemination of information from the record.

(k) Written consent of the patient, if competent, or the guardian if patient is not competent, shall be required for the release of information to persons not otherwise authorized to receive it. Consent forms shall include:

- (1) Use for which requested information is to be used.
- (2) Sections or elements of information to be released and specific period of time during which the information is to be released.
- (3) Consent of patient, or legal guardian, for release

of any medical record information.

(1) Records shall be readily accessible and available to authorized department personnel for the purpose of determining compliance with this chapter.

[Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11).

§11-94-23 Nursing services. (a) Each facility shall have nursing staff sufficient in number and qualifications to meet the nursing needs of the patients. In a skilled nursing facility there must be at least one registered nurse, full time, twenty-four hours per day, seven days a week. In an intermediate care facility there must be at least one registered nurse, full time on the day shift and at least one licensed nurse whenever medications are administered.

(b) Nursing services shall include at least the following:

- (1) Assessment of each patient and development and implementation of an appropriate plan of care.
- (2) A nursing care plan incorporated in the overall patient care plan and reviewed at least as often as the patient is certified and recertified for a level of care.
- (3) Nursing observations and summaries of the patient's status recorded monthly or more frequently if appropriate due to changes in

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patient's condition.

- (4) Completion of all physician's orders with appropriate documentation.
- (5) Restorative and preventive nursing care including patient education as appropriate for each patient.
- (6) Supportive services to patients to enable them to participate fully in appropriate daily activities.
- (7) Physical care to keep patients clean, comfortable, well-groomed, and protected from accidents and infections. As appropriate, patients shall be dressed in their own clothes appropriate to the activity in which they are engaged.
- (8) Proper care to prevent or treat decubitus ulcers and deformities.
- (9) Weighing each patient at least monthly and height taken upon admission.
- (10) Coordination of an overall plan of care for each patient, consonant with the attending physician's medical care plan, and developed by the disciplines providing services in the facility.
- (11) Physical restraint shall be used only under a

physician's orders for specified and limited period of time and shall be so documented.

- (A) If they are used in an emergency situation, the attending physician shall be contacted immediately for orders supporting the temporary need.
- (B) Regular observation and release of a patient shall be required while restraints are in use.
- (C) No restraints with locking devices shall be used.
- (D) There shall be written policies and procedures governing the use of restraints.

(c) There shall be an appropriately equipped nurses' station in each unit. At a minimum it shall include a telephone, writing space, storage cabinets, and medical record space.

(d) There shall be a nurses' call system which registers calls within hearing range and directly visible by on-duty personnel.

(e) There shall be appropriately equipped utility

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rooms within each nursing unit or on each patient floor.
[Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-24 Ownership and financial capability. (a) The facility shall provide to the department current information in regard to:

- (1) The name of each person who has (directly or indirectly) an ownership interest of ten per cent or more in the facility.
- (2) The name of each person who is the owner (in whole or in part) of any mortgage, deed or trust, note or other obligation secured (in whole or in part) by the facility.
- (3) Officers and directors of the corporation in case a facility is organized as a corporation and any changes in the officers and directors.
- (4) The name of each partner in case a facility is organized as a partnership.

(b) The financial resources of the owner shall be sufficient to operate and maintain the facility according to the standards set forth in this chapter. The owner shall provide, upon request, such evidence as deemed necessary by the director to establish that fact.

[Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS

§§321-9, 321-11)

§11-94-25 Patient accounts. (a) In the event the facility agrees to manage the patient's personal funds, a written itemized account, available to patient or guardian shall be maintained current for each patient with:

- (1) Written receipts for all personal possessions and funds received by or deposited with the facility; and
- (2) Written receipts for all disbursements made to or on behalf of the patient.

(b) Upon request of patient or guardian, articles kept for safekeeping shall be released.

