

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Actual harm deficiency" means a condition existing in a nursing facility or an action or inaction by the nursing facility staff that has caused physical or emotional injury or impairment to a resident.

(1-1) "Administrator" means the individual licensed by the Board of Examiners of Nursing Home Administrators and responsible for the operation of the home.

(2) "Ambulatory patients" means those patients who are not dependent upon others for assistance to travel to safety in an emergency, including those patients who can ambulate independently with assistive devices.

(3) "Attending physician" means any person licensed to practice medicine in the State who admits patients to the facility with the understanding that he must comply with the facility's policies as developed by the patient care policy committee.

(4) "Audiologist" means a person who holds a current Maryland license issued by the Board of Audiologists, Hearing Aid Dealers, and Speech-Language Pathologists.

(4-1) "Authorized prescriber" has the meaning stated in Health Occupations Article, §12-101, Annotated Code of Maryland.

(5) "Certified social worker" means any person licensed to practice as a certified social worker in this State.

(5-1) "Charge nurse" means the registered or licensed practical nurse who is responsible for day-to-day operations of a unit in the facility on which residents live.

(5-2) "Communicable disease" means an acute illness or a chronic disease state of any of the agents causing these diseases:

- (a) Acquired immunodeficiency syndrome;
- (b) Amebiasis;
- (c) Cholera;
- (d) Conjunctivitis;
- (e) Diphtheria;
- (f) Hepatitis, viral (A, B, C, non-A, non-B, delta);
- (g) Human immunodeficiency virus (HIV) infection;
- (h) Salmonellosis;
- (i) Shigellosis;
- (j) Tuberculosis;
- (k) Typhoid fever; or
- (l) Evidence of any other condition as requested by the Secretary.

(5-3) "Comprehensive assessment" means the assessment that includes the Minimum Data Set and Resident Assessment Protocol Summary.

(6) "Comprehensive care facility" means a facility which admits patients suffering from disease or disabilities or advanced age, requiring medical service and nursing service rendered by or under the supervision of a registered nurse.

(6-1) "Concurrent review" means daily rounds by a licensed nurse which include:

(a) Appraisal and observation of all residents by the licensed nurse to determine any change in each resident's physical or mental status;

(b) If there is a change in the resident's physical or mental status, an evaluation by the licensed nurse of the resident's medications, laboratory values relating to the resident, and clinical data relating to the resident, including the resident's:

(i) Hydration and nutritional need;

(ii) Skin integrity;

(iii) Noted weight changes; and

(iv) Appetite;

(c) Evaluation of injuries sustained by the resident that result from accidents or incidents involving the resident; and

(d) Any other relevant parameters affecting or reflecting the resident's physical and mental status.

(7) "Deficiency" means a condition existing in a nursing facility or an action or inaction by the nursing facility staff that results in potential for more than minimal harm, actual harm, or serious and immediate threat to one or more residents.

(7-1) "Demonstration project" means a method of providing care and services to residents that does not comply with all the regulations in this chapter but provides sufficient safeguards to protect the health and safety of residents.

(8) "Dentist" means any person licensed to practice dentistry in this State.

(9) "Department" means the State Department of Health and Mental Hygiene.

(10) "Dietetic service supervisor" means a person who:

(a) Is a qualified dietitian;

(b) Is a graduate of a dietetic technician program approved by the American Dietetic Association;

(c) Is a certified dietary manager who has successfully completed the required course and maintains certification as required by the certifying board for the Dietary Managers Association;

(d) Is a graduate of a State-approved course that provided 90 or more hours of classroom instruction in food service supervision and has experience as a supervisor in a health care institution with consultation from a dietitian; or

(e) Has training and experience in food service supervision and management in a military service equivalent in content to §B(10)(b) and (d) in this regulation.

(11) "Discipline" means the medical, rehabilitative, nursing, dietetic, activities and social service components affiliated with the operation of a comprehensive care facility.

(12) "Extended care facility" means a facility which offers subacute care, providing treatment services for patients requiring inpatient care but who do not currently require continuous hospital services. A portion of a facility which is licensed as an extended care facility is called a distinct part extended care facility. This facility admits patients who require convalescent or restorative services, or rehabilitative services, or patients with terminal disease requiring maximal nursing care.

