

CHAPTER 1

DEFINITIONS

The following terms shall have the meanings as specified:

“Abuse” means the infliction of injury, unreasonable confinement, intimidation or cruel punishment with resulting physical harm or pain or mental anguish, sexual abuse or exploitation or the willful deprivation of essential needs.

“Activities Coordinator” means a person with one of the following qualifications:

- a. Completion of a training course approved by the Department of Education; or
- b. A Registered Occupational Therapist or an Occupational Therapy Assistant; or
- c. A degree in Therapeutic Recreation.

“Administrator” means a person licensed under the provisions of Section 32 MRSA Section 61, having the authority and responsibility for the operation of the institution and for staff performance in caring for residents in accordance with applicable legal requirements and policies approved by the governing authority.

“Adult Day Services” means the care and supervision of consumers who attend the facility during day time or night time hours, but are not residents of the facility.

“Advance Directives” means a written document signed by the resident, guardian or agent under durable power of attorney, giving or withholding consent or approval related to medical or other professional care, counsel, treatment or service for the resident, in the event that the resident becomes unable to provide that direction.

“Ambulatory” means a person who is physically and mentally capable of moving from place to place without the aid of another person.

“Applicant” means any person in whose behalf an application for a license is submitted.

“Approved” means acceptable to the Department.

“Automatic Call System” means an audio and visual alert system in which residents may press a button, and nursing personnel are automatically notified by means of a light or a buzzer that a resident is calling for assistance.

“Certified Nursing Assistant (CNA)” means a person who has successfully completed a training program or course with a curriculum prescribed by the Maine State Board of Nursing, or is deemed to have had comparable training according to rules established by the Maine State Board of Nursing and whose duties are assigned by a Registered Professional Nurse.

“Certified Nursing Assistant/Medications (CNA/M)” means a certified nursing assistant who has satisfactorily completed the standardized medication course for certified nursing assistants, the curriculum for which is prescribed by the Maine State Board of Nursing.

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“Charge Nurse/Nurse Manager” means the licensed nurse on duty who is assigned responsibility for the supervision of nursing services during a particular shift.

“Clinical Record” refers to the medical record maintained on each resident in accordance with professional standards and practices.

“Convenience” is defined as any action taken by the facility to control resident behavior or maintain residents with a lesser amount of effort by the facility and not in the residents’ best interest.

“Danger” is a situation or condition of abuse, neglect, exploitation, or serious harm or immediate risk thereof.

“Department” means the Department of Human Services.

“Dependent Adult” means any adult who is wholly or partially dependent upon one or more other persons for care or support, either emotional or physical, and who would be in danger if that care or support were withdrawn.

“Dietetic Service Supervisor” to be used interchangeably with Food Service Supervisor, means a person who:

- a. Is a qualified dietitian; or
- b. Is a graduate of a dietetic technician program, approved by the American Dietetic Association; or is a graduate of the Dietary Managers Association approved course and has passed the Certifying Board for Dietary Managers credentialing exam; or
- c. Is a graduate of a State-approved course in food service supervision; or
- d. Has training and experience in food service supervision and management in a military service, equivalent to the requirements in (b) or (c) above.

“Dietitian” means any individual currently licensed to practice dietetics in the State of Maine.

“Direct Care” means hands-on care provided to residents, including, but not limited to feeding, bathing, toileting, dressing, lifting, moving residents, treatments, and medication administration. Direct care does not include food preparation, housekeeping or laundry services except in circumstances when such services are required to meet the needs of an individual resident on a given occasion.

“Direct Care Provider” means, Registered Professional Nurses and Licensed Practical Nurses, and Certified Nursing Assistants who provide direct care to nursing facility residents.

“Director of Nursing/Director of Nursing Services” mean a Registered Professional Nurse who has the responsibility for the management and direction of nursing services.

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“Discipline” is defined as any action taken by the facility for the purpose of punishing or penalizing residents.