(c) Neither the administrator nor any staff member nor any member of this governing board, nor any owner of a facility shall serve as guardian for a patient residing in the facility. [Eff. May 3, 1985] (Auth: §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

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§11-94-26 Patients' rights. (a) Written policies regarding the rights and responsibilities of patients during their stay in the facility shall be established and shall be made available to the patient, to any guardian, next of kin, sponsoring agency or representative payee, and to the public. The facility's policies and procedures shall provide that each individual admitted to the facility shall:

- (1) Be fully informed, as evidenced by the patient's written, signed acknowledgment prior to or at the time of admission and during stay, of these rights and of all rules governing patient conduct.
- (2) Be fully informed, prior to or at the time of admission and during stay, of services available in or through the facility and of related charges, including any charges for services not covered by the facility's basic per diem rate.
- (3) Be advised that patients have a right to have their medical condition and treatment discussed with them by a physician of their choice, unless medically contraindicated, and to be afforded the opportunity to participate in the planning of their medical treatment and to refuse to participate in experimental research.
- (4) Have the right to refuse treatment after being informed of the medical benefits of treatment and the consequences of refusal.
- (5) Be transferred or discharged only for medical reasons, or for their welfare or that of other

patients, or for nonpayment for their stay, and be given reasonable advance notice to ensure orderly transfer or discharge; such actions shall be documented in their health record.

- (6) Be encouraged and assisted throughout their period of stay to exercise their rights as patients, and to this extent voice grievances and recommend changes in policies and services to the facility's staff and outside representatives of their choice free from restraint, interference, coercion, discrimination, or reprisal.
- (7) Manage their personal financial affairs. In the event the facility agrees to manage the patient's personal funds, the conditions under which the facility will exercise the responsibility shall be explained to the patient, and shall meet the minimum requirements of section 11-94-24.

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- (8) Not be humiliated, harassed, injured or threatened and shall be free from chemical and physical restraints. This does not exclude use of medication for treatment as ordered by a physician. Physical restraints may be used in an emergency, when necessary, to protect the patient from injury to the patient's self or others. In such an event, the patient's physician shall be notified as soon as possible and further orders obtained for care of the patient.
- (9) Be entitled to have their personal and medical records kept confidential and subject to release only as provided in section 11-94-22.
- (10) Be treated with consideration, respect and in full recognition of their dignity and individuality, including privacy in treatment and in care.
- (11) Not to be required to perform services for the facility, its licensee or staff that are not included for therapeutic purposes in their plan of care.
- (12) Have the right to associate and communicate privately with persons of their choice, and to send and receive their personal mail unopened. At their request to be visited by members of the clergy at any time.
- (13) Have the right to meet with and participate in activities of social, religious, and community groups at their discretion.
- (14) Retain and use their personal clothing and possessions as space permits, unless to do so would infringe upon the rights of other patients.
- (15) Be assured of privacy for visits. If a married

couple are both patients in a facility, they are permitted to share a room.

(b) The patient or responsible agent shall sign an acknowledgment of understanding which clearly states the policies of the facility with which the patient must comply. [Eff. May 3, 1985] (Auth: §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-27 Pharmaceutical services. (a) The facility shall employ a licensed pharmacist, or shall have a formal contractual arrangement with a licensed pharmacist to provide consultation on methods and procedures for ordering, storage, administration, disposal, recordkeeping
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of drugs and biologicals, and provision for emergency services.

(b) There shall be a current pharmacy policy manual developed and approved by the pharmacist, physician, and licensed nursing staff which:

- (1) Includes policies and procedures and defines the functions and responsibilities relating to pharmacy services.
- (2) Is revised as necessary to keep abreast of current developments in overall drug usage.
- (3) Governs the safe administration and handling of all drugs.
- (4) Includes policies regarding self-administration of drugs.
- (5) Includes a formulary appropriate to the facility.

(c) Medications administered to a patient shall be ordered either in writing or verbally by a physician so authorized by facility policy.

- (1) Physician's verbal orders for prescription drugs shall be given only to a licensed nurse, pharmacist, or another physician.
- (2) All verbal or telephone orders for medication shall be recorded and signed by the person receiving them and shall be countersigned by the attending physician within seventy-two hours.
- (3) All orders shall be reviewed by the physician at the time of visit to the patient.

(d) Each drug shall be rechecked and identified immediately prior to administration.