(13) "Fire authorities" means the official fire safety agency including the State Fire Marshal or local fire marshals or fire departments as appropriate.

(13-1) "Full assessment" means the Minimum Data Set without the Resident Assessment Protocol Summary.

(14) "Full time" means 40 hours per week or the standard work week adopted by the facility.

(15) "Geriatric nursing assistant" means a nurses' aide, patient care technician, orderly, attendant, or other supportive personnel assigned to the facility to perform patient care tasks under the direction and immediate supervision of a licensed nurse. The geriatric nursing assistant shall have successfully completed a geriatric nursing assistant training program approved by the Department.

(16) "Graduate social worker" means any person licensed to practice as a graduate social worker in this State.

(16-1) "Grant" means the award of money to an individual or an organization to:

(a) Study an aspect for the geriatric population; or

(b) Provide a service to nursing facility residents or their families.

(16-2) "Health care practitioner" means an individual who provides health care services and is licensed under the Health Occupations Article, Annotated Code of Maryland.

(16-3) "Health officer" means the health officer in each of the 23 counties and the Commissioner of Health in Baltimore City, or the designated representative of the health officer, or both.

(17) "Licensed practical nurse" means a person who holds a license to practice licensed practical nursing in this State.

(17-1) "Licensed or certified professional health care practitioner" means a nurse practitioner, physician assistant, or other practitioner licensed or certified under the Health Occupations Article, Annotated Code of Maryland.

(17-2) "Management firm" means an organization, under contract with an applicant for a license or a current licensee, that is intended to have or has full responsibility and control for the day-to-day operations of the nursing facility.

(18) "Mantoux tuberculin skin test" means a test to diagnose tuberculosis infection utilizing 5TU (tuberculin units) of purified protein derivative (PPD) that is injected intradermally and read within 48—72 hours with results recorded in millimeters of induration.

(18-1) "Maryland Monthly Assessment" means the assessment required by the Office of Access, Quality, and Program Integrity of the Department as an ongoing monitoring tool of the resident's status.

(19) "Medical director" means any person licensed to practice medicine in this State who, pursuant to a written agreement, is responsible for the overall coordination of the medical care in the facility to ensure the adequacy and appropriateness of the medical services provided to patients and to maintain surveillance of the health status of employees.

(20) "Medicine aide" means a person who has successfully completed the 60-hour Department of Health and Mental Hygiene approved community college course and has further satisfied, where applicable, the continuing education requirements.

(20-1) "Minimum Data Assessment" means the Resident Assessment Instrument for Long Term Care Facilities, Transmittal No. 272, April 1995 and Transmittal No. 22, December 2000, U.S. Department of Health and Human Services, Center for Medicare and Medicaid Services.

(20-2) "Minimum data set" means a core set of screening, clinical and functional status elements, including common definitions and coding categories, that forms the foundation of the comprehensive assessment for all residents of long term care facilities certified to participate in Medicare or Medicaid.

(20-3) "Minimum Data Set Quarterly Assessment" means the assessment that is completed on each resident not later than 92 days from the prior assessment.

(21) "New facility" means a comprehensive care facility or an extended care facility which does not have plans approved by the Department at the time of the adoption of these regulations. Any conversion, alteration, or additions which affect the facility's functional structure or bed capacity shall be constructed in accordance with these regulations, including the regulations which apply to "new facilities".

(22) "Nonambulatory patients" means those who are dependent upon others for assistance to travel to safety in an emergency and those persons who are unable to ambulate independently with assistive devices.

(23) "Nonrelated individual" has the meaning stated in Health-General Article, §19-301(k), Annotated Code of Maryland.

(23-1) "Nurse practitioner" has the meaning stated in Health Occupations Article, Title 8, Annotated Code of Maryland.

(24) "Nursing care" has the meaning stated in Health-General Article, §19-301(g), Annotated Code of Maryland.

(25) "Nursing facility" means a facility other than a facility offering domiciliary or personal care as defined in Health-General Article, Title 19, Subtitle 3, Annotated Code of Maryland, which offers nonacute inpatient care to patients suffering from a disease, condition, disability or advanced age, or terminal disease requiring maximal nursing care without continuous hospital services and who require medical services and nursing services rendered by or under the supervision of a licensed nurse together with convalescent services, restorative services, or rehabilitative services.

