

CHAPTER 4

ADMINISTRATION

4.A. Administrator

4.A.1. Qualifications

The administrator of a facility licensed pursuant to these regulations shall have a current administrator's license or a temporary permit issued by the Nursing Home Administrators Licensing Board. Hospital based facilities are not required to have a licensed nursing home administrator.

4.A.2. Functions

The administrator designated on the license shall be responsible for:

- a. Carrying out the policies of the facility;
- b. The day-to-day operation and management;
- c. The control, conservation and utilization of physical and financial resources;
- d. The hiring of an adequate number of qualified, competent personnel;
- e. The discharge of such functions as the licensee may properly delegate to him/her;
- f. Ensuring that the facility is in compliance with State licensing and Federal certification regulations.

4.A.3. Non-Licensed Person to Act in Absence of Administrator

An individual, authorized to act in the absence of the administrator during the normal working day, shall be designated. Any planned absence of the administrator for a period longer than thirty (30) days shall be reported in writing to the Department.

4.A.4. Non-Licensed Acting Administrator for Emergency Conditions

If the licensee of a licensed skilled nursing facility and/or a nursing facility is required to secure a new administrator as a result of an unexpected vacancy, he/she may, upon seventy-two (72) hours notice to the Department and in accordance with the rules and regulations thereof, place the facility in charge of an acting administrator qualified through current experience in administrative long term care responsibilities. This shall be for such limited time mutually agreed upon between the Department and the licensee, as may be necessary to permit the securing of a licensed administrator, but in no event to exceed sixty (60) days. When a licensed administrator has been secured, the provisions of Section 2.H.6., Change of Administrator, shall apply. If unable to secure a licensed administrator within sixty (60) days, the facility shall submit to the Department written evidence of action taken to secure an administrator.

4.A.5. Full-Time Administrator

Each nursing facility larger than forty (40) beds in size shall have a full-time administrator.

4.A.6. Part-Time Administrator

- a. Each nursing facility of forty (40) beds or less in size, may have a part-time administrator.
- b. All duties and schedules of working hours of part-time administrators of nursing facilities shall be outlined in the policies of the facility.

4.A.7. Shared Administrator

- a. Separately licensed nursing facilities and/or assisted living facilities may share the same administrator as long as the number of beds for which the administrator is responsible does not exceed one hundred (100), subject to approval of the Department.

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b. Requests to the Department for exceptions to (a) above may be made in writing when administrative functions for two (2) or more licensed facilities are carried out in a central office. Such requests shall define the functions being handled centrally. The Department shall indicate in writing whether or not the request for an exception is granted.

c. Any sharing of the same administrator shall be defined and the duties and schedule of working hours for each facility shall be outlined in the policy material of the facilities involved.

4.A.8. Administrator In Training

Any facility that has an administrator in training (AIT) must ensure that a licensed administrator or designee other than the AIT is in charge of the facility. No AIT is to be listed on any facility license as the administrator.

4.B. Register

4.B.1. There shall be a waiting list for facility admissions which shall be maintained in a bound book, updated as necessary and available for public review.

4.B.2. There shall be a resident admission and discharge register in a bound book or on a computer identifying each resident and the date admitted to and discharged from the facility.

4.C. Daily Census

Each facility shall maintain a daily census of residents, including the following:

4.C.1. Admissions;

4.C.2. Discharges;

4.C.3. The number and bed locations of each resident in the facility as of midnight each day.

4.D. Transfer Agreement

4.D.1. Requirements

Each facility shall have in effect a written agreement with a hospital sufficiently close to the facility to make feasible the transfer between them of residents and their records, which provides the basis for effective working arrangements under which inpatient hospital care or other hospital services are available promptly to the facility's residents when needed.

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4.D.2. Content

- a. The transfer agreement shall provide for the transfer of written information pertaining to the care which the resident has been receiving.
- b. The transfer agreement shall provide for the transfer of written information relative to personal effects of significant value.

4.D.3. Execution

Each transfer agreement shall be signed by the administrator or authorized representative of each facility participating in the agreement.

4.E. Outside Resources

4.E.1. Requirements

If the facility does not employ a qualified professional person such as a physical therapist, occupational therapist or speech therapist to render a specific service to be provided by the facility, there shall be arrangements for such a service through a written agreement with an outside resource, a person or agency, that will render direct service to residents or act as a consultant.

4.E.2. Contents of Agreement

- a. The responsibilities, functions, objectives, and terms of the agreement, including financial arrangements and charges, of each such outside resource shall be delineated in writing.
- b. The agreement shall specify that the facility retains administrative responsibility for the services rendered.
- c. When the agreement is with a consultant, there shall be provision for dated, signed reports to the administrator of assessments and/or recommendations. These shall be retained by the administrator for follow-up action and evaluation of performance.