“Distinct Part” means a physically separate unit that is clearly identifiable from the remainder of the facility. The "distinct part" must represent an entire, physically identifiable unit, consisting of all the beds within that unit, such as a separate building, floor, wing, or ward. Several rooms at one end of a hall, or a side of a corridor, may be accepted as a "distinct part" only if they constitute a wing or ward. Various beds scattered throughout the facility would not comprise a "distinct part". The "distinct part" of a facility provides a level of care distinguishable from other levels of care in the facility.

“Exploitation” means the illegal or improper use of an incapacitated or dependent adult or his/her resources for another's profit or advantage.

Eff. 10/15/04 “Facility” means a skilled nursing facility (SNF) or a nursing facility (NF) or a distinct part of an institution.

“Feeding Assistants” are paid staff, who have successfully completed a State approved training program and who assist residents with their meals. Feeding assistants are not considered direct care staff.

“Food Service Supervisor”. This term may be used interchangeable with “Dietetic Service Supervisor”.

“Incapacitated Adult” means any adult who is impaired by reason of mental illness, mental deficiency, physical illness or disability to the extent that he/she lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his/her person, or to the extent the adult cannot effectively manage or apply his/her estate to necessary ends.

“Incident and Accident” refers to any occurrence which affects the safety, health, or well being of a resident, staff or visitor. This could include falls, lacerations, abuse, bruises (whether origin is known or unknown), etc.

“Infection Control Program” means a program that is designed to provide a safe, sanitary, and comfortable environment for the residents and to help prevent the development and transmission of disease and infection.

“In-Service Training Program” refers to a program of orientation and continuing education for all employees.

“Interdisciplinary Team” (is used interchangeably with Multidisciplinary Team(MDT) and refers to the attending physician, a registered nurse and other appropriate staff and residents/family and others of their choice, in disciplines as determined by the resident's needs.

“Legend Drug” or prescription drug means those drugs that are required by Federal or state law or rule to be dispensed only on prescription.

“Licensed Practical Nurse” (LPN) means an individual currently licensed to practice practical nursing in the State of Maine.

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“Maine Registry of Certified Nursing Assistants” is a listing of certified nursing assistants who meet the educational requirements of the Maine State Board of Nursing. The Registry includes notation of conviction(s) and/or substantiations of resident abuse, neglect and/or misappropriation of residents' property by the CNA in accordance with the Rules and Regulations Governing the Functioning of the Maine Registry of Certified Nursing Assistants.

“Medical Director” means a physician contracted by the facility to provide consultation regarding resident care policies and services and to participate in related committees.

“Medication Error” means the administration of any medication incorrectly; i.e., dosage, selection of drug, selection of resident, time or method of administration, omission of prescribed medication, or the administration of a medication without a valid order.

“Mental Retardation and Mental Illness” mean, as defined for Pre-Admission Screening and Annual Resident Review (PASARR) requirements:

Mental Retardation is "significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period".

Mental Illness is a primary or secondary diagnosis of a mental disorder as defined in the American Psychiatric Association Diagnostic and Statistic Manual (DSM-III 1R), current edition, and which does not include dementia.

“Minimum Data Set (MDS) ” is the state approved resident assessment instrument.

“Multilevel Facilities” means any nursing facilities that are located on the same contiguous grounds with licensed assisted living services, congregate housing services or home health services.

“Multidisciplinary Team” (MDT) may be used interchangeably with Interdisciplinary Team)and refers to the attending physician, a registered nurse and other appropriate staff and residents/family and others of their choice, in disciplines as determined by the residents’ needs.

“Neglect” means a threat to an adult's health or welfare by physical or mental injury or impairment, lack of protection or prevention from these, or the deprivation of or lack of essential needs. Neglect occurs on an individual basis when a resident receives a lack of care (e.g., absence of frequent monitoring for a resident known to be incontinent, resulting in being left to lie in urine or feces).

“Nursing Assistant” means an individual who is enrolled in a training program for assistants to nurses, for which the curriculum has been approved by the Maine State Board of Nursing.

“Nursing Facility or Nursing Home” means a facility licensed by the Department to provide nursing services.