(26) "Occupational therapist" means a person who is currently certified by the American Occupational Therapy Association (AOTA) as a registered occupational therapist (OTR).

(27) "Occupational therapy assistant" means a person who is currently certified by the AOTA as an occupational therapy assistant.

(27-1) "Ongoing pattern" means the occurrence of any potential for more than minimal harm or greater deficiency on two consecutive on-site visits as a result of annual surveys, follow-up visits and unscheduled visits, or complaint investigations.

(28) "Other qualified person" means a person who is eligible for registration under the requirements set by the American Dietetic Association or has a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management, has 1 year of supervisory experience in the dietetic service of a health care institution, and participates annually in continuing dietetic education.

(28-1) "Paid feeding assistant" means an individual who:

(a) Meets the requirements of Regulation .41E of this chapter; and

(b) Is paid by a facility to feed residents who are unable to perform the task themselves.

(29) "Patient" means "patient" as defined in Article 43, §556(g), Annotated Code of Maryland.

(30) "Patient activities consultant" means a person who is a qualified:

(a) Therapeutic recreation specialist;

(b) Occupational therapist; or

(c) Occupational therapy assistant.

(31) "Patient activities coordinator" means a person who:

(a) Is a qualified therapeutic recreation specialist;

(b) Is a qualified occupational therapist;

(c) Is an occupational therapy assistant; or

(d) Has 2 years of experience in a social or recreational program in a licensed health care setting within the last 5 years, 1 year of which was full time in a patient activities program with guidance from a qualified consultant in a health care setting.

(31-1) "Per instance civil money penalty" means a civil money penalty imposed for each deficiency.

(32) "Person" has the meaning stated in Health-General Article, §19-301(h), Annotated Code of Maryland.

(33) "Pharmacist" means any person licensed to practice pharmacy in this State.

(34) "Physical therapist" means any person licensed to practice physical therapy by the State Board of Physical Therapy Examiners.

(35) "Physical therapist assistant" means any person licensed as such by the State Board of Physical Therapy Examiners.

(36) "Physician" means any person licensed to practice medicine in this State.

(36-1) "Physician assistant" has the meaning stated in Health Occupations Article, Title 15, Annotated Code of Maryland.

(36-2) "Plan of correction" means a written response from the comprehensive or extended care facility addressing each deficiency cited as a result of an inspection by the Department.

(37) "Podiatric assistant" means any person registered as such by the State Board of Podiatry Examiners.

(38) "Podiatrist" means any person licensed by the State Board of Podiatry Medical Examiners.

(38-1) "Positive tuberculin skin test" means the presence of palpable induration of:

(a) 5 millimeters or more in diameter for individuals:

- (i) Known to have or suspected of having HIV infection,
- (ii) Who are close contacts of an individual with infectious tuberculosis disease,
- (iii) With X-ray or clinical evidence of active tuberculosis disease,
- (iv) Who have a chest radiograph suggestive of previous disease, or
- (v) Who have a history of injecting illicit drugs if HIV status is unknown; or

(b) 10 millimeters or more in diameter for:

- (i) All individuals not included in §B(38-1)(a) of this regulation,
- (ii) Risk groups that are defined in Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Health-Care Facilities, 1994, Table S2-1, pages 62—63, which is incorporated by reference in Regulation .01-1 of this chapter, and
- (iii) Health care workers.

(38-2) "Potential for more than minimal harm deficiency" means a condition existing in a nursing facility or an action or inaction by the nursing facility staff that has the potential to cause actual harm to a resident.

(39) "Principal physician" means any person licensed to practice medicine in this State who agrees to perform certain medical services under contract with a comprehensive care facility, consistent with the policies of the facility.

(40) "PRN" means an abbreviation for the phrase "as circumstances may require".

(41) "Protective device" means any device or equipment, except bed side rails, which shields a patient from self-injury, or prevents a patient from aggravating an existing physical problem, or prevents a patient from precipitating a potential physical problem, and may limit, but does not eliminate, the movement of the patient's head, body, or limbs.