(e) Medications shall not be used for any patient other than the one for whom they were issued.

(f) Only appropriately licensed and trained staff shall be allowed to administer drugs and shall be responsible for proper recording of the medication including the route of administration. Medication errors and drug

reactions shall be recorded in the patient's chart and reported immediately to the physician who ordered the drug and an incident report shall be prepared. All incident reports shall be kept available for inspection by the director.

(g) Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security.

- (1) All drugs shall be kept under lock and key except when authorized personnel are in attendance.
- (2) All security requirements of federal and state laws shall be satisfied as they refer to

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storerooms and pharmacies.

- (3) Poisons, drugs used externally, and drugs taken internally shall be stored in locked, well-marked separate cabinets, at all locations.
 - (4) Medications that are stored in a refrigerator containing things other than drugs shall be kept apart and in a locked container.
 - (5) If there is a drug storeroom separate from the pharmacy, there shall be a perpetual inventory of receipts and issues of all drugs by the storerooms.
 - (6) Discontinued and outdated drugs, and containers with worn, illegible, or missing labels, shall be returned to the pharmacy or drug room for proper disposition.
 - (7) There shall be automatic stop orders on all drugs.
 - (8) There shall be a drug recall procedure that can be readily implemented.
- (h) A pharmacist shall:
- (1) Review and document monthly the record of each skilled nursing facility patient receiving medications, to determine potential adverse reactions, interactions, and contraindications. A registered nurse shall carry out this function for intermediate care facility patients.
 - (2) When appropriateness of drugs or dosage of such as ordered are questioned, the physician shall be consulted and a record of this consultation shall be available to the administrator. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-28 Physician's services. (a) Admission and ongoing orders and plans of treatment shall be in writing,

and carried out by the staff of the facility including arrangement for transfer to other facilities when indicated.

(b) All patients admitted to a facility shall be under the care of a physician selected by the patient.

(c) Physicians shall visit as necessary to assure adequate medical care. In intermediate care facilities, physician's visits shall be made at least every sixty days unless the physician decides that this frequency is
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unnecessary and records the reasons for this decision; provided visits shall occur at least at one hundred-twenty day intervals. Physician's visits in skilled nursing facilities shall be made every thirty days for the first ninety days. After ninety days, an alternate schedule of visits at sixty day intervals may be adopted where the attending physician justifies this in writing. This alternate schedule is not permitted when patients require specialized rehabilitative services.

(d) Physicians shall participate as appropriate in the interdisciplinary evaluation of patients and their plan of care.

(e) Physicians shall provide an annual health evaluation of each patient.

(g) Each patient shall have a physical examination by a physician within five days prior to admission or within one week after admission, and shall have had tuberculosis clearance as required by section 11-94-15(c)(10) and (11) within the previous year.

(h) The facility shall promptly notify the physician of any accident, injury, or change in the patient's condition. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-29 Rehabilitative services. (a) The facility shall provide specialized and supportive rehabilitation services, including occupational therapy, physical therapy, and speech therapy, according to the needs of each patient, either directly by qualified staff or through arrangements with qualified outside resources. Services shall be programmed to:

- (1) Preserve and improve the patient's maximal abilities for independent function;
- (2) Prevent, insofar as possible, irreversible or progressive disabilities;
- (3) Provide for the procurement, and maintenance of aids as needed by the patient to adapt and function within the patient's environment.
- (4) Instruct facility staff or person responsible in therapy goals to meet the continuity of patient

care.

(b) A written rehabilitative plan of care shall be provided which is based on the attending physician's orders and assessment of patient's needs in regard to specialized rehabilitative procedures. It shall be incorporated in and regularly reviewed in conjunction with the overall patient

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care plan.

(c) Physician's orders for evaluation and treatment shall be documented on the physician's order sheet.

(d) A progress report shall be written by the therapist within fourteen days of the initiation of treatment and thereafter the patient's progress reviewed at least every thirty days.

(e) There shall be available sufficient, appropriately qualified, professional staff and supporting personnel to carry out the various treatment services in accordance with plan of care and stated goals.