“Nursing Staff” means Registered Professional Nurses, Licensed Practical Nurses, Certified Nursing Assistants, Certified Nursing Assistants/Medications and nursing assistants.

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“Pharmacist” means an individual currently registered as a pharmacist in the State of Maine.

“Physician” means an individual currently licensed to practice medicine or osteopathy in the State of Maine.

“Potentially Hazardous Foods” means any food or ingredient, natural or synthetic, capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms.

“Pre-Admission Screening” refers to the procedure that screens each applicant for admission to a nursing facility in order to ensure that the facility does not admit an individual with mental illness or mental retardation, unless the Department of Mental Health and Mental Retardation has determined that the individual requires the level of care furnished by the facility.

“Principles of Reimbursement” means the principles of reimbursement for nursing facilities promulgated from time to time by the Department.

“Prospective Case-Mix Reimbursement System” means a method of paying health care providers rates that are established in advance. These rates take into account the fact that some residents are more costly to care for than others.

“Qualified Social Worker” means a person holding a current and valid license as required by State law to practice social work services.

“Registered Nurse” or “Registered Professional Nurse” means an individual currently licensed to practice professional nursing in the State of Maine.

“Resident” means a person who resides and receives services or care in a nursing facility.

“Resident Assessment Instrument (RAI)” means a standardized approach for applying a problem identification process. It gathers definitive information on a resident’s strengths and needs which must be addressed in an individual care plan.

“Resident Assessment Protocol (RAP)” means the required structured approach to resident assessment and problem identification.

“Respite Care” means care anticipated to be provided for a period of thirty (30) days or less for the purpose of temporarily relieving a family member or other caregiver from his or her daily caregiving duties. All nursing facility regulations shall apply to admissions for respite care.

“Restraint” means any device which is intended to restrict freedom of movement or access to one's body or any medication which alters cognition or behavior and which is used for discipline or convenience and is not required to treat medical symptoms.

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“Physical Restraints” are defined as 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 and which restricts freedom of movement or normal access to one’s body.

“Chemical Restraint” is defined as a psychopharmacologic drug that is used for discipline or convenience and is not required to treat medical symptoms.

“Risk” means that there is reasonable cause to believe that injury, hazard, damage or loss may occur.

“Safe Temperatures” as applied to potentially hazardous foods, means that internal temperatures of 41 degrees Fahrenheit or below (for cold food) and 140 degrees Fahrenheit or above (for hot foods), unless otherwise specified in these regulations, and 0 degrees Fahrenheit or below for frozen foods.

“Serious Harm” means:

- a. Serious physical injury;
- b. Serious mental injury or impairment, evidenced by severe anxiety, depression, or withdrawal, untoward aggressive behavior or similar dysfunctional behavior; or
- c. Sexual abuse or exploitation.

“Skilled Nursing Care”, for the purpose of these regulations, means that:

- a. The service would constitute a skilled service where the inherent complexity of a service prescribed for a resident is such that it can be safely and effectively performed only by or under the direct supervision of professional nursing personnel;
- b. The restoration potential of a resident is not the deciding factor in determining whether a service is to be considered skilled or unskilled. Even where full recovery or medical improvement is not possible, skilled care may be needed to prevent, to the extent possible, deterioration of the condition or to sustain current capacities; and
- c. A service that is generally unskilled would be considered skilled where, because of special medical complications, its performance or supervision and the observation of the resident necessitates the use of skilled nursing personnel.

“Skilled Nursing Facility” is a nursing facility which is certified to provide Medicare-reimbursed skilled nursing services.

“Specialized Rehabilitative Services” refers to services such as physical therapy, speech-hearing therapy, and occupational therapy.

“Specialized Unit” refers to a unit that provides the care to meet the specific needs of special groupings of residents, i.e., residents with Alzheimer’s or head trauma, etc.

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“Transfer Agreement” means an agreement with one or more hospitals which provides reasonable assurance that transfer of residents will be effected between facilities whenever such transfer is medically appropriate.