(42) "Psychologist" means a person who is certified by the State Board of Examiners of Psychologists to practice in this State.

(43) "Qualified medical record practitioner" means a person who:

- (a) Has received a baccalaureate degree from an accredited college or university including or supplemented by a successful completion of a course in health record administration approved by the Council on Medical Education of the American Medical Association, and has passed the national registration examination for registered record administrators; or
- (b) Possesses an associated arts degree in health record technology from a college or university approved by the American Medical Association Council on Medical Education or an equivalent approved health record technology correspondence course of the American Medical Record Association, and in addition has passed the national accreditation examination for accredited record technicians.

(44) "Qualified social work consultant" means any person who:

(a) Is a certified social worker; and

(b) Has a minimum of 3 years' experience in social work programs in a long-term care setting within the last 5 years.

(45) "Registered dietitian" means a dietitian who has met the certifying requirements for registration as administered by the Commission on Dietetic Registration, and who maintains the continuing education requirements of registration.

(46) "Registered nurse" means a person who holds a license to practice as a registered nurse in this State.

(46-1) "Representative" means an individual referenced in Regulation .08-1 of this chapter.

(46-2) "Resident Assessment Instrument (RAI)" means the total of the two parts of the document referred to as the MDS and the RAPS, which together are the model for resident assessment, decision-making (RAPS), care planning, care plan implementation, and evaluation.

(46-3) "Resident Assessment Protocol Summary (RAPS)" means the portion of the resident assessment instrument that is the problem-oriented framework for the decision-making process of care planning.

(47) "Restraint" means any physical or chemical restraint as defined below:

(a) "Physical restraint" means the use of force to prevent, suppress, or control head, body, or limb movement in a patient who is actively physically aggressive or combative or both in order to protect the patient from injuring himself or others;

(b) "Chemical restraint" means the administration of drugs with the intent of curtailing significantly the normal mobility or normal physical activity of a patient in order to protect the patient from injuring himself or others.

(48) "Secretary" means the Secretary of Health and Mental Hygiene.

(49) "Serious and immediate threat" means a situation in which immediate corrective action is necessary because a deficiency has caused or is likely to cause serious injury, harm, impairment to, or death of a resident receiving care in the nursing facility.

(49-1) "Significant change assessment" means an assessment that is completed on a resident who has demonstrated:

(a) Major changes in status that are not self limiting or which cannot be resolved within 14 days;

(b) A change in more than one area of the resident's health status which could demonstrate an improvement or decline in the resident's status; and

(c) The need for interdisciplinary review or revision of the care plan.

(50) "Social work associate" means any person licensed to practice as a social work associate in this State.

(50-1) "Special care unit" means a facility unit that provides intensive specialized care, such as respiratory, rehabilitative, dementia, or dialysis care, continuously on a 24-hour basis.

(51) "Speech pathologist" means a person licensed by the Board of Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists.

(52) "Supportive personnel" means an aide, assigned to a particular service such as nursing, dietary, physical therapy, or occupational therapy, who has been approved by the chief of the services as having sufficient training and experience to perform his assigned duties.

(52-1) "Sustained compliance" means a period of 30 calendar days following the date of notice of corrective action with no deficiencies.

(53) Tuberculosis in a Communicable Form.

(a) "Tuberculosis in a communicable form" means that an individual is presumed to have active pulmonary or laryngeal tuberculosis as evidenced by positive X-ray findings with or without positive acid-fast bacilli (AFB) sputum smear or positive AFB sputum culture and that the individual has been receiving chemotherapy for less than 14 days.

(b) "Tuberculosis in a communicable form" does not include:

(i) When the individual with presumed or confirmed active disease has had three negative AFB smears at least 24 hours apart, shows clinical improvement, and has received chemotherapy for at least 14 days; or

(ii) The individual with inactive scars, calcification, or a normal chest X-ray.

(54) "Tuberculosis suspect" means an individual who has a cough lasting more than 3 weeks and at least one other symptom that is compatible with active tuberculosis including bloody sputum, night sweats, weight loss, or fever.

(55) "Two-step tuberculin skin testing" means the administration of a second tuberculin skin test 1 to 3 weeks after the initial PPD is negative, to distinguish a boosted reaction from a reaction that is due to new infection.