(f) Treatment personnel shall be assigned responsibilities in accordance with their qualifications.

(g) Treatment services shall have adequate space, facilities, equipment, supplies and other related resources. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-30 Sanitation. (a) The facility shall be in compliance with all applicable laws of the State of Hawaii and rules of the department relating to sanitation.

(b) Written summary reports of inspections by state or county health authorities and records of action taken in correction of deficiencies and recommendations shall be kept on file at the facility.

(c) Every facility shall provide a sufficient number of watertight receptacles of metal, or other materials acceptable to the department, for rubbish, garbage, refuse and other discarded matter.

(1) In kitchen and food preparation areas, receptacles shall be kept closed by tight fitting covers except in the kitchen during peak hours of food preparation.

(2) An area shall be provided for the washing and cleaning of garbage containers and for the storage of garbage, trash and solid waste.

[Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-31 Severability. If any provisions of this chapter or the application thereof to any person or

circumstances is held invalid, the application of the remainder of the chapter to other persons or circumstances shall not be affected. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)
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§11-94-32 Social work services. (a) Social work services shall be provided by the facility and be available to all patients, their families, and other significant persons in order to enable them to deal with the impact of illness on individual and family functioning.

(b) The number of hours of social service consultation which must be provided by the facility shall be appropriate to the size of the facility and shall be determined by the director.

(c) Social work services shall be documented in each patient's record and include at least:

- (1) A social history and assessment of current social and emotional needs.
- (2) A current social work plan to meet identified needs.
- (3) Regular progress notes indicating the patient's status.
- (4) Appropriate discharge plans.
- (5) Evidence of regular review of social work and discharge plans in conjunction with the overall plan of care.

(d) Social work staff shall have appropriately furnished facilities which are easily accessible to the patients being served and which provide privacy for interviews, counseling, and telephone conversations. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-33 Transfer agreement. The facility shall establish transfer agreements which makes feasible the transfer of patients and transfer summaries between hospitals, skilled nursing and intermediate care facilities. [Eff: May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-34 Repeal of prior rules. All versions of chapters 12A and 12E of the Public Health regulations of the State of Hawaii which were in effect on October 1, 1983, are repealed. [Eff. May 3, 1985] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94-35 through §11-94-49 reserved.

CHAPTER 457B
NURSING HOME ADMINISTRATORS ACT

SECTION

457B-1	Short title
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457B-3.1	Conditions concerning qualifications for licensure examination
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[§457B-1] Short title. This chapter may be cited as the "Nursing Home Administrators Act."

§457B-2 Definitions. As used in this chapter, unless the context otherwise requires:
"Administrator" means the individual responsible for planning, organizing, directing, and controlling of the operation of a nursing home.
"Department" means the department of commerce and consumer affairs.
"Director" means the director of commerce and consumer affairs.
"Nursing home" means any nursing facility licensed by the department of health.
"Practice of nursing home administration" means the planning, organizing, directing, or controlling of the operation of a nursing home.

§457B-3 License required. No person shall operate a nursing home in the State without having a nursing home administrator's license from the department as hereinafter provided. It shall be unlawful for any person not licensed under this chapter to practice or offer to practice nursing home

administration or to use any sign, card, or device to indicate that the person is licensed as a nursing home administrator.

§457B-3.1 Conditions concerning qualifications for licensure examination. The director shall adopt rules setting minimum educational, training, and experience qualifications that must be satisfied before an applicant is allowed to sit for the licensing examination.

§457B-3.2 Grounds for refusal to renew, reinstate, or restore, and for revocation, suspension, denial, or condition of licenses. The director may refuse to renew, reinstate, or restore, or may revoke, suspend, deny, or condition in any manner, any license for any one or more of the following acts or conditions on the part of the licensee or the applicant:

- (1) Altering in any way the physician's order for any patient's or resident's medical or therapeutic care unless the orders are clearly hazardous to the patient or resident, in which case the physician shall be immediately notified;
- (2) Defrauding any federal, state, county, or social agency, business, or individual in the operation of a nursing home;
- (3) Engaging in false, fraudulent, or deceptive advertising, or making false or improbable statements regarding the services of the nursing home; and
- (4) Submitting or filing with the board any notice, statement, or other document required under this chapter which is false or which contains any material misstatement of fact.