4.E.3. Execution

The agreement shall be signed by the administrator or authorized representative and the person or agency providing the service.

4.F. Rebating Prohibited

No owner, administrator, employee or representative of a licensed facility shall directly or indirectly pay any commission, bonus, or gratuity in any form whatsoever to any physician, organization, agency or person for residents referred.

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4.G. Admissions

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

4.G.1. Admissions

a. The facility must not:

1. Require a third party guarantee of payment to the facility as a condition of admission, or to expedite admission, or continued stay in the facility;
2. Charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid under the State plan, any gift, money, donation, or other consideration as a precondition of admission, expedited admission or continued stay in the facility;
3. Require residents or potential residents to waive their rights to Medicare or Medicaid;
4. Require oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits.

b. A facility may:

1. Charge any amount for services furnished to non-Medicaid residents consistent with the requirement in 4.G.1.a.
2. Require an individual who has legal access to a resident's income or resources available to pay for facility care, to sign a contract, or to provide facility payment from the resident's income or resources, without incurring personal financial liability.
3. Charge a resident who is eligible for Medicaid for items and services the resident has requested and received, and that are not specified in the Maine Medical Assistance Manual as included in the term "nursing facility services".
4. Solicit, accept or receive a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to the resident, or potential resident, but only to the extent that the contribution is not a condition of admission, expedited admission, or continued stay in the facility.
5. A nursing facility may decline to admit a prospective resident after an evaluation of the person's clinical condition and related care needs and a determination that the facility lacks qualified staff to meet the level of care required for that person. A nursing facility is not subject to penalty or sanction for declining to admit a prospective resident for whom the facility lacks sufficient staff to meet the resident's level of care.

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4.G.2. Deceased Residents

A facility shall comply with all appropriate Maine statutes and regulations pertinent to deceased residents.

4.H. Quality Assurance Committee

All nursing facilities must maintain a quality assurance committee, which may act as a committee of the whole, and which reports to the administrator or the Governing Body.

4.H.1. Composition of Committee

- a. The Director of Nursing Services;
- b. The Medical Director;
- c. A Pharmacist;
- d. At least three (3) other members of the facility staff.

4.H.2. Responsibilities of the Committee

- a. Meet at least quarterly;
- b. Monitor the quality, quantity and necessity of services. Identify and document problems or deficiencies.
- c. Develop and implement appropriate plans of action to correct identified problems or deficiencies which shall be available for review upon request of the Department.

4.H.3. Components and Functions of the Committee

a. Infection Control

1. Assure policies and procedures are based upon current standards and Centers for Disease Control guidelines for:

- a. Prevention of infection;
- b. Universal precautions;
- c. Employee and resident infections;
- d. Linen handling;
- e. Food handling;

2. Monitor and investigate infections.

b. Accident Prevention

Monitor and analyze incident reports and recommend policies and procedures for accident prevention.

c. Pharmaceutical Services

Monitor pharmaceutical practices, identify concerns, and recommend changes, when necessary.

d. Utilization Review

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Establish and monitor a Utilization Review plan that shall include:

1. Monitoring of admissions (regardless of payment source), and necessity of services;
2. Review of all residents (regardless of payment source), continued stays and discharge planning; and
3. Review the implementation of monitoring of appeal rights and the process of transfer and discharge notice.

4.I. Complaints

4.I.1. Any person may file a complaint with the administrator or any member of the facility staff.

4.I.2. A system must be established for the review, within forty-eight (48) hours, of each complaint received by the administrator and/or any designated member of the facility staff. A report of findings and action taken shall be prepared and submitted to the Quality Assurance Committee, and be available for review upon request of the Department.

4.J. Reporting of Abuse, Neglect or Misappropriation of Resident Property

4.J.1. The facility must ensure that all staff are knowledgeable of the Adult Protective Services Act and that all alleged violations involving mistreatment, neglect, and abuse, including injuries of unknown source and/or misappropriation of resident property, are reported immediately, through established procedures, to the administrator of the facility and to other officials in accordance with State law.

4.J.2. The facility must have evidence that all alleged violations are thoroughly investigated and in a timely manner. Policies must address administrative procedures to be implemented to prevent further potential abuse while the investigation is in progress.

4.J.3. The results of all investigations conducted in-house must be reported to the administrator or his/her designated representative and to other officials in accordance with State law. If the alleged violation is verified, appropriate corrective action must be taken. All reports must be made available to the Department upon request.