§457B-3.5 Limited and temporary licenses. The director may issue a limited and temporary license to an applicant who has not been examined as required by section 457B-6, if the applicant is otherwise qualified to be examined. Such a license shall be effective only until the next licensure examination process has been completed.

§457B-4 REPEALED.

§457B-5 REPEALED.

§457B-6 Powers and duties of director. In addition to any other powers and duties authorized by law, the director shall:

- (1) Develop, impose, and enforce standards which shall be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators shall be individuals who by training or

experience in the field of institutional administration, are qualified to serve as nursing home administrators;

- (2) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets the standards of this chapter or the rules adopted pursuant thereto;
- (3) Issue licenses to individuals determined, after the application of appropriate techniques, to meet the required standards, and revoke or suspend licenses in any case where the individual holding a license is determined substantially to have failed to conform to the required standards of this chapter or the rules adopted pursuant thereto;
- (4) Establish and carry out procedures designed to insure that individuals licensed as nursing home administrators shall, during any period that they serve as such, comply with the required standards. The director shall also initiate and maintain cooperative arrangements with the long-term care ombudsman, department of human services, and the department of health for the sharing of information on the performance of administrators;
- (5) Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the department to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of this chapter or the rules adopted pursuant thereto;
- (6) Adopt in accordance with chapter 91 rules as may be necessary for the purposes of this chapter; and
- (7) Maintain a record of all proceedings.

§457B-7 Subpoenas. The director may issue subpoenas to compel the attendance of witnesses and the production of documentary evidence or the production of any books, papers, or records. If any person subpoenaed as a witness fails or refuses to respond thereto, or refuses to answer questions material to the matter pending before the department propounded by an examiner, any circuit judge, upon application of the department or any examiner thereof, may enforce by proper proceeding the attendance and testimony of the witnesses. If any person wilfully testifies falsely under oath before the department or wilfully makes a false affidavit in any proceeding before the department, the person shall be charged for perjury and shall be subject to the penalties for perjury provided by law.

§457B-8 REPEALED.

§457B-9 Fees. (a) An applicant for a license to practice nursing home administration by examination shall pay application and examination fees. A reexamination fee is required for each reexamination. Application fees shall not be refundable. Each applicant who successfully passes the examination shall pay a license fee.

(b) There shall be a biennial renewal fee which shall be paid to the department on or before June 30 of each even-numbered year. Failure, neglect, or refusal of any duly licensed nursing home administrator to pay the biennial renewal fee shall constitute a forfeiture of the nursing home administrator's license. The license may be restored within three years upon written application therefor and the payment to the department of all delinquent fees plus a penalty fee and evidence of participation in educational programs.

(c) All fees and other moneys collected or received under this chapter or rules adopted by the board shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund.

§457B-10 Injunctive relief. The director may apply for an injunction in any court of competent jurisdiction to enjoin any person who has not been issued a license or whose license has been suspended or revoked or has expired from practicing nursing home administration; and, upon the filing of a verified petition in the court, the court or any judge thereof, if satisfied by affidavit or otherwise, may issue a temporary injunction, without notice or bond, enjoining the defendant from further practicing nursing home administration. A copy of the verified complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases. If it is established that the defendant has been or is practicing nursing home administration without having been issued a license or has been or is practicing nursing home administration after the defendant's license has been suspended or revoked or has expired, the court or any judge thereof may enter a decree enjoining the defendant from further practicing nursing home administration. In case of violation of any injunction issued under this section, the court may summarily try and punish the offender for contempt of court. The injunction proceeding shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.

[§457B-11] Severability. If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity does not effect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

§457B-12 Penalties. Any person who violates this chapter shall be fined not more than \$500 for a first offense. For each subsequent offense the person shall be fined not more than \$1,000, or imprisoned not more than one year, or both.

[§457B-13] Remedies or penalties cumulative. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.